

3-26-85
Vol. 50 No. 58
Pages 11829-11990

Test Report Federal Register

Tuesday
March 26, 1985

Selected Subjects

Administrative Practice and Procedure
Immigration and Naturalization Service
Justice Department

Air Pollution Control
Environmental Protection Agency

Aviation Safety
Federal Aviation Administration

Freedom of Information
Army Department
Farmers Home Administration

Government Procurement
General Services Administration
National Aeronautics and Space Administration

Hazardous Waste
Environmental Protection Agency

Income Taxes
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Loans—Housing and Community Development
Farmers Home Administration

Low and Moderate Income Housing
Housing and Urban Development Department

Natural Gas
Federal Energy Regulatory Commission

Pipeline Safety
Research and Special Programs Administration

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Selected Subjects

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Proclamation 5309 of March 21, 1985

The President

Afghanistan Day, 1985

By the President of the United States of America

A Proclamation

In a time of prosperity, we do not think of hunger and hardship. In a time of peace, we do not think of suffering and war. In a time when our families are together and healthy, we do not think of the pain we would feel if they were pulled apart. Yet, for the people of Afghanistan, it is impossible to escape such thoughts, because terror, hardship, and suffering have become an everyday way of life ever since the Soviet Union brutally invaded and occupied their country over five years ago.

March 21 is the start of a New Year for the Afghan people. It is traditionally a holiday when they bring their families together to celebrate life's new beginnings and to rejoice and give thanks for God's many gifts.

But in Afghanistan today it may be hard to remember the days when their country had peace, when there was enough food to eat, and when their homes were safe, for the overwhelming majority of Afghans are engaged in a fierce struggle to end the Soviet occupation of their country and the rule of the puppet regime headed by Babrak Karmal.

The year 1984 was an especially hard one for the Afghans. The Soviets have become frustrated with their inability to crush the spirit of the Afghan Freedom Fighters and are increasingly turning their military might against the civilian population of the country, forcing hundreds of thousands more innocent people into exile away from their homeland.

Reports of Soviet atrocities and human rights violations are increasingly gaining the attention of the world's public. Respected organizations such as the United Nations Commission on Human Rights, Amnesty International, and Helsinki Watch have recently released studies detailing the terror that the Soviets and the Karmal regime regularly inflict on the people of Afghanistan. Karmal's tenuous, and brutal, hold on power continues only because his rule is supported by more than 100,000 Soviet occupation troops.

All Americans are outraged by this growing Soviet brutality against the proud and freedom-loving people of Afghanistan. Moreover, the entire world community has condemned the outside occupation of Afghanistan. Six times, in fact, the UN General Assembly has passed strong resolutions—supported by the overwhelming majority of the world's nations—which have:

- called for the immediate withdrawal of foreign troops from Afghanistan;
- reaffirmed the right of the Afghan people to determine their own form of government and choose their economic, political, and social systems;
- reiterated that the preservation of the sovereignty, territorial integrity, political independence, and nonaligned character of Afghanistan is essential for a peaceful solution of the problem; and

—called for the creation of conditions that would enable the Afghan refugees to return voluntarily to their homes in safety and honor.

All Americans are united on the goal of freedom for Afghanistan. I ask the American people, at a time when we are blessed with prosperity and security, to remember the Afghan struggle against tyranny and the rule of government-

by-terror. We stand in admiration of the indomitable courage of the Afghan people who are an inspiration to all freedom-loving nations around the globe.

Afghanistan Day will serve to recall the fundamental principles involved when people struggle for the freedom to determine their own future and the right to govern themselves without foreign interference. Let us, therefore, resolve to pay tribute to the brave Afghan people by observing March 21, 1985, as Afghanistan Day. Let us pledge our continuing admiration for their cause and their perseverance and continue to do everything we can to provide humanitarian support to the brave Afghan people, including the millions of Afghan refugees who have been forced to flee their own country.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim March 21, 1985, as Afghanistan Day.

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

Ronald Reagan

[FR Doc. 85-7196

Filed 3-22-85; 12:32 pm]

Billing code 3195-01-M

Presidential Documents

Proclamation 5310 of March 22, 1985

National Skin Cancer Prevention and Detection Week, 1985

By the President of the United States of America

A Proclamation

Skin cancer is the most common cancer in the United States. It accounts for between 30 and 40 percent of all cancers and is increasing at a significant rate. Approximately 18,000 Americans will develop a primary melanoma and over 500,000 Americans will develop nonmelanoma skin cancer this year. Epidemiological studies show that the incidence of melanoma has doubled every decade since the 1930s and is now increasing at a faster rate than any other cancer, except lung cancer in women.

Melanoma has a mortality rate of 25 percent and causes 5,000 deaths per year, and nonmelanoma skin cancer causes another 2,000 deaths per year. The 1983 National Institutes of Health Consensus Conference on Precursors to Malignant Melanoma found that the incidence of melanoma and the number of deaths from melanoma are increasing in many areas of the world and found evidence that early recognition and surgical removal of melanoma make it a highly curable cancer.

Patients with increased risk of developing melanoma and nonmelanoma skin cancers can be identified, and early treatment of melanoma and nonmelanoma skin cancers results in high cure rates.

Sun exposure is an undisputed cause of nonmelanoma skin cancer and is an important factor in the development of melanoma. The number of skin cancers can be reduced through sun protection measures such as the use of sunscreens, lotions and simple changes in lifestyle. The American Academy of Dermatology and State and local dermatologic organizations are committed to heightening the awareness and understanding of melanoma and nonmelanoma skin cancers among members of the general public and the health care community.

The first Melanoma and Skin Cancer Prevention and Detection Program, a coordinated national voluntary effort of professional dermatological organizations to reduce the increasing incidence of melanoma and nonmelanoma skin cancers and to better control such cancers, will be conducted in March 1985.

The Congress, by House Joint Resolution 85, has designated the week of March 24, 1985, through March 30, 1985, as "National Skin Cancer Prevention and Detection Week" and authorized and requested the President to issue a proclamation in observance of this event.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week of March 24, 1985, through March 30, 1985, as National Skin Cancer Prevention and Detection Week, and I urge health care professionals and all other interested persons and groups to assist efforts to advance the prevention and detection of skin cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-7311

Filed 3-25-85; 11:09 am]

Billing code 3195-01-M

Presidential Documents

Proclamation 5311 of March 22, 1985

Cancer Control Month, 1985

By the President of the United States of America

A Proclamation

The past year has witnessed steady, encouraging progress against cancer. The latest data show that 49 percent of all patients diagnosed with cancer survive five years or more. This compares with 48 percent last year and 46 percent the year before. And because of the lag time in collecting data, we believe the true five-year survival rate is better than 50 percent. For some of the major cancers, more than two-thirds of patients will survive beyond this five-year mark.

In addition, we are seeing steady gains in survival for patients with a number of specific cancers: melanoma, Hodgkin's disease and cancers of the lung, colon, prostate, and testis. For children under age 15 who develop cancer, the five-year survival rate has risen to 60 percent, up from 53 percent last year.

This record of continuing, steady gains assures us that we can meet our national goal for the year 2000: to reduce the 1980 cancer death rate in this country by one-half.

This is a realistic and achievable goal, built on the deeper understanding of cancer that we have derived from our research over the past decade and a half. We now have evidence, for example, that an individual can reduce personal cancer risk by a number of lifestyle choices. Quitting smoking is the single most important step an individual can take to reduce cancer risk. There are also a number of choices we can make in our daily diets that may help to reduce cancer risk, such as increasing the amount of fiber-rich foods, including fruits, vegetables, peas and beans, and whole-grain cereals. Another is to reduce the amount of fat in our diet.

Research designed to answer questions about ways to halt or prevent cancer is ongoing, including twenty-five studies concerning diet interventions. New community cancer programs have been formed to bring the latest in cancer care to patients in their own communities. A new computerized data base for physicians provides the latest information on cancer treatment. Trials of new therapies continue to seek better ways to help the cancer patient, and research to understand the nature of cancer at the cellular level continues to break new ground. We can look into the future with hope and optimism.

In 1938, the Congress of the United States passed a joint resolution (52 Stat. 148; 36 U.S.C. 150) requesting the President to issue an annual proclamation setting aside the month of April as "Cancer Control Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of April 1985 as Cancer Control Month. I invite the Governors of the fifty States and the Commonwealth of Puerto Rico, and the appropriate officials of all other areas under the United States flag, to issue similar proclamations. I also ask health care professionals, the communications industry, and all other interested persons and groups to reaffirm our Nation's continuing commitment to control cancer.

IN WITNESS WHEREOF, I have hereunto set my hand this 22nd day of March, in the year of our Lord nineteen hundred and eighty-five, and of the Independence of the United States of America the two hundred and ninth.

Ronald Reagan

[FR Doc. 85-7312

Filed 3-25-85; 11:10 am]

Billing code 3195-01-M

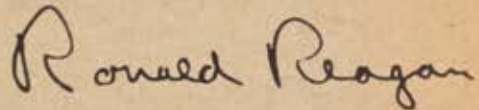
Presidential Documents

Executive Order 12507 of March 22, 1985

Continuance of the President's Commission on Organized Crime

By the authority vested in me as President by the Constitution and laws of the United States of America, including the Federal Advisory Committee Act, as amended (5 U.S.C. App. I), it is hereby ordered that Section 4(b) of Executive Order No. 12435, establishing the President's Commission on Organized Crime, is amended to provide as follows:

"(b) The Commission shall terminate on April 1, 1986, or thirty days after it submits its final report, whichever occurs first."



THE WHITE HOUSE,

March 22, 1985.

[FR Doc. 85-7313

Filed 3-25-85; 11:11 am]

Billing code 3195-01-M

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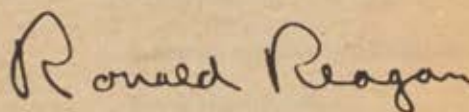
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Executive Order 12508 of March 22, 1985

World Tourism Organization

By the authority vested in me as President by the Constitution and laws of the United States of America, including Section 1 of the International Organizations Immunities Act (59 Stat. 669; 22 U.S.C. 288), and having found that the United States participates in the World Tourism Organization as a party to the Statutes of the World Tourism Organization (27 UST 2211, TIAS 8307), I hereby designate the World Tourism Organization as a public international organization entitled to enjoy the privileges, exemptions, and immunities conferred by the International Organizations Immunities Act. This designation is not intended to abridge in any respect privileges, exemptions or immunities that such organization may have acquired or may acquire by international agreements or by Congressional action.



THE WHITE HOUSE,
March 22, 1985.

[FR Doc. 85-7314

Filed 3-25-85; 11:12 am]

Billing code 3195-01-M

Presidential Documents

Executive Order 11629

March 1, 1974

For the purpose of the President's Commission on the Assassination of President John F. Kennedy, I hereby order that the following records be made available to the Commission:

1. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

2. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

3. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

4. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

5. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

6. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

7. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

8. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

9. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

10. All records of the Central Intelligence Agency, Department of Defense, and Department of State, relating to the activities of the Commission, its staff, and its advisory committees, from the date of its establishment to the present.

Richard Nixon

The White House
Washington, D.C.

Rules and Regulations

Federal Register

Vol. 50, No. 58

Tuesday, March 26, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1922

Appraisal of Single Family Residential Property

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding appraisals of single family residential properties to implement the provisions of Pub. L. 98-181, "Rural Housing Amendments of 1983". The circumstances requiring this action are changes in authorizing statutes for Federal agencies administering housing loan programs to permit the use of fee appraisers. The intended effect of this action is to establish the procedure for using contract appraisers in a pilot project.

EFFECTIVE DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT: James W. Craun, Senior Loan Officer, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5338, South Agriculture Building, 14th and Independence Avenue, SW, Washington, DC 20250, telephone (202) 382-1480.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. Pub. L. 98-181 requires the use of fee appraisers to expedite the processing of applications for housing loans and grants. At the present time FmHA employees are doing all rural housing

appraisals. This action will enable the agency to use contract appraisers under certain conditions to do rural housing appraisals so as to expedite the processing of rural housing loans. The FmHA plans to phase in the use of fee appraisers by first setting up some pilot projects in selected FmHA county offices. With information gathered from the pilot projects, the FmHA expects to write regulations to implement a fee appraiser program nationwide.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits, or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

The Catalog of Federal Domestic Assistance programs affected by this action are:

- 10.405—Farm Labor Housing Loans and Grants
- 10.410—Low Income Housing Loans
- 10.417—Very Low Income Housing Repair Loans and Grants
- 10.420—Rural Self-Help Housing Technical Assistance
- 10.421—Indian Tribes and Tribal Corporation Loans

This action does not adversely affect any FmHA programs or projects which are subject to intergovernmental consultation as the information required by the action is already being furnished on a voluntary basis.

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, "Environmental Program." It is the determination of FmHA that this action does not constitute a major Federal action significantly affecting the quality of the human environment and in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

List of Subjects in 7 CFR Part 1922

Loan programs—Housing and community development, Low and moderate income housing, Rural housing.

PART 1922—APPRAISAL

For the reasons stated in the preamble, Subpart C of Part 1922, Chapter XVIII, Title 7 of the Code of

Federal Regulations is amended as follows:

Subpart C—Appraisal of Single Family Residential Property

§ 1922.101 [Amended]

Section 1922.101 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) respectively and by adding a new paragraph (a) to read as follows:

§ 1922.101 General.

(a) *Appraiser.* Only an employee designated by the State Director or a contract appraiser selected by the State Director as authorized by the National Office may appraise a single family housing property.

Authority: 42 U.S.C. 1480; 7 CFR 2.23; 7 CFR 2.70.

Dated: March 6, 1985.

Dwight O. Calhoun,

Acting Associate Administrator.

[FR Doc. 85-7079 Filed 3-25-85; 8:45 am]

BILLING CODE 3410-07-M

7 CFR Part 2018

Availability of Information

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations for obtaining information under the Freedom of Information Act. This action is taken to reflect changes in the operation of the Agency. The intended effect is to inform the public of the procedure for requesting information from the Agency.

EFFECTIVE DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT: Virgil L. Cunningham, Jr., Freedom of Information Office, Directives and Administrative Services Division, Farmers Home Administration, USDA, Room 6865, South Agriculture Building, Washington, D.C. 20250, telephone (202) 382-9638.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1 which implements Executive Order 12291 and

has been determined to be exempt from those requirements because it involves only internal Agency management. The revision provides current administrative procedures for supplying records to the public under the Freedom of Information Act, as amended. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since the purpose of the change is administrative in nature and publication for comment is unnecessary.

List of Subjects in 7 CFR Part 2018:

Administrative practice and procedure, Freedom of information.

Accordingly, Subpart F of Part 2018 of Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 2018—GENERAL

1. The authority citation of Subpart F, Part 2018, Chapter XVIII, Title 7, Code of Federal Regulations reads as follows:

Authority: 5 U.S.C. 552.

Subpart F—Availability of Information

2. Section 2018.252 is revised to read as follows:

§ 2018.252 Public inspection and copying.

Facilities for inspection and copying are provided by the Freedom of Information Officer (FOIO) in the National Office, the State Director in each State Office, the District Director in each District Office, and the County Supervisor in each County Office. A person requesting information may inspect such materials and, upon payment of applicable fees, obtain copies. Material may be reviewed during regular business hours. If any of the FmHA materials requested are not located at the office to which the request was made, the request will be referred to the office where such materials are available.

3. Section 2018.254 is amended by revising the introductory text and paragraph (c) to read as follows:

§ 2018.254 Request for records.

Requests for records are to be submitted in accordance with 7 CFR 1.3 and may be made to the appropriate County Supervisor, District Director, or State Director; or to the Freedom of Information Officer, Directives and Administrative Services Division, Farmers Home Administration, Washington, D.C. 20250. The phrase "FOIA REQUEST" should appear on the

outside of the envelope in capital letters. Requests should be as specific as possible in describing the records being requested. The FOIO, each State Director, each District Director, and each County Supervisor are delegated authority to act respectively at the National, state, district, or county level on behalf of Farmers Home Administration to:

(c) Reduce or waive fees to be charged where determined to be appropriate.

Signed at Washington, D.C., on February 28, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85-7080 Filed 3-25-85; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 103

Powers and Duties of Service Officers; Availability of Service Records

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This final rule amends the evidence requirements for applications and petitions that are filed by the public to gain benefits under the Immigration and Nationality Act. Generally, original documents such as marriage and birth certificates are not returned to the person who files and application or petition unless the documents are accompanied by certified copies. This rule requires that original documents be submitted with a copy of each. The Service will then certify the copies and return the original documents unless there is a question concerning the validity of the documents. Only original naturalization certificates and certificates of citizenship must be submitted as it is illegal to make copies. This rule improves efficiency and service to the public.

EFFECTIVE DATE: April 25, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3291

For Specific Information: Thomas E. Cook, Immigration Examiner.

Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-5014

SUPPLEMENTARY INFORMATION: This change is needed to correct a serious problem. In many cases, people who file applications and petitions are filing them without copies attached, not realizing that the Service does not automatically return the original documents to the applicant or petitioner once the case is adjudicated. The Service accepts these submissions as being properly filed because the requirement to attach a copy when a petitioner desires return of the original is an optional procedure. The Service then keeps the original document as proof that the case was properly adjudicated and as a source document for subsequent actions. Normally, these original documents are retained in an individual file folder relating to the person for whom the benefit is sought. Usually after several months, the person who submitted the original documents realizes the Service intends to retain the original documents. At that time, in order to have the originals returned, the person must file a written request, submit a fee, and wait while the Service locates the file and processes the request.

This change will correct the problem by providing that applications and petitions will not be accepted unless they are accompanied by the original documents and a copy of each. Service to the public will be improved by insuring that original documents submitted to the Service are promptly returned to the applicant or petitioner. The current document certification procedures concerning attorneys, representatives of voluntary agencies, or immigration or consular officers are not modified.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking is unnecessary because the rule relates to Service procedures and will benefit the public by providing for the prompt return of original documents to persons who filed applications and petitions with the Service.

In accordance with 5 U.S.C. 605(b), the Commissioner certifies that this rule does not have significant economic impact on a substantial number of small entities.

This is not a major rule within the meaning of Section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 103

Administrative practice and procedure, Archives and records, Forms.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

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

Section 103.2 is amended by revising paragraph (b)(1) to read as follows:

§ 103.2 Applications, petitions, and other documents.

(b) *Evidence*—(1) *Requirements*. Each application or petition must be accompanied by the documents required by the particular section of the regulations under which submitted. Form I-134 may be used if an affidavit of support would be helpful in resolving any public charge aspect. All accompanying documents, other than certificates of naturalization or certificates of citizenship, must be submitted in the original and be accompanied by a copy. Except as provided in §§ 204.2(j), 212.8(b)(4), 214.2(h)(5), 214.2(k) and 214.2(1)(2) of this chapter, a copy unaccompanied by an original will be accepted only if the accuracy of the copy has been certified by an immigration or consular officer who has examined the original. A foreign document must be accompanied by an English translation in accordance with the instructions on the application or petition form. The translator must certify the he/she is competent to translate, and that the translation is accurate. If any required document is unavailable, church or school records, or other evidence pertinent to the facts in issue, may be submitted. If such documents are unavailable, affidavits may be submitted. The Service may require proof of unsuccessful efforts to obtain documents claimed to be unavailable. The Service may also require the submission of additional evidence, including blood tests, may require the taking of testimony, and may direct any necessary investigation. When any statement is taken from and signed by a person, he/she shall be furnished a copy thereof on request, without fee. Any allegations made in addition to, or in substitution for, those originally made shall be under oath and filed in the same manner as the original application, petition, or other document or noted on the original application, petition, or document and acknowledged under oath thereon. The status of an applicant or petitioner who claims that he/she is a lawful permanent resident alien of the United States will be verified from official records of the Service. Under the conditions

hereinafter prescribed, the term "official records," as used herein, includes Service files, arrival manifests, arrival records, Service index cards, Immigrant Identification Cards, Certificates of Registry, Declarations of Intention issued after July 1, 1929, Alien Registration Receipt Cards (Form AR-3, AR-103, I-151, or I-551), passports, and reentry permits. To constitute an "official record" the Service index card must bear a designated immigrant visa symbol and have been prepared in processing immigrant admissions or adjustments to permanent resident status. The other cards, certificates, declarations, permits, and passports must have been issued or have been endorsed by the Service to show admission for permanent residence. Except as otherwise provided in Part 101 of this chapter, and in the absence of countervailing evidence, such official records shall be regarded as establishing lawful admission for permanent residence.

(Sec. 103 of the Immigration and Nationality Act, as amended; 8 U.S.C. 1103)

Dated: March 12, 1985.

Andrew J. Carmichael, Jr.,
Associate Commissioner, Examinations,
Immigration and Naturalization Service.

[FR Doc. 85-7054 Filed 3-25-85; 8:45 am]

BILLING CODE 4410-10-M

8 CFR Part 235

Inspection of Persons Applying for Admission; Preinspection

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: INS and Customs perform inspections outside the United States to "preclear" air travelers at the request of the airlines. Existing statutes authorize reimbursement for overtime and excess costs, such as housing and other related cost-of-living allowances expended in providing preclearance service. Although both agencies bill the airlines for overtime charges, only U.S. Customs charges the carriers for excess costs. Consequently, INS is not maximizing its collection of revenue to the fullest extent possible.

This rule shifts financial burden for excess costs relating to INS personnel at preclearance facilities from the United States Government to the benefiting carriers.

EFFECTIVE DATE: April 28, 1985.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633-3048.
For Specific Information: Valerie M. Blake, Immigration Inspector, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536. Telephone: (202) 633-2694.

SUPPLEMENTARY INFORMATION: In 1968, the Assistant Secretary of the Treasury requested that the Comptroller General consider whether a charge for Customs' expenses in providing preclearance services would be authorized or required by 31 U.S.C. 483, the "user fee" statute authorizing agencies to prescribe charges for government services that benefit identifiable entities. The Comptroller General issued a decision (B-164426) agreeing that a charge covering the excess cost of providing preclearance services would be authorized. According to Customs regulations, (19 CFR 24.18), reimbursable excess costs for preclearance include allowances and expenses for items such as quarters, post-of-duty differentials, and transportation of family members and household effects. In fiscal year 1983, the airlines reimbursed the Customs Service an amount in excess of three million dollars. INS did not receive reimbursement and would not, under current regulations. Because INS has a smaller number of inspectors assigned to preclearance activities, the total amount of reimbursable expenses would be less than that paid to Customs. Recoverable expenses would, however, approximate \$1 million. As recommended by the Government Accounting Office, this rule creates another opportunity for INS to increase revenue to the Treasury of the United States, and more appropriately places any financial liability for inspectional services on the benefiting user, not on the Government of the United States. Notice of the proposed rule making was published in the *Federal Register* August 23, 1984 at 49 FR 33451, with a comment period of 60 days, ending October 22, 1984. During the 60 day public comment period, two comments were received, both in opposition to the proposed rule.

The comments of one writer completely encompassed the comments of the other. A summary of these comments and the Service reply follow:

(1) The proposal misapplies the Independent Offices Appropriations Act. The Act authorizes agencies to assess fees for services provided to an

identifiable beneficiary. There is a strong argument that where preclearance costs are involved, the identifiable recipients are the airlines who receive a direct benefit from the savings in time and costs. Landing fees are generally lower and turn-around time is faster, thus freeing up aircraft for more flights. Flight crews are immediately available and ground crews can be centralized. Overall, airline travel is enhanced, resulting in increased revenues for the airlines. While the general public certainly benefits through more expeditious processing and in dollar savings that are passed on from the airlines, the airline is the direct identifiable beneficiary.

The Supreme Court has ruled that special benefits accruing to an identifiable recipient above those which accrue to the public are fully recoverable. In this case, the rulemaking covers reimbursement only for excess costs of the preclearance operation, while the basic salary items may be attributed to the public benefit and will continue to be paid by the U.S. Government.

(2) The proposal jeopardizes bilateral aviation agreements. While the U.S.-Canada Agreement does appear to exempt airlines from the "normal costs" of inspection, since preclearance costs are considerably higher than stateside inspection costs, the excess cost may not be considered "normal."

(3) The regulation would be unconstitutional. This argument is without support. The Court has specifically stated that an agency may exact a fee for a grant (preclearance) which bestows a benefit on the applicant (*National Cable 415 U.S. at 340-341*). The Independent Offices Appropriations Act (IOAA) expressly authorizes agencies to assess fees for services provided and has been constitutionally upheld. Furthermore, the stated purpose of the IOAA is to enable agencies providing services to persons to be self-sustaining.

(4) The proposal ignores the explicit views of the Congress. The views referred to are contained in language from Senate and House reports on H.R. 31. That bill was never passed. Restrictions of the Trade and Tariff Act are not applicable, since only excess costs will be assessed.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule does not have a significant economic impact on a substantial number of small entities. This order is not a major rule within the meaning of section 1(b) of E.O. 12291.

The language of section 235.5(c)(4) has been amended to reflect Fiscal Year 1984 actual excess costs as the basis for determining the initial schedule of biweekly excess costs. When the proposed rule was published, the 1984 data was not available and this change simply reflects an effort on the part of the Service to provide the most accurate account of current costs.

List of Subjects in 8 CFR Part 235

Administrative practice and procedure, Air carriers, Inspections, Transportation, Travel and transportation expense.

Accordingly, Chapter 1 of Title 8 of the Code of Federal Regulations is amended as follows:

PART 235—INSPECTION OF PERSONS APPLYING FOR ADMISSION

In § 235.5, new paragraphs (c)(1) through (c)(6) are added to read as follows:

§ 235.5 Preinspection.

(c) *Preclearance of travelers in a foreign country; reimbursable costs.* (1) Preclearance is the examination and inspection of travelers at foreign places where Service personnel are stationed for that purpose.

(2) At the request of a carrier, travelers on a direct route to the United States from a foreign place described in paragraph (1) of this section may be precleared prior to departure from such place. A charge based on the excess cost to the Immigration and Naturalization Service of providing preclearance services as defined in paragraph (c)(3) of this section shall be made to the carrier.

(3) The reimbursable excess cost is the difference between the cost of examining and inspecting travelers upon arrival in the United States assuming no preclearance was provided, and the cost of providing preclearance for travelers at the place of departure. Such excess cost shall include all items attributable to the preclearance operation. This does not include the salary of personnel regularly assigned to a preclearance station other than approved salary differentials related to the foreign assignments and the salary of relief details made necessary by reason of the nature of the operation. In addition, such cost shall include the following allowances and expenses:

- (i) Foreign quarters;
- (ii) Cost-of-living allowances;
- (iii) Education allowances;

(iv) Transportation cost incident to the assignment to the foreign station and return, including transportation of family and household effects;

(v) Home leave and associated transportation costs; and

(vi) Equipment, supplies and administrative costs including costs of supervising the preclearance installation.

(4) The reimbursable excess cost described in paragraph (c)(3) of this section shall be determined for each preclearance installation. On the basis of the excess cost figure for each installation, the excess cost of providing preclearance service for a biweekly pay period shall be determined. The initial schedule of biweekly excess cost will be based on the actual excess cost for Fiscal Year 1984. Thereafter a quarterly (ending with the pay period closely corresponding to June 30, September 30, December 31, and March 31) cost analysis will be conducted and the schedule of biweekly excess costs will be adjusted so that the current cost schedule will reflect the actual excess costs of the previous quarter. Such schedules of biweekly costs for each installation shall be published in the *Federal Register*. The biweekly excess cost in effect at an installation at the time the charge is made shall be used in calculating the prorated charge for preclearance service for each carrier in accordance with paragraph (c)(5) of this section.

(5) The charge to each carrier for preclearance service shall be its prorated share of the applicable excess cost prorated to the vessel receiving such services during the billing period on the following basis:

- (i) Five percent shall be distributed equally among carriers serviced.
- (ii) Ten percent shall be distributed proportionately as the number of clearances for each carrier serviced bears to the total number of clearances.
- (iii) Eighty-five percent shall be distributed proportionately as the number of passengers and/or crew serviced for each carrier bears to the number of passengers and/or crew serviced.

(6) Immigration clearances for which overtime compensation is provided for by the Act of March 2, 1931 and expenses recovered thereunder are in no way affected by this section.

(Secs. 103 and 235 of the Immigration and Nationality Act, as amended; (8 U.S.C. 1103 and 1225))

Dated: March 7, 1985.

Alan C. Nelson,

Commissioner, Immigration and
Naturalization Service.

[FR Doc. 85-7055 Filed 3-25-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-88-AD; Amdt. 39-5018]

Airworthiness Directives; McDonnell Douglas Model DC-9 and C-9 (Military) Airplanes

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adds a new airworthiness directive (AD) which requires modification of the battery charger on McDonnell Douglas Model DC-9 and C-9 (Military) airplanes. Six incidents of battery charger failures have been reported. Since all six failed battery chargers showed evidence of overheating, this action is necessary to prevent the potential for a localized fire and the potential loss of both the Battery Direct and Battery Buses which provide emergency electrical power.

EFFECTIVE DATE: May 20, 1985.
Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication, and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT:

Mr. George Y. Mabuni, Aerospace Engineer, Systems & Equipment Branch, ANM-130L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2831.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive (AD) requiring modification of the battery charger on McDonnell Douglas Model DC-9 and C-9 (Military) airplanes was published as a Notice of Proposed Rulemaking

(NPRM) in the Federal Register, dated September 20, 1984 (49 FR 36867). The comment period for the proposal closed on November 9, 1984.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received. The commentor had no objections to the proposed rule as it is written.

Approximately 647 airplanes of U.S. Registry will be affected by this AD. It will require approximately one manhour per airplane to accomplish the modification at an average labor charge of \$40 per manhour. Based upon these figures, the total economic impact of this AD on U.S. operators is estimated to be \$25,880.

After careful review of the available data, including the comment noted above, the FAA has determined that aircraft safety and the public interest require the adoption of the proposed rule.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities since no small entities operate DC-9 airplanes. A final evaluation has been prepared for this regulation and has been placed in the docket. A copy of it may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

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

McDonnell Douglas: Applies to McDonnell Douglas Model DC-9 and C-9 (Military) airplanes, certificated in all categories, equipped with Sundstrand P/N 26340061-04 battery charger. Compliance required as indicated, unless previously accomplished.

To prevent the potential for a localized fire and the potential loss of the Battery Direct and Battery Buses which provide emergency electrical power, accomplish the following:

A. Within 90 days after the effective date of this AD, modify Sundstrand P/N 26340061-04 battery chargers whose serial numbers are listed in Section I, paragraph 4.A. of Sundstrand Service Bulletin 26340061-24-2 dated February 24, 1984, in accordance with

the Accomplishment Instructions of the Sundstrand service bulletin as referenced by McDonnell Douglas DC-9 Service Bulletin 24-73, dated March 21, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

B. Within 180 days after the effective date of this AD, modify all other Sundstrand P/N 26340061-04 battery chargers not affected by paragraph A. of this AD, in accordance with the Accomplishment Instructions of Sundstrand Service Bulletin 26340061-24-2 dated February 24, 1984, as referenced by McDonnell Douglas DC-9 Service Bulletin 24-73, dated March 21, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

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

D. Special flight permits may be issued in accordance with FAR 21.197 and FAR 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

This Amendment becomes effective May 20, 1985.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983; and 14 CFR 11.89))

Issued in Seattle, Washington, on March 19, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-7040 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AGL-8]

Establishment of Badlands, SD, Additional Control Area and V-491

AGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes an additional control area east of Rapid City, SD, and a Federal Airway from Rapid City, SD, to Minot, ND. This action is taken to provide increased levels of efficient and economical service to airspace users through an

increase of available controlled airspace and expansion of air traffic control services.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.
FOR FURTHER INFORMATION CONTACT: Gene Falsetti, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591; telephone: (202) 426-8783.

SUPPLEMENTARY INFORMATION:

History

On January 10, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) by establishing the Badlands, SD, Additional Control Area east of Rapid City, SD, and V-491 from Rapid City, SD, to Minot, ND, (50 FR 1232). The proposal was based on airspace user requests for additional controlled airspace to reduce fuel and operating costs and for more controlled airspace to route aircraft around frequently used military training routes. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Sections 71.123 and 71.163 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations establishes the Badlands, SD, Additional Control Area east of Rapid City, SD, and VOR Federal Airway V-491 from Rapid City, SD, to Minot, ND. These actions are taken to provide increased levels of efficient and economical service to airspace users through an increase of available controlled airspace and expansion of air traffic control services.

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

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, Additional control areas and VOR Federal airways.

Adoption of the amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, § 71.123 and § 71.163 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) are amended, as follows:

§ 71.123 [Amended]

V-491 [New]

From Rapid City, SD; Dickinson, ND; to Minot, ND.

§ 71.163 [Amended]

Badlands, SD [New]

That airspace extending upward from 1,200 feet AGL to but not including 14,500 feet MSL within the area bounded by a line beginning at lat. 44°45'00"N., long. 102°28'00"W.; to lat. 44°45'00"N., long. 99°30'00"W.; to lat. 43°40'00"N., long. 99°30'00"W.; to lat. 43°40'00"N., long. 102°28'00"W.; to the point of beginning.

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

Issued in Washington, D.C., on March 19, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-7026 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-ANM-32]

Revised Control Zone, Boise, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action redefines the current geographical boundaries of the Boise, Idaho, Control Zone. This action is required due to realignment of the VOR Rwy 10L & R and VOR/DME Rwy 10L & R instrument approach procedures for noise abatement.

EFFECTIVE DATE: 0901 G.m.t., June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Kathy Paul, Airspace & Procedures Branch, ANM-530, 17900 Pacific

Highway South, C-68966, Seattle, Washington 98168. The telephone number is (206) 431-2535.

SUPPLEMENTARY INFORMATION:

History

On December 10, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulation (14 CFR Part 71) to redefine the current geographical boundaries of the Boise, Idaho, Control Zone (49 FR 48053).

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received.

This amendment is the same as that proposed in the notice. Section 71.171 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6 January 3, 1984.

The Rule

This amendment of Part 71 of the Federal Aviation Regulations redefines the geographical boundaries of the Boise Control Zone. Amendments to the VOR Rwy 10L & R and VOR/DME Rwy 10L & R instrument approach procedures for noise abatement require an adjustment in the boundaries of the control zone.

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

List of Subjects in 14 CFR Part 71

Control zones; Aviation safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.171 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

Boise, Idaho, Control Zone (Revised)

Within a 5-mile radius of the Boise Air Terminal (43° 33' 54" N/116° 13' 27" W); within 4 miles each side of the Boise VORTAC 300° radial extending from the 5-

mile radius zone to 12 miles northwest of the VORTAC, within 5 miles each side of the Boise VORTAC 114° radial extending from the 5-mile radius area to 12 miles southeast of the VORTAC; and within 2 miles west and 5 miles east of the Boise VORTAC 179° radial extending from the 5-mile radius area to 7 miles south of the VORTAC.

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

Issued in Seattle, Washington, on February 26, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-7034 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWA-2]

Alteration of VOR Federal Airways; Athens, GA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several airways located in the vicinity of Athens, GA, by deleting some alternate airway segments and renumbering other alternate airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-6783.

SUPPLEMENTARY INFORMATION:

History

On September 20, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of Athens, GA (49 FR 36869). Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. However, after an operational impact study, V-18S, V-35W, V-35E and V-441E which were scheduled to be revoked have been retained and renumbered and V-51W

has been withdrawn. Except as mentioned above and for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of several airways located in the vicinity of Athens, GA, by deleting some alternate airway segments and renumbering other alternate airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V-49 [Revised]

From Vulcan, AL, via Decatur, AL; Nashville, TN; Bowling Green, KY; Mystic, KY; to Nabb, IN.

V-66 [Amended]

By removing the words "Raleigh-Durham, NC, including a south alternate from Athens, GA, to Raleigh-Durham via INT Athens 092° and Greenwood, SC, 240° radials, Greenwood and Sandhills, NC;" and substituting the words "Raleigh-Durham, NC;"

V-409 [New]

From Athens, GA, via INT Athens 092° and Greenwood, SC, 240° radials; Greenwood; Sandhills, NC; to Raleigh-Durham, NC.

V-35 [Amended]

By removing the words "Fort Myers; St. Petersburg, FL, including a W alternate; via INT Fort Myers 311° and Sarasota, FL, 156° radials; Sarasota, St. Petersburg; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, including an E alternate via Gainesville, FL;" and "Holston Mountain, TN, including a west alternate via INT Sugarloaf Mountain 329° and Holston Mountain 203° radials; Glade Spring, VA;" and substituting the words "Fort Myers; St. Petersburg, FL; INT St. Petersburg 350° and Cross City, FL, 168° radials; Cross City, FL;" and "Holston Mountain, TN; Glade Spring, VA;"

V-364 [New]

From Sugarloaf Mountain, NC, via INT Sugarloaf Mountain 329° and Holston Mountain, TN, 203° radials; Holston Mountain.

V-20 [Amended]

By removing the words "Spartanburg, SC, including a north alternate from Montgomery to Spartanburg via INT Montgomery 029° and Chattanooga, TN, 189° radials; INT Chattanooga 189° and Rome, GA, 252° radials; Rome; INT Rome 060° and Toccoa, GA, 258° radials; Toccoa to Spartanburg;" and substituting the words "Spartanburg, SC;"

V-415 [New]

From Montgomery, AL, via INT Montgomery 029° and Chattanooga, TN, 189° radials; INT Chattanooga 189° and Rome, GA, 252° radials; Rome; INT Rome 060° and Toccoa, GA, 258° radials; Toccoa to Spartanburg, SC.

V-417 [New]

From Monroe, LA, via INT Monroe 105° and Jackson, MS, 256° radials; Jackson; INT Jackson 111° and Meridian, MS, 262° radials; Meridian; Tuscaloosa, AL; Vulcan, AL; Rome, GA; INT Rome 060° and Electric City, SC, 274° radials; INT Electric City 274° and Athens, GA, 340° radials; Athens; INT Athens 109° and Augusta, GA, 294° radials; Augusta; INT Augusta 148° and Allendale, SC, 273° radials; Allendale; to Charleston, SC.

V-427 [New]

From Monroe, LA, via INT Monroe 075° and Jackson, MS, 286° radials; to Jackson.

V-18 [Amended]

By removing the words "Jackson, MS, including a N alternate and also a S alternate; Meridian, MS, including a S alternate; Tuscaloosa, AL; Vulcan, AL; Talladega, AL; Atlanta, GA; INT Atlanta 089° and Augusta, GA, 278° radials; Augusta, including a north alternate from Vulcan to Augusta via Rome, GA, INT Rome 060° and Anderson, SC, 274° radials; INT Anderson 274° and Athens, GA, 340° radials; Athens, and INT Athens 109° and Augusta 294° radials; INT Augusta 103° and Charleston, SC, 296° radials; Charleston, including a S alternate from Augusta to Charleston via INT Augusta 148° and Allendale, SC, 273° radials, and Allendale," and substituting the words "Jackson, MS; Meridian, MS; Tuscaloosa, AL; Vulcan, AL;

Talladega, AL; Atlanta, GA: INT Atlanta 089° and Augusta, GA, 278° radials; Augusta: INT Augusta 103° and Charleston, SC, 296° radials; Charleston, SC.

V-94 [Amended]

By removing the words "Monroe, LA; Greenville, MS, including a S alternate; Holly Springs, MS, including a N alternate via INT Greenville 021° and Holly Springs 268° radials;" and substituting the words "Monroe, LA; Greenville, MS; Holly Springs, MS;"

V-397 [New]

From Monroe, LA, via INT Monroe 056° and Greenville, MS, 207° radials; Greenville: INT Greenville 021° and Holly Springs, MS, 268° radials; to Holly Springs.

V-97 [Amended]

By removing the words "From Miami, FL; La Belle, FL, including an E alternate via INT Miami 337° and La Belle 124° radials; St. Petersburg, FL;" and substituting the words "From Miami, FL, via La Belle, FL; St. Petersburg, FL;"

V-157 [Amended]

By removing the words "Miami, FL; La Belle, FL;" and substituting the words "Miami, FL; INT Miami 337° and La Belle, FL, 124° radials, La Belle;"

V-441 [Amended]

By removing the words "Ocala, including an E alternate via INT St. Petersburg 040° and Ocala 182°" and substituting the words "to Ocala"

V-152 [Amended]

By removing the words "Ormond Beach, including a S alternate via Lakeland, FL, Orlando, FL; INT Orlando 049° and Ormond Beach 161° radials;" and substituting the words "Ormond Beach."

V-533 [New]

From St. Petersburg, FL, via Lakeland, FL; Orlando, FL; INT Orlando 049° and Ormond Beach, FL, 161° radials; to Ormond Beach.

V-579 [New]

From Ft. Myers, FL, via INT Ft. Myers 311° and Sarasota, FL, 156° radials; Sarasota; St. Petersburg, FL; Gainesville, FL; to Cross City, FL.

V-581 [New]

From St. Petersburg, FL, via INT St. Petersburg 040° and Ocala, FL, 182° radials; to Ocala.

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

Issued in Washington, D.C., on March 19, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-7027 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWA-3]

Alteration and Revocation of VOR Federal Airways; Birmingham, AL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the descriptions of several VOR Federal Airways located in the vicinity of Birmingham, AL, by deleting some alternate airway segments and renumbering other airway segments. This action supports our agreement with the International Civil Aviation Organization (ICAO) to eliminate all alternate airway designations from the National Airspace System.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On November 15, 1984, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the descriptions of several airways located in the vicinity of Birmingham, AL, by deleting all alternate route designations, renumbering some airway segments and revoking airway segments that are not required (49 FR 45166). This amendment was subdivided into three parts because of the number of actions required in the original request submitted by the Regional Office. (ASD 84-AWA-1 49 FR 48532 and ASD 84-AWA-2 49 FR 36869) Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. However, proposed V-54 has not been included in the final rule, and will be the subject of additional operational study before further rulemaking. Except for the above withdrawal of V-54 and editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the descriptions of several airways located in the vicinity of Birmingham, AL, by deleting some alternate airway segments and renumbering other alternate airway segments. This action supports our agreement with ICAO to eliminate all alternate airway designations from the National Airspace System.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, as follows:

V-159 [Amended]

By removing the words "Ocala, FL, including a S alternate from INT Vero Beach 319° and Melbourne, FL, 298° radials, to Ocala, via INT Melbourne 298° and Ocala 145° radials; Cross City, FL; Greenville, FL; including an east alternate from Ocala to Greenville via Gainesville, FL, excluding that airspace above 7,000 feet MSL between Gainesville and Greenville;" and substituting the words "Ocala, FL; Cross City, FL; Greenville, FL;"

V-537 [New]

From Vero Beach, FL, via INT Vero Beach 319° and Melbourne, FL, 298° radials; INT Melbourne 298° and Ocala, FL 145° radials; Ocala; Gainesville, FL; to Greenville, FL.

V-225 [Amended]

By removing the words "Fort Myers, FL, including an E alternate from Key West, 30 miles, 77 miles 17 AGL to Fort Myers;" and substituting the words "Fort Myers, FL;"

V-539 [New]

From Key West, FL, via INT Key West 013° and Fort Myers, FL, 163° radials; to Fort Myers.

V-311 [Revised]

From Wiregrass, GA, via INT Wiregrass 002° and La Grange, GA, 191° radials; to La Grange. From INT Toccoa, GA, 222° and Electric City, SC, 274° radials; Electric City, Greenwood, SC; to Columbia, SC.

V-278 [Amended]

By removing the words "Vulcan, AL, including a S alternate from Bigbee to Vulcan via INT Bigbee 082° and Tuscaloosa, AL, 304° radials, and Tuscaloosa, excluding the airspace between the main and this alternate airway," and substituting the words "to Vulcan, AL."

V-245 [Amended]

By removing the words "Bigbee, MS, excluding the airspace at and above 8,000 feet MSL from Jackson to Bigbee," and substituting the words "Bigbee, MS; INT Bigbee 082° and Tuscaloosa, AL, 304° radials; to Tuscaloosa."

V-325 [Amended]

By removing the words "Muscle Shoals AL, including an E alternate via INT Gadsden 318° and Decatur, AL, 130° radials, and Decatur," and substituting the words "to Muscle Shoals, AL."

V-541 [New]

From Gadsden, AL, via INT Gadsden 318° and Decatur, AL, 130° radials; Decatur; to Muscle Shoals, AL.

V-455 [Revised]

From New Orleans, LA, via Fcayune, MS; Eaton, MS; to Meridian, MS.

V-114 [Amended]

By removing the words "to New Orleans, LA," under the pending amendment and substituting to words "New Orleans, LA; INT New Orleans 070° and Gulfport, MS, 247° radials; Gulfport; INT Gulfport 344° and Eaton, MS, 171° radials; to Eaton."

V-543 [New]

From New Orleans, LA, via INT New Orleans 357° and Eaton 221° radials; Eaton; INT Eaton 010° and Meridian, MS, 221° radials; Meridian.

V-56 [Amended]

By removing the words "including a south alternate via INT of Augusta 103° and Columbia 236° radials"

V-115 [Amended]

By removing the words "including a west alternate via INT Chattanooga 028° and Knoxville 243° radials"

V-140 [Amended]

By removing the words "Razorback, AR, including a N alternate via INT Tulsa 059° and Razorback 284° radials;" and substituting the words "Razorback, AR;"

V-185 [Amended]

By removing the words "Knoxville, including an E alternate from Sugarloaf

Mountain to Knoxville via INT Sugarloaf Mountain 329° and Knoxville 069° radials," and substituting the words "to Knoxville."

V-241 [Amended]

By removing the words "including a west alternate from Wiregrass via INT Wiregrass 002° and LaGrange 191° radials, and LaGrange"

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

Issued in Washington, D.C., on March 19, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-7028 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

CONSUMER PRODUCT SAFETY COMMISSION

16 CFR Part 1610

Standard for the Flammability of Clothing Textiles; Requirements for Testing and Recordkeeping to Support Guaranties; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued by the Commission to amend regulations which prescribe requirements for testing to support guaranties of products, fabrics, and related materials subject to the Standard for the Flammability of Clothing Textiles. The rule was published in the Federal Register of December 14, 1984 (49 FR 48683-48690). This action is necessary to correct typographical errors which appear in the text of the final rule.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6400.

SUPPLEMENTARY INFORMATION:

§ 1610.37 [Corrected]

The following correction is made to the amendment of 16 CFR 1610.37 published in the Federal Register of December 14, 1984 (49 FR 48683). On page 48689, the text of § 1610.37(c)(3) is corrected to read as follows:

...
(c) * * *
(3) In the case of an initial guaranty of a fabric or related material, a program of reasonable and representative tests may

consist of one or more tests of the particular fabric or related material which is the subject of the guaranty, or of a fabric or related material of the same "class" of fabrics or related materials as the one which is the subject of the guaranty. For purposes of this § 1610.37, the term "class" means a category of fabrics or related materials having general constructional or finished characteristics, sometimes in association with a particular fiber, and covered by a class or type description generally recognized in the trade.

* * *
Dated: March 21, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-7166 Filed 3-25-85; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Parts 1610 and 1611

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Amendments to Implementing Regulations; Correction

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule; correction.

SUMMARY: This document corrects a final rule issued by the Commission to amend regulations implementing the flammability standards for clothing textiles and vinyl plastic film. The amendments were published in the Federal Register of February 26, 1985 (50 FR 7754) to announce the manner by which the Commission will interpret test results in certain cases; the procedure the Commission will use to determine whether the standard for clothing textiles or the standard for vinyl plastic film is applicable to certain products; and the manner by which the Commission will apply the test in the standard for vinyl plastic film to fabrics and related materials used in certain small garments. This action is necessary to correct a typographical error and an omission in the text of the final rule.

FOR FURTHER INFORMATION CONTACT: Elizabeth Gomilla, Division of Regulatory Management, Directorate for Compliance and Administrative Litigation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492-6400.

SUPPLEMENTARY INFORMATION: The following corrections are made to the rule amending regulations in Part 1610 and Part 1611, published in the Federal Register of February 26, 1985 (50 FR 7754-7764):

1. On page 7761, in § 1610.32(a), the word "procedure" is corrected to read "procedures."

2. On page 7762, the first sentence of § 1611.32(b)(2)(iii) is corrected to read as follows: If only one specimen of the set of five specimens ignites and burns the stop cord with failing results, test another set of five specimens from the same direction of processing. * * *

Dated: March 21, 1985.

Sadye E. Dunn,

Secretary, Consumer Product Safety Commission.

[FR Doc. 85-7172 Filed 3-25-85; 8:45 am]

BILLING CODE 6355-01-M

16 CFR Part 1611

Standards for the Flammability of Clothing Textiles and Vinyl Plastic Film; Amendments to Implementing Regulations

Correction

In FR Doc. 85-4575 beginning on page 7754 in the issue of Tuesday, February 26, 1985, make the following correction:

On page 7762, first column, in § 1611.32, paragraph (b)(1) is inaccurate and should have appeared as set forth below:

§ 1611.32 [Corrected]

(b)(1) In the application of the requirements of § 1611.3 of the Standard to any item of film, coated fabric, or wearing apparel, compute the average

burn rate from five specimens burned transverse to the direction of processing and the average burn rate from an additional five specimens burned lengthwise to the direction of processing. If either the average burn rate from the five specimens burned transverse or the average burn rate from the five specimens burned lengthwise exceeds 1.2 inches per second, the test results shall be interpreted as a failure. * * *

BILLING CODE 1505-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM79-14]

Order of the Director, OPR of Publication of Incremental Pricing Acquisition Cost Thresholds Under Title II of the NGPA

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the Natural Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the

threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Kenneth A. Williams, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, D.C. 20426, (202) 357-8500.

SUPPLEMENTARY INFORMATION: Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of April 1985 are issued by the publication of a price table for the applicable month. The incremental pricing acquisition cost threshold prices for months prior to April 1985 are found in the tables in § 282.304.

List of Subjects in 18 CFR Part 282

Natural gas.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

	Calendar year 1984											
	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sep.	Oct.	Nov.	Dec.
Incremental Pricing Threshold	\$2.283	\$2.291	\$2.299	\$2.307	\$2.315	\$2.323	\$2.331	\$2.339	\$2.345	\$2.352	\$2.359	\$2.366
NGPA Section 102 Threshold	3.586	3.609	3.632	3.656	3.680	3.705	3.730	3.752	3.774	3.797	3.821	3.845
NGPA Section 109 Threshold	2.359	2.367	2.375	2.383	2.391	2.399	2.407	2.414	2.421	2.428	2.435	2.441
1-7% of No. 2 Fuel Oil in New York City Threshold	7.730	7.570	7.570	6.550	6.590	7.670	7.930	7.740	7.650	7.230	7.040	7.290

	Calendar year 1985											
	Jan.	Feb.	Mar.	Apr.								
Incremental Pricing Threshold	\$2.373	\$2.378	\$2.383	\$2.388								
NGPA Section 102 Threshold	3.689	3.690	3.911	2.932								
NGPA Section 109 Threshold	2.452	2.457	2.462	2.467								
130% of No. 2 Fuel Oil in New York City Threshold	7.170	7.310	7.090	6.920								

[FR Doc. 85-7133 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 178

(T.D. 85-53)

OMB Approval of Information Collections in Customs Regulations

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations by setting forth a list of information collections contained in the regulations and displaying the control number assigned by the Office of Management and Budget (OMB). The Paperwork Reduction Act of 1980 requires federal agencies to obtain OMB clearance for information collections that the agency imposes on the public. This listing furnishes a way for the public to determine that the paperwork burdens imposed by Customs have been approved by OMB and comply with the Paperwork Reduction Act.

FOR FURTHER INFORMATION CONTACT:

Kathleen Katchmark, Paperwork Management Staff, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-7559).

EFFECTIVE DATE: March 26, 1985.

SUPPLEMENTARY INFORMATION:

Background

The Paperwork Reduction Act of 1980 (Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*) establishes policies and procedures for controlling paperwork burdens imposed on the public by federal agencies. Pursuant to this Act, by a document published in the Federal Register on March 31, 1983 (48 FR 13666) the Office of Management and Budget (OMB) promulgated rules implementing the Act. The OMB rules are codified at 5 CFR Part 1320 *et seq.*

One aspect of OMB's oversight function is the review and approval of information collections. Generally, information collections include any requirement or request for persons to obtain, maintain, retain, report, or publicly disclose information. OMB analyzes such requests for three basic requirements. First, the collection of information must be necessary for the proper performance of the agency functions. Second, the request for information or records must not duplicate information otherwise accessible to the agency. Third, the information must have practical utility.

When an information collection is approved by OMB, it is issued a control number. The control number provides a simple and effective way to inform the public that a particular information collection has been approved by OMB pursuant to the Paperwork Reduction Act.

This document amends the Customs Regulations in 19 CFR Chapter I by adding a new Part 178 which lists the information collections contained in the regulations and their respective control numbers as assigned by OMB.

Part 178 will be amended to reflect the approval of new information collections as well as the deletion of collections no longer found to be necessary.

Executive Order 12291, Regulatory Flexibility Act, Inapplicability of Public Notice Requirement

Although this document creates a new part in the Customs Regulations contained in 19 CFR Chapter I, it is merely a listing of the status of other already published regulations. Therefore, the requirements of E.O. 12291, the Regulatory Flexibility Act, and the notice and public comment and delayed effective date requirements of the Administrative Procedure Act (5 U.S.C. 552) are not applicable to this document.

Drafting Information

The principal author of this document was John E. Doyle, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of Subjects in 19 CFR Part 178

Reporting and recordkeeping requirements, Paperwork requirements, Collections of information.

Chapter I of Title 19, Code of Federal Regulations (19 CFR Chapter I), is amended by adding a new part, Part 178, titled, "Approval of Information Collection Requirements", to read as follows:

PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS

Secs.

178.1 Purpose.

178.2 Listing of OMB Control Numbers.

Authority: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14; Pub. L. 96-511, 94 Stat. 2812, 44 U.S.C. 3501 *et seq.*

§ 178.1 Purpose.

This part sets forth the control numbers assigned to information collections of the Customs Service by the Office of Management and Budget pursuant to the Paperwork Reduction Act of 1980, Pub. L. 96-511. This part complies with the requirements of the Paperwork Reduction Act of 1980, and implements regulations promulgated by the Office of Management and Budget, (5 CFR 1320.7(f)(2), 1320.12(d) and 1320.13(j)) which require that agencies display a current control number assigned by the Director of the Office of Management and Budget for each agency information collection.

§ 178.2 Listing of OMB Control Numbers.

19 CFR Section	Description	OMB control No.
§§ 4.20, 4.23, and 4.24	Certification of payment of tonnage tax.	1515-0113
§ 4.97	Application for foreign vessel to engage in salvage operation/report of salvage operation.	1515-0132
§ 6.14	Report of aircraft arriving in the U.S. via U.S./Mexican border.	1515-0098
§ 10.1	Declaration of foreign shipper that U.S. articles were exported and returned without having been advanced in value or improved in condition.	1515-0099
§ 10.8(e)	Declaration of person who performed repairs or alterations abroad on articles exported for that purpose.	1515-0137
§ 10.8a(b)(1)	Declaration by person abroad who received and is returning articles to the U.S. that do not conform to samples or specifications.	1515-0108
§ 10.8a(b)(2)	Declaration by owner, importer, consignee or agent that articles being reimported into U.S. were previously imported, with payment of duty, and exported without benefit of drawback.	1515-0108
§ 10.9(e)	Declaration by person who performed processing on articles, exported from the U.S., while the articles were abroad.	1515-0110
§§ 10.24, 162.1c	Declaration by foreign assembler and endorsement by importer that articles were assembled in whole or in part from fabricated components that were products of the U.S.	1515-0088
§ 10.41b	Requirement to clearly and conspicuously mark serially numbered substantially holders or containers.	1515-0116
§ 10.41(b)(e)	Requirement to keep adequate records on current status of serially numbered substantially holders or containers.	1515-0101
§ 10.48	Declaration by originating artist, or seller or shipper, that work of art being imported into the U.S. is an original work of art.	1515-0118
§ 10.67(a)(2)	Declaration by foreign shipper describing the specific use to which articles exported from U.S. for scientific or educational purposes, and now being returned, were put while abroad.	1515-0105
§ 10.67(a)(3)	Declaration of ultimate consignee of articles previously exported from U.S. for scientific or educational purposes, and now being returned, that such articles have not been changed in condition while abroad.	1515-0104

19 CFR Section	Description	OMB control No.
§ 10.107	Report of person who sent article from foreign country, or of person in U.S. for whose account an article was received, to justify duty-free entry of articles imported under conditions of emergency.	1515-0130
§ 10.137	Requirement of importer to maintain accurate, detailed records on use or other disposition of imported merchandise for "actual use" duty assessment requirements.	1515-0091
§ 10.138	Certificate of importer to verify actual use of articles imported duty-free or at a reduced rate of duty under actual use provisions.	1515-0129
§§ 10.191-10.196	Claim for duty-free entry of eligible articles under the Caribbean Basin Initiative.	1515-0112
§ 12.130(c)	Declaration of manufacturer, producer, exporter or importer of textiles or textile products as to country of origin of such article.	1515-0140
§ 19.2	Information to be supplied by owner or lessee in support of application to establish a bonded warehouse facility.	1515-0121
§ 19.3	Application to alter, relocate, or discontinue a bonded warehouse/list of employees engaged in the carriage, receiving, storage or delivery of bonded merchandise.	1515-0134
§ 19.13(b)	Application for establishment of a manufacturing warehouse.	1515-0136
§ 19.14(c)	Application by proprietor of bonded manufacturing warehouse to receive therein domestic merchandise to be used in connection with the manufacture of articles.	1515-0139
§ 19.17	Application by manufacturer to bond (or discontinue a previously bonded) establishment engaged in the smelting or refining of metal-bearing materials.	1515-0127
§ 19.19	Record of smelting and refining operation showing receipt and disposition of each shipment of material.	1515-0135
§ 19.40	Application for establishment of a container station.	1515-0117
§ 19.42	Application by container station operator to transfer a container, intact, to a station.	1515-0142
§ 19.45	List of persons employed by container station operator in moving, receiving, storing or delivering imported merchandise.	1515-0138
§ 103.14	Disclosure by Customs of information on cargo declarations of inward vessel manifests.	1515-0134
§§ 111.21, 111.22, and 111.23	Requirement that licensed customs brokers must keep current record of all accounts and all financial transactions as a broker.	1515-0089
§ 111.30(d)	Triennial reporting requirement of status as active or inactive by customs brokers.	1515-0100
§ 112.29(b)	Requirement to furnish a current list of officers, members or employees, of a customs cartage or lighterage establishment, upon request.	1515-0125
§ 112.49	Request by cartman or lighterman for temporary identification card pending issuance of permanent identification.	1515-0128
§ 133.2	Application to record a trademark.	1515-0114
§§ 133.12, 133.13	Application to record a trade-name.	1515-0118
§§ 113.32, 133.33	Application to record a copyright.	1515-0087
§§ 141.81-141.83, 141.89	Requirement as to the existence and contents of special customs invoices, special summary invoices or commercial invoices.	1515-0130
§ 147.11(c)	Requirement to use a special form of entry for articles entered into U.S. for exhibition purposes under the Trade Fair Act of 1959.	1515-0106
§ 177.2	Requirements as to form and contents of requests for administrative rulings.	1515-0102
§ 177.5	Requirement to notify Customs of a change in status of any transaction currently the subject of an administrative ruling request.	1515-0123
§ 177.11	Requirement as to form and contents of requests for advice from Customs field officers or others.	1515-0103
§§ 191.0-191.166	Recordkeeping and reporting requirements relating to drawbacks.	1515-0094
§ 191.53	Requirement as to form and contents of exporter's chronological summary of exports used in support of drawback claims.	1515-0090

Dated: March 21, 1985.

George C. Corcoran, Jr.,

Acting Commissioner of Customs.

[FR Doc. 85-7100 Filed 3-25-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 629 and 630

Job Training Partnership Act; Maximum and Minimum Limitations on Expenditures

AGENCY: Employment and Training Administration, Labor.

ACTION: Final Interpretations.

SUMMARY: On September 18, 1984, the Employment and Training Administration of the Department of Labor published in the Federal Register its interpretation of a number of minimum and maximum limitations on expenditures contained in the Job Training Partnership Act (JTPA). The Department indicated that it would accept comments on its interpretations through October 18, 1984. Outlined below are the comments received and the Department's response to such comments.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo. Telephone: 202-376-6093.

SUPPLEMENTARY INFORMATION: A total of 32 comment letters was received. Of these, 19 were from 16 different States, and 13 were from local service delivery areas (SDAs), private industry councils (PICs) and community agencies. The comments covered six major concerns, as well as a number of individual areas. Following is a listing of each concern, the Department's response and our explanation for the response.

Departmental Comment

It should be noted that, in publishing its interpretations, the Department was issuing policy only in terms of reviewing compliance with regard to the minimum and maximum limitations on expenditures. In no way were the interpretations intended to suggest that funds should be expended over a protracted period of time, nor do they alter the fact that the funds are appropriated by the Congress for use in a particular program year. While the Act provides that each year's appropriation may be expended over a three-year period, the Congress generally expects that funds be utilized effectively during the year for which the funds are appropriated. Nothing in these interpretations should be construed to suggest otherwise.

Concerns and Responses

1. Measuring compliance on the basis of allotments versus some other measurement, such as expenditures.

Response. The Department feels that using allotments as the basis for determining compliance with the minimum and maximum limitations on expenditures contained in the Act is consistent both with the language and the intent of the Act.

The Act limits the amount of funds that may be used for the costs of administration to not more than 15 percent of the funds available for any fiscal year (read "program year") (Section 108(a)). Not more than 30 percent of the funds available for any fiscal (program) year may be expended for the combined costs of administration and participant support, pursuant to Section 108(b), unless a waiver has been granted for the costs of participant support (Section 108(c)). The JTPA regulations, at 20 CFR 629.39(c)(1), restate the requirement to make it clear that not less than 70 percent of the funds may be expended for the costs of training, with limited specified exceptions.

Section 203(b)(1) establishes the requirement that 40 percent of the funds provided in accordance with the job training plan shall be expended to provide services to eligible youth, except that the level of service may be adjusted (Section 203(b)(2)). Section 104(a) specifies that the job training plan is for a period of two program years.

The Act further provides that funds are available for expenditure only during a three-year period covering the

program year for which the funds are obligated, plus the next two program years (Section 161(b)).

If the requirements applied to expenditures rather than allotments, to be in compliance an SDA would have to meet the 70-30-15 requirements against all funds each year over a three-year period at the end of which time all funds from the first year should have been expended. Therefore, tracking on an expenditure basis, in addition to not in any way ultimately reducing the expenditure requirements of the Act, would also require that expenditures against each year's allotment be tracked separately.

The Department feels this is considerably more restrictive than our position, and creates much greater recordkeeping requirements. The Department has chosen to take the broadest view of measuring compliance with these requirements, that is, using allotments as the basis for reviewing compliance over the course of the two-year job training plan. Allotments remain available for expenditure into a third program year, and corrective actions may involve expenditures in this third year to meet the minimum and maximum expenditure limitations for the allotment. By using allotments as the basis for measuring compliance, a specific amount is set aside for expenditure, no matter when during the course of a one-to-three-year period the amount is actually expended.

2. Measuring compliance against the two-year job training plan rather than the three years provided under the Act for expending the funds.

Response. The Department's interpretation does not and did not intend in any way to limit the three years the Act provides for expending each year's allotment. This includes the three-year period for expending the 70 percent of each year's allotment that must be expended for training.

The Department's interpretations did bring consistency to the required timeframes for meeting the maximum and minimum requirements. For instance, section 108 implies that the time period to be used for determining compliance with the 15 percent administrative maximum is each fiscal (program) year. On the other hand, section 203(b)(1) is fairly clear that 40 percent of the funds available must be expended for youth in accordance with the job training plan. Pursuant to section 104(a), the job training plan is a two-year document and it is the basis for local program operations.

Given the above, and especially

recognizing that the two-year plan is, under the Act, the document from which all actions flow, the Department established a two-year period as the period for establishing compliance or non-compliance with the minimum and maximum requirements contained in the Act.

However, as stated above, this does not preclude funds from the first year of the first two-year plan which are unexpended at the end of the second year from being carried forward and being used for authorized purposes in the first year of the second two-year plan.

It does require the State to make a determination of compliance or non-compliance and, where it finds non-compliance, to implement appropriate corrective action. It also requires an SDA to track separately any funds carried over into the third year; however, this would be limited only to the funds carried over. It does not require, as tracking on a straight three-year basis would, the tracking of each year's allotment separately.

If an SDA failed to meet one or more of the minimum/maximum limitations at the end of the two-year local job training plan period and carried over funds into the third year, it is the Department's assumption that an appropriate corrective action would be to meet the requirement of the minimum/maximum limitation(s) within the third year.

3. Accounting for 9-month transition period funds carried forward into the first program year.

Response. The Department indicated in the September 18, 1984, **Federal Register** Notice that it would accept interpretations developed by the States through June 30, 1984. The intent of this statement was that whatever interpretations were implemented by the States with respect to the 9-month transition period funds would be accepted by the Department; provided, of course, that such interpretations are consistent with the Act. Interpretations could not, for instance, change the requirements that 70 percent of the funds be expended for training and 40 percent for youth.

4. The Governor, rather than the Secretary, has the prerogative to determine what constitutes "compliance" with respect to minimum and maximum expenditure requirements.

Response. It is the responsibility of the Secretary of Labor to provide appropriate and necessary interpretations of the Act. With respect to the particular issues herein discussed, the Department is in receipt of numerous

letters and has received numerous phone calls from all parts of the country on these issues. Members of the employment and training community, including members of Congress, requested that standardized interpretations of these matters be issued in order to avoid, among other things, serious audit questions.

In order to comply with these requests, the Department issued the interpretations contained in the September 18, 1984, **Federal Register** Notice regarding how the Department would view these issues. The Department did not intend and does not feel that these interpretations in any way restrict the authority and responsibility of the Governors or States, or private industry councils, to determine policy in these areas so long as those policies are consistent with the Act and regulations. The Department has merely provided what it considers to be a fair and reasonable manner for assuring compliance from the Federal standpoint, with the minimum and maximum expenditure requirements contained in the Act.

5. Retroactive effective date of interpretations.

Response. This issue was raised by 4 States. While the Department appreciates the concerns expressed by the States, it does not feel that, based on the responses, the establishment of a retroactive date creates an unreasonable burden. Further, since the interpretations are based on the two-year job training plan, which under the law became operational on July 1, 1984, the Department feels that it either had to make the interpretations effective July 1, 1984, or July 1, 1986. The Department feels that waiting until July 1, 1986, would not meet the needs of recipients and subrecipients. Making the interpretations effective July 1, 1985, in the middle of the two-year job training plan, would have been confusing and probably unmanageable. Once again, however, the Governors are the parties responsible for interpretation and may set their own policies and take subsequent appropriate actions.

6. Applicability of interpretations to section 202(b) 22 percent, Title II-B and Title III funds.

Response. The Department was not in receipt of any correspondence suggesting that there would be problems with respect to the minimum and maximum requirements insofar as these funds are concerned. Further, generally the limitations do not apply to the 22 percent funds. The requirements that do apply are spelled out in 20 CFR 629.39

(b) and (d). Likewise, funds for the Title II-B program, as well as the Secretary's Title III national reserve funds, are exclusions to the 70/30 percent requirements per 20 CFR 629.39(d). With respect to Title III formula-allotted funds, these funds are provided to the States, which are responsible for administering the funds. It is the responsibility of the States, within the constraints of the Act and regulations, to determine policy with regard to these funding sources.

7. Individual Miscellaneous Comments.

a. Establishment of sanctions for non-compliance.

Response. The Department's interpretations provide that the States shall be responsible for determining appropriate corrective actions. Such corrective actions would of necessity have to be consistent with the two-year plan approved by the State and the reasons for non-compliance, which would have to be determined by the State.

b. Carryover of training funds into a third program year.

Response. The Department's interpretations do not prohibit the carryover of funds into a third program year. The interpretations do provide that, where the funds are not expended within the two years of the State-approved job training plan, in accordance with the job training plan, the State should implement whatever corrective actions may be appropriate.

c. Pooling of administrative funds at the SDA level.

Response. The interpretations were not designed to address the issue of pooling administrative funds. Regulations at 20 CFR 629.39(g) provide the Governors with authority to provide for the pooling of administrative funds at the SDA level.

d. Excess matching funds.

Response. The interpretations were not designed to address the issue of excess matching funds.

e. Subagreement closeout every two years.

Response. The interpretations were not designed to address the issue of subagreement closeout.

Signed at Washington, D.C., this 8th day of March 1985.

Frank C. Casillas,

Assistant Secretary for Employment and Training.

[FR Doc. 85-7135 Filed 3-25-85; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Trimethoprim and Sulfadiazine Tablets; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration is correcting a typographical error in a document that published in the Federal Register of March 12, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV-238), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6243.

SUPPLEMENTARY INFORMATION: In FR Doc. 85-5773 appearing on page 9800 in the issue of Tuesday, March 12, 1985, in the amendment to § 520.2610(b), in the third column, last line of "Supplementary Information," "17220" is corrected to read "017220".

Dated: March 21, 1985.

Richard A. Carnevale,
Acting Associate Director for New Animal Drug Evaluation.

[FR Doc. 85-7175 Filed 3-25-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8014]

Income Tax—Energy Investment Credit for Leased Qualified Intercity Buses

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document adopts by Treasury decision an amendment to the regulations relating to the availability of the energy investment credit for leased qualified intercity buses. The amendment determines the eligibility of a taxpayer for the energy credit when a qualified intercity bus is leased. This action is necessary to provide the public with guidance needed to comply with the law.

DATES: The amendment to the regulations applies to the period beginning on January 1, 1980, and ending

December 31, 1985, and is effective January 1, 1980.

FOR FURTHER INFORMATION CONTACT: Michel A. Dazé of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T (202-566-3458, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

This document contains a final amendment to the Income Tax Regulations (26 CFR Part 1) under section 48(l)(16) of the Internal Revenue Code of 1954, relating to the energy investment credit for qualified intercity buses. Regulations under section 48(l)(16) were originally published in proposed form in the Federal Register on September 3, 1982 (47 FR 38918). Those proposed regulations were adopted in part by Treasury decision and published in the Federal Register on October 9, 1984 (49 FR 39540). A rule relating to leased buses was reserved and repropounded in the same issue of the Federal Register (49 FR 39571). One comment was received with respect to the newly proposed rule for leased buses and was supplemented by testimony at a public hearing held on January 9, 1985. With only minor revision, the proposed amendment to the regulations under section 48(l)(16) is adopted by this Treasury decision.

Transitional Rule for Lessors

Section 48(l)(16)(A) allows the energy investment credit (energy credit) for qualified intercity buses (qualifying buses) to common carriers regulated by the Interstate Commerce Commission or an appropriate State agency and engaged in the trade or business of furnishing intercity passenger transportation or intercity charter service by bus. Under the regulations proposed on September 3, 1982, the energy credit would have been allowed for a leased intercity bus if the bus qualified according to its use by the lessee. If the lessee, but not the lessor, was a regulated common carrier, the lessor could either take the energy credit itself or pass it through to the lessee under section 48(d). Because section 48(l)(16) specifically requires that the taxpayer obtaining the energy credit be a regulated common carrier engaged in a particular trade or business, the amendment proposed on October 9, 1984, would allow only a common carrier-lessee that uses a qualifying bus in its trade or business to claim the energy credit if passed through to it under section 48(d) by the lessor. In the

event that a lessor acted in reliance on the regulations as originally proposed, the amendment proposed on October 9, 1984, would apply only to leasing transactions entered into after that date.

The proposed transitional rule provided that, if a leased bus is energy property and, on or before October 9, 1984, the lessor and lessee enter into a binding contract under which the amount of the lease payments cannot be modified, the energy credit is available to the lessor even if the lessor is not an eligible taxpayer. The comment explained that with respect to a bus leased and placed in service before October 9, 1984, the lease commonly provided a mechanism to modify the amount of the lease payments in the event, for example, that the bus failed to qualify for the energy credit according to its use by the lessee. The transitional rule as adopted makes clear, as suggested by the comment, that an energy credit claimed by a lessor would not be disallowed in the case of qualifying bus leased and placed in service on or before October 9, 1984.

Separate Pass Through of Energy Credit

The comment also explained that the prevalent practice is for lessors to retain the investment credit. Because the amendment to the regulations proposed on October 9, 1984, would allow only a common carrier-lessee to claim the energy credit, the comment suggested that a lessor be allowed to continue to retain the regular percentage, but elect to pass through the energy percentage to the lessee. This suggestion is not adopted. Under section 48 (d), a lessor may elect with respect to any new section 38 property to treat the lessee as having acquired such property. Section 48 (d) (3) provides that if the lessor so elects, the lessee shall be treated as having acquired the property "for all purposes" of the subpart (sections 46, 47 and 48) which contains the rules for computing the credit for investment in certain depreciable property. A lessor, therefore, is not permitted to elect under section 48 (d) for purposes of applying the energy percentage while not so electing for purposes of applying the regular percentage.

Executive Order 12291 and Regulatory Flexibility Act

The Commissioner of Internal Revenue has determined that this final rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the

notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 did not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

The principal author of this final amendment to the regulations is Michel A. Dazé of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulations, both on matters of substance and style.

List of Subjects in 26 CFR Part 1

Income taxes, Tax liability, Tax rates, Credits. *Adoption of amendments to the regulations*

According, 26, CFR Part 1 is amended as follows:

Section 1.48-9(g)(8) is amended by removing the language "Leased buses. [Reserved]" and adding instead new text as set forth below.

§ 1.48-9 Definition of energy property.

(q) *qualified intercity buses*— * * *

(8) *Leased buses.* (i) A bus which is leased is energy property only if it meets the requirements of paragraph (q)(6) (i), (ii), and (iii) of this section, the lessee is an eligible taxpayer, and the bus meets the predominant use test in the hands of the lessee. If a leased bus is energy property, the energy credit is available only to the lessee unless paragraph (q)(8)(ii) of this section applies. The lessor must elect under section 48(d) for the lessee to claim the energy credit.

(ii) If a leased bus is energy property and, on or before October 9, 1984, either (A) the lessor and lessee enter into a lease and the lessee places the bus in service, or (B) the bus is not placed in service but the lessor and lessee enter into a binding contract under which the amount of the lease payments cannot be modified, then the energy credit is available to the lessor even if the lessor is not an eligible taxpayer.

(iii) Notwithstanding § 1.47-2(b)(1) (relating to the effect of a disposition by the lessee on the credit claimed by the lessor), if, by reason of a lease or the termination of a lease, a bus is used in a taxable year subsequent to the credit year by a person other than the one whose increase in operating capacity determined the amount of qualified investment for the energy credit, a disposition of the bus under § 1.47-1(h)(2) results. However, if the energy credit for a bus was earned in a taxable

year and a lease of the bus which qualifies under section 168(f)(8) (safe-harbor lease) is entered into in a subsequent taxable year, the safe-harbor lease is not a disposition of the bus and the lessee under that lease is treated as the lessee for purposes of this paragraph (q)(8). For the requirement to file an amended return if the energy credit was allowed in a prior taxable year, see § 5c.168(f)(8)-6(b)(2)(ii) (Temporary Income Tax Regulations under the Economic Recovery Tax Act of 1981). For the rule for determining whose operating capacity determines qualified investment for the energy credit, see paragraph (q)(9)(ii) of this section. For the rule for leases to related taxpayers, see paragraph (q)(10)(ii) of this section.

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

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: March 12, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85-7022 Filed 3-25-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

(T.D. 8016)

Effect of Windfall Profit Tax Overpayments on Estimated Income Tax Payments

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations relating to the effect of windfall profit tax overpayments on estimated income tax payments and penalties in light of the changes to the tax law made by the Technical Corrections Act of 1982. These amendments would provide rules with respect to the conditions under which overpayments of windfall profit tax may be taken into account in determining the amount of estimated income tax payments and the amount of any penalty for underpayment thereof.

DATES: These final regulations apply to windfall profit tax overpayments made for taxable years ending after February 29, 1980, and are effective after February 29, 1980.

FOR FURTHER INFORMATION CONTACT: Gail H. Morse of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington,

D.C. 20224. Attention: CC:LR:T, (202-566-3297).

SUPPLEMENTARY INFORMATION:

Background

Section 201 (j) of the Technical Corrections Act of 1982 authorized the promulgation of regulations prescribing conditions under which windfall profit tax overpayments may be taken into account in determining: (1) The amount of estimated income tax payments under sections 6015 and 6154 of the Code, and (2) the amount of any penalty for underpayment of estimated income tax under sections 6654 and 6655 of the Code. The final regulations contained herein would prescribe these conditions.

On March 26, 1984, the Federal Register published proposed amendments (49 FR 11186) to the Income Tax Regulations (26 CFR Part 1) that contained, among other provisions, proposed revisions to § 1.6655-1 and § 1.6655-2. The final regulations contained herein include amendments to reserved provisions of § 1.6655-1 and § 1.6655-2 as proposed on March 26, 1984.

On August 29, 1984, the Federal Register published proposed amendments (49 FR 34240) to the Income Tax Regulations (26 CFR Part 1) under sections 6015, 6154, 6654, and 6655 of the Internal Revenue Code of 1954. There were no written comments received with respect to the proposed amendments. There were no requests for a public hearing and a public hearing was not held. The regulations are, therefore, being published as they appeared in the notice of proposed rulemaking published on August 29, 1984.

These regulations are necessary to implement section 201 (j) of the Technical Corrections Act of 1982 and are to be issued under the authority contained in sections 6015, 6154, 6654, 6655, and 7805 of the Internal Revenue Code of 1954 (96 Stat. 2395 and 2396, 68A Stat. 917; 26 U.S.C. 6015, 6154, 6654, 6655, and 7805).

These final regulations do not reflect amendments to sections 6015 and 6654 made by sections 411 and 412 (a) of the Tax Reform Act of 1984 (98 Stat. 788 and 792).

Explanation of Provisions

Section 6015 (d) and 6154 (c) of the Code define the term "estimated tax" by providing a calculation to arrive at an estimated income tax amount. The calculation includes a reduction for overpayments of windfall profit tax to the extent such overpayments are allowed by the regulations. Sections

1.6015 (c)-1 (a) (5), 1.6015 (d)-1 (b) (4), and 1.6154-5 (b) (2) of the regulations provide for the reduction to the extent of an overpayment of windfall profit tax. An "overpayment" of windfall profit tax is defined as the amount by which the taxpayer's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is reasonably expected to be exceeded by withholding of windfall profit tax for the taxable year.

Sections 6654(g) and 6655(f) of the Code, in determining the amount of any penalty for the underpayment of estimated income tax, define the term "tax" as an amount described in those sections which is reduced for overpayments of windfall profit tax to the extent the regulations allow such a reduction. Sections 1.6654-1(a)(4)(v), 1.6654-2(b)(1)(v), 1.6655-1(b)(5)(ii)(B), and 1.6655-2(c)(1)(ii)(B) provide for the reduction to the extent of an overpayment of windfall profit tax. An "overpayment" of windfall profit tax is defined as the amount by which the taxpayer's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is exceeded by withholding of windfall profit tax for the taxable year. For purposes of section 6654 only, the definition of an overpayment is expanded to include amounts treated as an overpayment of windfall profit tax under sections 6429 and 6430. In figuring the amount of the reduction for windfall profit tax overpayments in the penalty context, the deemed payment date of section 4995(a)(4) is not to be taken into account.

Special Analysis

The Commissioner of Internal Revenue has determined that this final rule is not subject to review under Executive Order 12291. Accordingly, a Regulatory Impact Analysis is not required. Although a notice of proposed rulemaking that solicited public comment was issued, the Internal Revenue Service concluded when the notice was issued that the regulations are interpretative and that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, the final regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Drafting Information

The principal author of these regulations is Gail H. Morse of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury

department participated in developing the regulations both on matters of substance and style.

List of Subjects

26 CFR 1.6001-1—1.6109-2

Income taxes, Administration and procedure, Filing requirements.

26 CFR 1.6151-1—1.6165-1

Income taxes, Administration and procedure, Payment of tax.

26 CFR 1.6654-1—1.6696-1

Income taxes, Administration and procedure, Penalties, Additions to tax. Adoption of amendments to the regulations.

Accordingly, 26 CFR Part 1 is amended by adopting, without change, the regulations proposed as a notice of proposed rulemaking published in the Federal Register on August 29, 1984 (49 FR 34240).

Paragraph 1. Section 1.6015(c)-1 is amended as follows:

1. By removing, in paragraph (a)(3), the words "and also minus" and inserting, in their place, the word "minus".
2. By removing, in paragraph (a)(4), the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes)," and inserting, in their place, the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes), and minus".
3. By adding a new paragraph (a)(5) immediately after paragraph (a)(4) as set forth below.

§ 1.6015(c)-1 Definition of estimated tax.

(a) In general. * * *

(5) For taxable years ending after February 29, 1980, the amount which the individual estimates will be the amount of such individual's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the amount by which such individual's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is reasonably expected to be exceeded by withholding of windfall profit tax for the taxable year.

Par. 2. Section 1.6015(d)-1 is amended as follows:

1. By removing, in paragraph (b)(3), the words "and lubricating oils; and" and inserting, in their place, the words "and lubricating oils;".

2. By redesignating paragraph (b)(4) as paragraph (b)(5), adding a new paragraph (b)(4) immediately after paragraph (b)(3), and revising new paragraph (b)(5) as set forth below.

§ 1.6015(d)-1 Contents of declaration of estimated tax.

(b) Computation of estimated tax.

(4) For taxable years ending after February 29, 1980, the amount which the taxpayer estimates will be the amount of such taxpayer's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the amount by which such individual's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is reasonably expected to be exceeded by withholding of windfall profit tax for the taxable year.

(5) The excess, if any, of the sum of the amounts shown under subparagraphs (b) (1) and (2) of this paragraph over the sum of the amounts shown under subparagraphs (b) (3) and (4) of this paragraph shall be the estimated tax for the taxable year.

Par. 3. Section 1.6154-5 is added immediately after § 1.6154-4 as set forth below:

§ 1.6154-5 Definition of estimated tax.

For taxable years beginning after December 31, 1976, the term "estimated tax" means the excess of—

(a) The amount which the corporation estimates as its income tax liability for the taxable year under section 11 or 1201(a), or subchapter L of chapter 1 of the Code, whichever is applicable, over

(b) The sum of—

(1) Any estimated credits against tax provided by part IV of subchapter A of chapter 1 of the Code, plus

(2) For taxable years ending after February 29, 1980, the amount which the corporation estimates will be the amount of such corporation's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the amount by which such corporation's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is reasonably expected to be exceeded by withholding of windfall profit tax for the taxable year.

Par. 4. Section 1.6654-1 is amended as follows:

1. By removing, in paragraph (a)(4)(iii), the words "and also minus" and

inserting, in their place, the word "minus".

2. By removing, in paragraph (a)(4)(iv), the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes)," and inserting, in their place, the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes), and minus".

3. By adding a new paragraph (a)(4)(v) immediately after paragraph (a)(4)(iv) as set forth below.

§ 1.6854-1 Addition to the tax in the case of an individual.

(a) In general.

(4)

(v) For taxable years ending after February 29, 1980, the individual's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the sum of (A) the amount by which such individual's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is exceeded by withholding of windfall profit tax for the taxable year, and (B) any amount treated under section 6429 or 6430 as an overpayment of windfall profit tax for crude oil removed during the taxable year. The deemed payment date in section 4995(a)(4)(B) for the amount of windfall profit tax withheld with respect to payments for crude oil shall have no effect in the determination of the overpayment of windfall profit tax.

Par. 5. Section 1.6654-Z is amended as follows:

1. By removing, in paragraph (b)(1)(iii), the words "estimated tax, and also minus" and inserting, in their place, the words "estimated tax, minus".

2. By removing, in paragraph (b)(1)(iv), the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes)," and inserting, in their place, the words "(relating to the credit for tax withheld from wages on account of qualified State individual income taxes), and minus".

3. By adding a new paragraph (b)(1)(v) immediately after paragraph (b)(1)(iv) as set forth below.

§ 1.6654-2 Exceptions to imposition of the addition to the tax in the case of individuals.

(b) Meaning of terms.

(1)

(v) For taxable years ending after February 29, 1980, the individual's

overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the sum of (A) the amount by which such individual's aggregate windfall profit tax liability for the taxable year as producer of crude oil is exceeded by withholding of windfall profit tax for the taxable year, and (B) any amount treated under section 6429 or 6430 as an overpayment of windfall profit tax for crude oil removed during the taxable year. The deemed payment date in section 4995(a)(4)(B) for the amount of windfall profit tax withheld with respect to payments for crude oil shall have no effect in the determination of the overpayment of windfall profit tax.

Par. 6. Paragraph (b)(5)(ii)(B) of proposed § 1.6655-1 is revised to read as follows:

§ 1.6655-1 Addition to the tax in the case of a corporation.

(b) Amount of underpayment.

(5) Definition of the term "tax."

(ii) For taxable years ending after February 29, 1980, the corporation's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the amount by which such corporation's aggregate windfall profit tax liability for the taxable year as a producer of crude oil is exceeded by withholding of windfall profit tax for the taxable year. The deemed payment date in section 4995(a)(4)(B) for the amount of windfall profit tax withheld with respect to payments for crude oil shall have no effect in the determination of the overpayment of windfall profit tax.

Par. 7. Paragraph (c)(1)(ii)(B) of proposed § 1.6655-2 is revised to read as follows:

§ 1.6655-2 Exceptions to imposition of the addition to the tax in the case of corporations.

(c) Meaning of terms.

(1) Meaning of terms "tax."

(B) For taxable years ending after February 29, 1980, the corporation's overpayment of windfall profit tax imposed by section 4986 of the Code for the taxable year. For this purpose, the amount of such overpayment is the amount by which such corporation's aggregate windfall profit tax liability for

the taxable year as a producer of crude oil is exceeded by withholding of windfall profit tax for the taxable year. The deemed payment date in section 4995(a)(4)(B) for the amount of windfall profit tax withheld with respect to payment for crude oil shall have no effect in the determination of the overpayment of windfall profit tax.

This Treasury decision is issued under the authority contained in sections 6015, 6154, 6654, 6655, and 7805 of the Internal Revenue Code of 1954 (96 Stat. 2395 and 2396, 68A Stat. 917; 26 U.S.C. 6015, 6154, 6654, 6655, and 7805).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 13, 1985.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.

[FR Doc. 85-7020 Filed 3-25-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 8015]

Place for Filing Request for Exemption From Withholding

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document contains final regulations specifying a new place for filing requests by foreign corporations or foreign partnerships that are engaged in a trade or business within the United States for exemptions from withholding because withholding would cause an undue administrative burden and because the collection of tax on the income involved would not be jeopardized by the exemption. This action is necessary because the former Office of International Operations was reorganized and redesignated as the Foreign Operations District. As such, the Foreign Operations District no longer has jurisdiction over returns for withholding at the source.

DATES: The regulations apply to requests for exemption filed after May 28, 1985, and are effective May 28, 1985.

FOR FURTHER INFORMATION CONTACT: Carol T. Doran of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Ave., NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3289).

SUPPLEMENTARY INFORMATION:

Background

This final regulation is being issued without a prior notice of proposed rulemaking or a public hearing.

The Office of International Operations has been reorganized and redesignated as the Foreign Operations District. As part of the reorganization, jurisdiction over all returns for withholding at the source was shifted from the Foreign Operations District to the district in which the related books and records are maintained. The amendment to the regulations provides, therefore, that a foreign corporation or foreign partnership shall request an exemption from withholding from the district director in whose district the related books and records are kept.

Regulatory Flexibility Act and Executive Order 12291

The Secretary of the Treasury has certified that the regulations herein will not have a significant economic impact on a substantial number of small entities. Accordingly, these regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6), and a regulatory impact analysis is therefore not required. The Commissioner of Internal Revenue has determined that this rule is not a major rule as defined in Executive Order 12291 and, therefore, a regulatory impact analysis is not required.

Drafting Information

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

List of Subjects in 1.1441-1—1.1465-1

Income taxes, Aliens, Foreign corporations.

Adoption of amendments to the regulations.

Accordingly, 26 CFR Part 1 is amended as follows:

Income Tax Regulations

§ 1.1441-4 [Amended]

Section 1.1441-4 is amended as follows:

(1) Paragraph (f)(1) is amended by removing from the first sentence the words "Director of International Operations" and of inserting in their place the words "district director in whose district the related books and

records are kept" and by removing from the last sentence each time they appear the words "Director of International Operations" and by inserting in their place the words "district director".

(2) Paragraph (f)(2) is amended by removing from the first sentence the words "Director of International Operations, Internal Revenue Service, Washington, D.C. 20225," and inserting in their place the words "district director in whose district the related books and records are kept," and by removing the words "Director of International Operations" each time they appear (other than as described above) and by inserting in their place the words "district director".

This Treasury decision is issued simply to conform the regulations to changes in jurisdiction of offices of the Internal Revenue Service. For this reason it is found unnecessary to issue this Treasury decision with notice and public procedure under subsection (b) of section 553 of Title 5 of the United States Code.

This Treasury decision is issued under the authority contained in sections 1441, 1442, and 7805 of the Internal Revenue Code (80 Stat. 1553, 26 U.S.C. 1441; 80 Stat. 1558, 26 U.S.C. 1442; 68A Stat. 917, 26 U.S.C. 7805, respectively).

Roscoe L. Egger, Jr.,
Commissioner of Internal Revenue.

Approved: March 14, 1985.

Ronald A. Pearlman,
Assistant Secretary of the Treasury.

[FR Doc. 85-7021 Filed 3-25-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 8007]

Application of Loss Deferral Rules and Rules Similar to Sections 1091 (a) and (d) and Sections 1233 (b) and (d) to Straddles Under Section 1092 and Elections With Respect to Section 1256 Contracts Held on or Before July 18, 1984

Correction

In FR Doc. 85-1820, beginning on page 3317, in the issue of Thursday, January 24, 1985, make the following corrections:

1. On page 3318, in column two, in the second paragraph, line two, "of" should read "on".

2. On the same page in the third column under **Special Analyses**, in the last paragraph, sixth line, the first word should read "These".

3. On page 3319, in column one, in Paragraph 1, on the second line, insert "1.1092(b)-2T", between "1.1092(b)-1T" and "1.1092(b)-5T".

BILLING CODE 1505-01-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 518

[Army Reg. 340-17]

Release of Information and Records From Army Files; Freedom of Information Act

AGENCY: Department of the Army, DOD.

ACTION: Notice of final rule.

SUMMARY: The Department of the Army is amending its rule for administering the Freedom of Information Act by revising its list of Initial Denial Authorities and their areas of responsibilities as the result of Army Staff reorganizations.

EFFECTIVE DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. William A. Walker, Office of the Assistant Chief of Staff for Information Management, Department of the Army, ATN: DAIM-PSP-A, Washington, DC 20310-0700; telephone (202) 694-0422.

SUPPLEMENTARY INFORMATION: This amendment changes responsibilities in the offices of the Deputy Chief of Staff for Operations and Plans, the Deputy Chief of Staff for Personnel, the Assistant Chief of Staff for Intelligence, and the Adjutant General; and designates the Assistant Chief of Staff for Information Management and the Commanding General, US Army Community and Family Support Center as Initial Denial Authorities. The proposed rule is not a "major rule" as defined by Executive Order 12291. Therefore, no regulatory impact analysis has been prepared. The Department of the Army certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. et. seq.). Therefore, no regulatory flexibility analysis has been prepared. The rule does not contain collection of information requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 32 CFR Part 518

Freedom of information.

Dated: March 1985.

John O. Roach,

Department of the Army Liaison Officer with the Federal Register.

PART 518—[AMENDED]

Subpart E—Release and Processing Procedures

§ 518.15 [Amended]

32 CFR Part 518 is amended by revising paragraphs (a)(4) (i) through (xxiii) in § 518.15 to read as follows:

(a) * * *

(4) The following officials are designated IDAs for their areas of responsibility as outlined below. Only an IDA, his or her delegate, or the Secretary of the Army can deny FOIA requests for DA records.

(i) The Administrative Assistant to the Secretary of the Army, is authorized to act for the Secretary of the Army (SA) on requests for all records maintained by the Office of the Secretary of the Army and its serviced activities, as well as those requests requiring the personal attention of the SA.

(ii) The Auditor General is authorized to act on requests for records relating to audits done by the US Army Audit Agency. This includes requests for related records developed by the Audit Agency.

(iii) The Deputy Chief of Staff for Operations and Plans is authorized to act on requests for records relating to strategy formulation; force development; individual and unit training policy; strategic and tactical command and control system; nuclear and chemical matters; and use of DA forces.

(iv) The Deputy Chief of Staff for Personnel is authorized to act on requests for case summaries; letters of instruction to boards; civilian personnel records; behavioral science records; safety records; military police reports; and general education records.

(v) The Deputy Chief of Staff for Logistics is authorized to act on requests for records relating to DA logistical requirements and determinations; and policy concerning materiel maintenance and use, equipment standards, and logistical readiness.

(vi) Deputy Chief of Staff for Research, Development, and Acquisition (DCSRDA) is authorized to act on requests for records created by ODCSRDA relating to the Army's research, development, and acquisition programs and activities.

(vii) The Assistant Chief of Staff for Intelligence is authorized to act on requests for foreign scientific and technological information, intelligence

training, mapping and geodesy information, ground surveillance records, intelligence threat assessments, and missile intelligence data relating to tactical land warfare systems.

(viii) The Assistant Chief of Staff for Information Management is authorized to act on records relating to information systems, including automation, telecommunications, records management, publications, and audio-visual resources.

(ix) The Adjutant General is authorized to act on requests for personnel and medical records of retired, separated, and reserve component military personnel; records relating to Army administrative programs, except those falling under the area of responsibility of the Assistant Chief of Staff for Information Management; and when two or more IDA are involved.

(x) The Chief of Engineers is authorized to act on requests for records involving civil works, military construction, engineer procurement, and ecology; and the records of US Army Engineer divisions, districts, laboratories, and field operating agencies.

(xi) The Surgeon General is authorized to act on requests for medical research and development records; and the medical records of active duty military personnel, dependents, and persons given physical examinations or treatment at DA medical facilities.

(xii) The Comptroller of the Army is authorized to act on requests for finance and accounting records.

(xiii) The Chief of Chaplains is authorized to act on requests for records involving ecclesiastical rites performed by DA Chaplains, and privileged communications relating to the clergy.

(xiv) The Judge Advocate General (TJAG) is authorized to act on requests for records relating to claims, courts-martial, legal services, and similar legal-type records. TJAG is also authorized to act on requests for records described elsewhere in this AR, if those records relate to litigation in which the United States has an interest. In addition, TJAG is authorized to act on requests for records that are not within the functional area of responsibility of any other IDA.

(xv) The Chief, National Guard Bureau, is authorized to act on requests for all Army National Guard records, unless such records clearly fall within another IDA's responsibility. This includes National Guard organization and training files; plans, operations, and readiness files; policy files; historical

files; and files relating to National Guard military support and civil disturbance activities.

(xvi) The Chief, Army Reserve, is authorized to act on requests for all US Army Reserve (USAR) records, unless such records clearly fall within another IDA's responsibility. This includes records relating to USAR plans, policies, and operations; changes in the organizational status of USAR units; mobilization and demobilization policies; active duty tours; and the Mobilization Designation Program.

(xvii) The Inspector General is authorized to act on requests for all Inspector General records, under AR 20-1.

(xviii) The Commanding General, United States Army Material Command (AMC) is authorized to act on requests for the records of AMC headquarters and its subordinate commands, units, and activities that relate to procurement, logistics, research and development, and supply and maintenance operations.

(xix) The Commanding General, United States Army Criminal Investigation Command (USACIC), is authorized to act on requests for criminal investigative records of USACIC headquarters and its subordinate activities. This includes criminal investigation records, investigation-in-process records, and military police reports that result in criminal investigation reports.

(xx) The Commanding General, United States Army Military Personnel Center, is authorized to act on requests for military personnel files relating to active duty military personnel matters, and other military personnel administration records (other than those of reserve and retired personnel), and records relating to casualty and memorialization activities.

(xxi) The Commanding General, US Army Community and Family Support Center is authorized to act on requests for records relating to morale, welfare and recreation activities; nonappropriated funds; child development centers; community life programs; family action programs; retired activities, club management, Army emergency relief, voting, and identification cards; records relating to naturalization, citizenship, consumer protection, retiree survival benefits, and commercial solicitation policies, and records dealing with DA relationships and social security, veterans' affairs, United Service Organization, US Soldiers' and Airmen's Home, and American Red Cross.

(xxii) The Deputy Commander, Intelligence, United States Army Intelligence and Security Command, is

authorized to act on request for intelligence investigation and security records.

(xxiii) The General Counsel, Army and Air Force Exchange Service (AAFES), is authorized to act on requests for AAFES records, under AR 60-201/AFR 147-14.

[FR Doc. 85-7010 Filed 3-25-85; 8:45 am]

BILLING CODE 3710-08-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[SW-6-FRL-2804-7]

Texas and Oklahoma; Clarification of Decisions on Final Authorization of Hazardous Waste Management Programs

AGENCY: Environmental Protection Agency.

ACTION: Clarification of the Notices of Final Determination on Texas' and Oklahoma's applications for Final Authorization.

SUMMARY: Texas and Oklahoma have been granted Final Authorization under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) is clarifying the Final Determinations of these two States with regard to the changes mandated by the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984).

EFFECTIVE DATE: The effective date of Final Authorization for Texas was December 26, 1984. The effective date of Final Authorization for Oklahoma was January 10, 1985.

FOR FURTHER INFORMATION CONTACT: H.J. Parr, State Programs Section (6AW-HP), Hazardous Materials Branch, U.S. Environmental Protection Agency, Region VI, 1201 Elm Street, Dallas, Texas 75270, (214) 767-2645.

SUPPLEMENTARY INFORMATION: Section 3006 of RCRA allows the EPA to authorize State hazardous waste management programs to operate in the State in lieu of the Federal program. To qualify for Final Authorization, a State's program must (1) be "equivalent" to the Federal program, (2) be consistent with the Federal program and other authorized State programs and (3) provide for adequate enforcement (Section 3006(b) of RCRA, 42 U.S.C. 6926(b)). Prior to the Hazardous and Solid Waste Amendments (HSWA) amending RCRA, a State with Final Authorization administered its

hazardous waste program entirely in lieu of the EPA. EPA's regulations no longer applied in the authorized State, and EPA could not issue permits for any facilities the State was authorized to permit.

Now, however, under Section 3006(g) of RCRA, 42 U.S.C. 6926(g), the new requirements and prohibitions imposed by the HSWA take effect in authorized States at the same time as they take effect in non-authorized States. EPA is directed to carry out those requirements and prohibitions in authorized States, including the issuance of full or partial permits, until the State is granted authorization to do so.

As a result of the HSWA, there is a dual State/Federal regulatory program in Texas and Oklahoma. To the extent the authorized State programs are unaffected by the HSWA, the State programs operate in lieu of the Federal program. EPA is administering and enforcing the prohibitions and requirements of the HSWA in Texas and Oklahoma until they receive authorization to do so. Among other things, this entails the issuance of Federal RCRA permits for those areas in which the States are not yet authorized.

Therefore, subsequent to November 8, 1984, issuance of a full RCRA permit in authorized States requires action by both the State and EPA until the States are authorized for the new HSWA provisions. State permits which are issued without the companion EPA permit are not full RCRA permits. Once the States are authorized to implement a HSWA requirement or prohibition, the States' programs in that area will operate in lieu of the Federal provision. Until that time the States will assist EPA's implementation of the HSWA under Cooperative Agreements.

HSWA-related requirements that are more stringent than the States' programs apply in Texas and Oklahoma. Any State requirement that is more stringent than a HSWA provision also remains in effect; thus, the universe of the more stringent provisions in the authorized States' programs and the HSWA define the applicable requirements in the States. Texas and Oklahoma have not been authorized for any requirement implementing the HSWA.

EPA will be publishing a Federal Register notice that explains in detail the HSWA and its effect on authorized States. That notice should be referred to for further information.

Region VI and Texas and Oklahoma are currently reviewing the Memoranda of Agreement (MOA) to revise them to address the requirements of the HSWA. The current MOAs provide that Texas

and Oklahoma shall administer the RCRA program in lieu of EPA and the EPA shall not issue permits in the States. Thus, they are inconsistent with the HSWA and will be revised to reflect EPA's and the State's respective responsibilities under the new Federal/State regulatory scheme. (Because of the strict statutory time clock for processing final authorization applications, the States and EPA did not have ample time to revise the MOAs before EPA's final approval of the States' applications.)

Texas

The Notice of Final Determination of Final Authorization of the Texas Program was published on Wednesday, December 12, 1984 (49 FR 48300). The decision published in that notice is clarified by adding the following: Texas is granted Final Authorization to operate its hazardous waste management program.

Subject to the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984), Texas now has responsibility for a portion of the permitting of treatment, storage and disposal facilities within its borders and for carrying out all other aspects of the RCRA program. EPA retains the responsibility for implementing the HSWA requirements in Texas.

Oklahoma

The notice of Final Determination of Final Authorization of the Oklahoma program was published on Thursday, December 27, 1984 (49 FR 50362). The Decision published in that notice is clarified by adding the following: Oklahoma is granted Final Authorization to operate its hazardous waste management program. Subject to the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984), Oklahoma now has responsibility for a portion of the permitting of treatment, storage and disposal facilities within its borders and for carrying out all other aspects of the RCRA program. EPA retains the responsibility for implementing the HSWA requirements in Oklahoma.

List of Subjects in 40 CFR Part 271

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

Authority: This clarification of the Final Determinations is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended, 42 U.S.C. 2912(a), 6926, 6974(b) and EPA delegations 8-7.

Dated: March 14, 1985.

Dick Whittington,

Regional Administrator.

[FR Doc. 85-7085 Filed 3-25-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 52

[A-6-FRL-2802-7]

Oklahoma Regulation 3.1 Pertaining to the Control of Smoke, Visible Emissions and Particulates

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rulemaking.

SUMMARY: This notice approves Oklahoma's Regulation 3.1 "Pertaining to the Control of Smoke, Visible Emissions and Particulates" which was submitted by the Governor on February 6, 1984. On May 16, 1984, the Oklahoma State Department of Health (OSDH) submitted a letter of clarification on Regulation 3.1. Section 3.1(b) is more stringent than the previously approved Regulation 7, which was the number under the old system. Section 3.1(c) allows a source to petition for an increase of the 20 percent opacity limit, for particulates only. The proposed approval was published on December 18, 1984 at 49 FR 49113. No comments were received.

DATE: This action is effective on April 25, 1985.

ADDRESSES: Incorporation by reference material is available for inspection during normal business hours at the following locations:

Environmental Protection Agency, Region 6, Air & Waste Management Division, Air Branch, State Implementation Plan Section, 1201 Elm Street, Dallas, Texas 75270

Oklahoma State Department of Health, Air Quality Service, P.O. Box 53551, Oklahoma City, Oklahoma 73152

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

The Office of Federal Register, 1100 L Street, N.W. Room 8401, Washington, D.C. 20460

FOR FURTHER INFORMATION CONTACT:

Kathryn M. Griffith, State Implementation Plan Section, Air Branch, Air and Waste Management Division, EPA Region 6, 1201 Elm St., Dallas, Texas 75270, (214) 767-9857, Docket No. OK-85-1.

SUPPLEMENTARY INFORMATION: On February 6, 1984, the Governor of Oklahoma, after adequate notice and public hearing, submitted a State

Implementation Plan (SIP) revision to Regulation 3.1 "Pertaining to the Control of Smoke, Visible Emissions and Particulates." On May 16, 1984, the OSDH submitted a letter of clarification on Regulation 3.1. The revision was adopted by the Oklahoma State Board of Health on January 17, 1984.

EPA reviewed the revision and developed an evaluation report.¹ This evaluation report is available for inspection by interested parties during normal business hours at the EPA Region 6 office and the other addresses listed above.

Section 3.1(b)(1) controls fumes, aerosol, mist, gas, smoke, vapor, particulate matter, or any combination thereof. The previously approved Regulation 7 controlled only smoke. EPA interprets § 3.1(b)(1) as being more stringent.

Section 3.1(c) allows the 20 percent opacity limit to be increased, for particulates only, if specific requirements are met. The State was asked to clarify § 3.1(c)(4) which requires stack testing to determine mass emissions at maximum allowed capacity (i.e. permit limit, regulation limit, process limit). The May 14, 1984, letter of clarification says that if the stack testing shows that the source is not in compliance with the mass emissions limit then "the state will issue a notice of violation and commence the state's procedure to secure compliance."

The State previously addressed how each Oklahoma emission limitation regulation will not affect the EPA requirement which prohibits violation of the National Ambient Air Quality Standards (NAAQS). Under the State's Permit Regulation 1.4, a source must demonstrate that it will not violate the NAAQS (1.4.1 to 1.4.3) and must either meet the prevention of significant deterioration (PSD) requirements (1.4.4) or the requirements for major sources in nonattainment areas (1.4.5).

Therefore, EPA is approving Oklahoma's Regulation 3.1 "Pertaining to the Control of Smoke, Visible Emissions and Particulates."

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in

¹ EPA review of Oklahoma Regulation 3.1 "Pertaining to the Control of Smoke, Visible Emissions and Particulates."

proceedings to enforce its requirements. (See 307(b)(2).)

This notice of final rulemaking is issued under the authority of section 110 of the Clean Air Act, as amended, 42 U.S.C. 7410.

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

List of Subjects in 40 CFR Part 52

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

Dated: March 15, 1985.

Lee M. Thomas,
Administrator.

PART 52—[AMENDED]

Part 52 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart LL—Oklahoma

1. In 52.1920, (c) is amended by adding paragraph (33) as follows:

§ 52.1920 Identification of Action.

(c) * * *

(33) Revision to Regulation 3.1 "Pertaining to the Control of Smoke, Visible Emissions and Particulates" submitted by the Governor on February 6, 1984. On May 16, 1984, the Oklahoma State Department of Health submitted a letter of clarification on Regulation 3.1.

[FR Doc. 85-6771 Filed 3-25-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 81

[A-5-FRL-2804-8]

State of New Mexico; Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This notice approves the New Mexico Environmental Improvement Division (EID) request to change the existing nonattainment designations for

portions of two counties in New Mexico to attainment for the secondary Total Suspended Particulate (TSP) standard. The redesignations are based on modeling analyses and source compliance status showing the standards to be attained.

EFFECTIVE DATE: This action will be effective on May 28, 1985, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

ADDRESSES: Written comments on this action should be addressed to John Hepola of the EPA Region 6 Air Branch (address below). Copies of the State's submittal may be examined during normal business hours at the following locations: U.S. Environmental Protection Agency, Region 6, Air Branch, 1201 Elm Street, Dallas, Texas 75270.

FOR FURTHER INFORMATION CONTACT: Tim Glasco, State Implementation Plan Section, Air and Waste Management Division, U.S. EPA, Region 6, 1201 Elm Street, Dallas, Texas 75270, (214) 767-1518. Reference Docket File Number NM-85-2.

SUPPLEMENTARY INFORMATION:

Background

On March 3, 1978 [43 FR 9016] and September 11, 1978 [43 FR 40428] EPA promulgated attainment status designations for the State of New Mexico. The nonattainment designations for the primary and secondary TSP standards included portions of Eddy and Lea Counties near potash industries. The areas in nonattainment of the primary standard were redesignated to attainment on July 7, 1983 [48 FR 31208] as a result of controls added to the industries which were affecting the air quality.

In accordance with Part D of the Clean Air Act (as amended in 1977) the State submitted, and EPA approved, plans to provide for attainment of the National Ambient Air Quality Standards (NAAQS) by December 31, 1982. On November 7, 1984 the New Mexico EID submitted a request to redesignate all of the remaining areas in Eddy and Lea Counties currently classified as nonattainment for TSP to attainment. The basis of this request is that the sources (potash facilities) are in compliance with EID regulations. EID has demonstrated, through dispersion

modeling, that the regulations provide for attainment of the secondary TSP standards.

Action

By this notice, EPA is approving the EID request for redesignation and redesignates all of Eddy and Lea Counties to attainment for the secondary TSP standard.

The public should be advised that this action will be effective 60 days from the date of this notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice will be published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 28, 1985. This action may not be challenged later in proceedings to enforce its requirements (See 307(b)(2)). The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), I certify that redesignations do not have a significant economic impact on a substantial number of small entities.

This notice of final rulemaking is issued under the authority of section 107(d) of the Clean Air Act, as amended (42 U.S.C. 7407(d)).

List of Subjects in 40 CFR Part 81

Air pollution, National Parks Wilderness areas.

Dated: March 20, 1985.

Lee M. Thomas,
Administrator.

PART 81—[AMENDED]

Subpart C of Part 81 of Chapter 1, Title 40 of the Code of Federal Regulations is amended as follows:

1. In § 81.332 New Mexico, the attainment status designation table for TSP is amended as follows:

§ 81.332 New Mexico.

NEW MEXICO—TSP

Designated area

Does not meet
primary
standardsDoes not meet
secondary
standardsCannot be
classifiedBetter
than
national
standards

AQCR 155:

Portions of Eddy and Lea Counties near industries

Remainder of AQCR

X

X

[FR Doc. 85-7084 Filed 3-25-85; 8:45 am]

BILLING CODE 6580-50-M

**GENERAL SERVICES
ADMINISTRATION****41 CFR Ch. 201, App. A**

[FIRM Temp. Reg. 10]

**Triennial Review of Agency
Administration and Operation of
Information Resources Management
Activities****AGENCY:** Office of Information
Resources Management, GSA.**ACTION:** Temporary regulation.

SUMMARY: This temporary regulation establishes the Federal Information Resources Management (IRM) Review Program. It describes policies and procedures that Federal agencies and the General Services Administration (GSA) will follow in carrying out the review responsibilities of the Paperwork Reduction Act (44 U.S.C. 3513). It also establishes GSA as the focal agency for collecting, assessing, and reporting on IRM review results through the Office of Management and Budget (OMB) to Congress. Federal agencies, in the process of achieving their missions, put in effect management improvement programs of varying type and scope. In information intensive agencies, these activities include achieving economy and efficiency through effective information resources management, maximizing the usefulness of information, improving the agency's information systems, and ensuring the effective use of information technology in support of agency programs. The Federal IRM Review Program, established by this regulation, provides a Government-wide structure and reporting (information-sharing) mechanism intended to support those management initiatives as well as the requirements of the Paperwork Reduction Act. The regulation also cites GSA's additional review and oversight responsibilities under the Federal Property and Administrative Services Act and the Federal Records Act and

includes these areas within the scope of IRM reviews.

DATES: Effective date: March 26, 1985.

Expiration date: December 31, 1986.

Comments are due: June 24, 1985.

ADDRESS: Comments should be addressed to: General Services Administration (KMPP), Washington, DC 20405.**FOR FURTHER INFORMATION CONTACT:** Phillip R. Patton, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566-0194 or FTS 566-0194.**SUPPLEMENTARY INFORMATION:** (1) A notice of proposed rulemaking was published in the *Federal Register* on August 27, 1984 (49 FR 33906) and the comments received have been considered in the promulgation of this rule. Any additional comments are welcome and may be submitted within ninety days after publication in the *Federal Register*. It is intended to codify the policies and procedures added by this regulation in a new Part 201-19 to the FIRM.

(2) 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. GSA decisions are based on adequate information concerning the need for, and the consequences of the rule. The rule is written to ensure maximum benefits to Federal agencies. This is a Government-wide management regulation that will have little or no net cost effect on society.

List of Subjects in 41 CFR Ch. 201

Government information resources activities, Government procurement, Information resources management reviews.

In 41 CFR Chapter 201, the following FIRM temporary regulation is added to Appendix A at the end of the chapter.

FIRM Temporary Regulation 10

January 22, 1985.

To: Heads of Federal agencies.

Subject: Information Resources Management Reviews.

1. Purpose.

a. This regulation establishes the Federal Information Resources

Management (IRM) Review Program. It describes policies and procedures that Federal agencies and the General Services Administration (GSA) will follow in carrying out the review responsibilities of the Paperwork Reduction Act. This directive also establishes GSA as the focal agency for collecting, assessing, and reporting on IRM review results to the Office of Management and Budget (OMB). The intent of this regulation is to provide agencies the flexibility to implement a review program that is commensurate with the scope and complexity of the agency program objectives and missions.

b. A notice of proposed rulemaking was published in the *Federal Register* on August 27, 1984 (49 FR 33906) and the comments received have been considered in the promulgation of this rule. Any additional comments are welcome and must be submitted by June 24, 1985. It is intended to codify the policies and procedures added by this regulation in a new Part 201-19 to the FIRM.

2. *Effective date.* March 26, 1985.3. *Expiration date.* This regulation expires on December 31, 1986.

4. *Background.* The Paperwork Reduction Act requires that Federal agencies and GSA establish IRM review capabilities. Specifically, agencies are required by the Act to carry out their information management activities in an efficient, effective, and economical manner. The Act also requires each agency to designate a senior official to carry out the responsibilities of the agency under the Act. These responsibilities include systematically conducting inventories of major information systems; periodically reviewing major information management activities; ensuring that information systems do not overlap; developing procedures for assessing the paperwork and reporting burden of proposed legislation; and assigning the senior official responsibility and accountability for IRM acquisitions. In addition, the act requires GSA to advise and assist the OMB to "selectively review, at least once every three years, the information management activities of each agency to ascertain their adequacy and efficiency." It also requires "particular attention to whether the agency has complied with section 3506." GSA has additional review and oversight responsibilities under the Federal Property and Administrative Services Act and the Federal Records Act. In a letter dated June 13, 1983, the OMB assigned GSA responsibility for IRM reviews.

5. *Applicability.* This regulation applies to organizations covered by the Paperwork Reduction Act. It includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency. It does not apply to the General Accounting Office, Federal Election Commission, the governments of the District of Columbia and of the territories and possessions of the United States, and their various subdivisions, or Government-owned, contractor-operated facilities including laboratories engaged in national defense research and production activities.

6. *Review Objectives.*

a. The primary purpose of IRM reviews is to improve the Government-wide management of information resources so that all Federal agencies can accomplish their missions more efficiently and effectively. The IRM activities of each agency shall be selectively reviewed at least once during a triennial review cycle. This requirement will be satisfied predominantly by agency-conducted reviews.

b. IRM reviews have four principal objectives:

- (1) To determine if each agency is carrying out its information management activities in an efficient, effective, and economical manner in support of program missions and objectives;
- (2) To determine how well each agency is complying with established IRM policies, procedures, principles, standards, and guidelines; and
- (3) To determine whether each agency is complying with Federal agency responsibilities of 44 U.S.C. 3506;
- (4) To establish through GSA-conducted reviews, the proper level of acquisition authority for ADP resources to be delegated to each agency by GSA.

7. *Scope of IRM Reviews.*

a. IRM reviews may encompass any or all activities of planning, budgeting, organizing, directing, training, and control associated with the creation, collection, processing, transmission, dissemination, use, storage, and disposition of information by agencies. IRM encompasses both information itself and the resources, such as personnel, equipment, funds, and technology used to create, collect, process, transmit, disseminate, use, store, and dispose of information. This includes ADP, telecommunications, office automation, records management, and their associated activities,

b. As stated in the Paperwork Reduction Act and for the purposes of this regulation, the terms "automatic data processing," "automatic data processing equipment," and "telecommunications" do not include any data processing or telecommunications system or equipment, the function, operation, or use of which:

- (1) Involves intelligence activities;
- (2) Involves cryptologic activities related to national security;
- (3) Involves the direct command and control of military forces;
- (4) Involves equipment which is an integral part of a weapon or weapons system; or
- (5) Is critical to the direct fulfillment of military or intelligence missions, provided that this exclusion shall not include automatic data processing or telecommunications equipment used for routine administrative and business applications such as payroll, finance, logistics, and personnel management.

8. *Relationship to Other Review Requirements.*

In meeting the requirements of this regulation, agencies are encouraged to take advantage of all ongoing reviews preparing for or resulting from the OMB spring planning and management reviews and/or fall budget reviews; vulnerability assessments and internal control reviews (OMB Circular A-123); financial management systems reviews (OMB Circular A-127); performance of commercial activity reviews (OMB Circular A-76); information collection reviews; records management assessments; internal audits; etc.

9. *Government-Wide Application.* (See Attachment F to this bulletin which illustrates the Federal IRM Review Structure.)

a. *Agency responsibilities.* The agency head, in coordination with the senior official designated by the requirements of the Paperwork Reduction Act, shall delegate IRM review authorities and responsibilities within the agency consistent with the Paperwork Reduction Act and this regulation. Specifically the agency head shall ensure that the agency's review organization:

- (1) Has authority to review programs, functions, and activities within the objectives and scope of IRM cited in par. 6 and par. 7 above;
- (2) Is responsive to established Government-wide and agency priorities; and
- (3) Is responsible for meeting the reporting requirements established in par. 10 below.

b. *GSA responsibilities.* GSA has responsibility to conduct IRM reviews at

agencies and to consolidate the results of GSA- and agency-conducted reviews in an annual report to OMB. To meet these responsibilities, GSA is hereby establishing a triennial review and reporting process. To assist agencies in meeting the requirements of the Paperwork Reduction Act and this regulation, GSA will issue and maintain an advisory IRM review handbook and advise and assist agencies with the IRM review process.

c. *OMB responsibilities.* OMB is required to report major activities being accomplished under Paperwork Reduction Act guidelines, including review activity, to Congress and will conduct such independent reviews as it deems appropriate.

10. *Triennial Process.* Agency review programs will operate on a three-year cycle. This paragraph describes the process for each year.

a. *Year One.*

(1) GSA will issue a "call for plans" by September 1 preceding the first year of the cycle. The call will establish Government-wide review priorities for that three-year cycle.

(2) Agencies shall develop a three-year review plan which:

- (i) Includes Government-wide priorities for review;
- (ii) Establishes and includes agency priorities for review;
- (iii) Provides specific objectives for the three-year review cycle; and
- (iv) Details planned reviews for the upcoming and subsequent two years.

(3) The plan shall, at a minimum, include the items listed in Attachment A, and describe how execution of the plan will determine whether the agency is complying with Federal agency responsibilities of 44 U.S.C. 3506.

(4) The agency shall submit the agency plan to GSA by November 1 of the first year of the cycle.

(5) GSA will assess the plan for comprehensiveness, clarity, and responsiveness to Government-wide priorities. Agencies will be contacted for clarification and additional information if necessary.

(6) Agencies shall conduct reviews in accordance with the plan. As each review is completed, a review synopsis will be developed. These synopses shall include, as a minimum, the items listed in Attachment D.

b. *Year Two.*

(1) GSA will issue a call for the second year's plan by September 1.

(2) Agencies shall update the plan submitted in the previous year. The plan shall, at a minimum, include the items listed in Attachment B.

(3) Agencies shall attach to the plan synopses of the first year's reviews. (See par. 10a(6) above.) If reviews were conducted which were not on the plan, they should be summarized. Reviews which were on the plan but not conducted, should be noted as rescheduled or cancelled and include a short explanation.

(4) The agency shall submit the updated plan and synopses of the first year's reviews to GSA by November 1.

(5) Agencies shall complete the scheduled second year's reviews and develop synopses. (See par. 10a(6) above.)

c. Year Three.

(1) GSA will issue the call by September 1 and agencies will submit the final updated plan for the third year (see Attachment C) and review synopses for the second year.

(2) Agencies shall complete the scheduled third year's reviews and develop synopses.

(3) Agencies shall develop a report which consolidates the three-year effort, evaluates how well the reviews met overall objectives, evaluates the benefits of the three-year review effort to the agency, demonstrates how the agency is complying with Federal agency responsibilities of 44 U.S.C. 3506 (the Paperwork Reduction Act), and identifies potential review opportunities for the next three-year cycle.

(4) GSA will review progress with the agency in preparation for report consolidation and submission to OMB. Such reviews may be limited to an assessment of the review program or may be a broader review effort.

(5) The agency shall submit the consolidated report and third-year review synopses to GSA by November 1, together with the plan for the new cycle. (See par. 10a, above.)

d. Triennial Reporting.

(1) In the two years preceding the first triennial report, GSA will report to OMB on the status of implementation of the Federal IRM Review Program.

(2) For all agencies completing the three-year cycle, GSA will prepare an executive summary of trends and significant actions, highlight successes, identify problem areas, and provide profiles of review activity by agency and Government-wide. The consolidated report will be provided to OMB by March 1, following completion of the three-year cycle. OMB will report the results of the reviews to appropriate agency heads and Committees of the Congress.

(3) Agencies are required by 44 U.S.C. 3513(c) (the Paperwork Reduction Act) to prepare and submit to OMB and appropriate Congressional Committees,

within sixty days, a written statement which responds to the results of the reviews and includes actions taken to alleviate cited problems or deficiencies.

11. GSA Review Process.

a. GSA will periodically conduct separate reviews of agencies' IRM activities to complement and supplement agency efforts. Prior to initiation of a GSA-conducted IRM review, the designated senior official will be informed of its scope and the manner in which it will be conducted. These reviews will initially take place during the fiscal year following agency start-up.

b. The reviews will be conducted in an atmosphere which will allow for a free and open exchange of information. Potential problems and recommended solutions will be discussed during the course of the review so that agencies may initiate corrective action prior to formal reporting.

c. Results of these reviews will be provided by GSA to the agency in draft form. Agencies shall have thirty days to respond to the report before it is finalized.

d. Comments will be reviewed and discussed with the agency with appropriate revisions being made prior to issuance of a final report.

e. Final reports will be provided to the agency and will also be included in the consolidated report to OMB.

12. IRM Review Program Initiation.

a. The IRM review program will be initiated for FY 1986. Agency plans shall be submitted within 60 days after the call goes out. The first submission of review synopses will be on or before November 1, 1986.

b. Agencies will be phased into the review process. (See Attachment E.) The first triennial review cycle ends with reports due November 1, 1988. Therefore, the first triennial report will be submitted in FY 1989. Until the cycle is in full operation in FY 1988, GSA will submit annual consolidated reports to OMB.

c. The reports called for in this temporary regulation have been cleared in accordance with FPMR 101-11.11 and are assigned Interagency Report Control Number 0326-GSA-XX.

13. *Agency actions.* Pending the issuance of an amendment of the Federal Information Resources Management Regulation, agencies shall follow the policies and procedures in this temporary regulation.

14. Information and assistance.

a. This review program is administered by the Procurement Management and Review Branch (KMAP) in GSA's Office of Information Resources Management. Advice and

assistance are available as resources permit. The branch can be contacted by writing or calling: General Services Administration, KMAP, Washington, DC 20405, Telephone—(202) 566-1332 or FTS 566-1332.

b. Inquiries concerning this regulation should be directed to Phillip R. Patton, Policy (KMPP), Office of Information Resources Management, Telephone (202) 566-0194 or FTS, 566-0194.

15. *Submission of comments.* The views of agencies and other interested parties are invited regarding the effect or impact of this regulation and the policy and procedures that should be adopted in the future. All comments received by June 24, 1985, will be considered. Comments should be addressed to GSA (KMPP), Washington, DC 20405.

Ray Kline,

Acting Administrator of General Services.

Attachment A

Agency IRM Review Plan Format

Three Year Cycle: FY 8x-8x

Year 1

Agency:

Priority review areas: (as identified in GSA call or by agencies)

Triennial objectives:

Year 1 reviews: (For each review, submit the data stipulated below.)

Title of Review:

Agency Review Number:

Scope of Review:

Brief Description:

Review Milestones and Schedules:

Agency Contact and Telephone Number:

Year 2 and 3 reviews:

Title of Review:

Agency Review Number:

Scope of Review:

Brief Description:

Note.—Agencies may add additional data elements to these formats (Attachments A thru D) as deemed necessary.

[This format shall only be used as a guide and will not be printed, reproduced or stocked.]

Attachment B

Agency IRM Review Plan Format

Three Year Cycle: FY 8x-8x

Year 2

Agency:

Priority review areas: (If different from Year 1)

Triennial objectives: (If different from Year 1)

Year 2 reviews:

Title of Review:

Listed on Year 1 Plan: ☐ Yes ☐ No

Agency Review Number:

Scope of Review:

Brief Description:

Review Milestones and Schedules:

Agency Contact and Telephone Number:

Year 3 reviews:

Title of Review:

Listed on Year 1 Plan: ☐ Yes ☐ No

Agency Review Number:

Scope of Review:

Brief Description:

[This format shall only be used as a guide and will not be printed, reproduced or stocked.]

Attachment C

Agency IRM Review Plan Format

Three Year Cycle: FY 8x-8x

Year 3

Agency:

Priority review areas: (If different from Year 2)

Triennial objectives: (If different from Year 2)

Year 3 reviews:

Title of Review:

Listed on Year 1 Plan: ☐ Yes ☐ NoListed on Year 2 Plan: ☐ Yes ☐ No

Agency Review Number:

Scope of Review:

Brief Description:

Review Milestones and Schedules:

Agency Contact and Telephone Number:

[This format shall only be used as a guide and will not be printed, reproduced or stocked.]

Attachment D

Agency Review Synopsis

Three Year Cycle: FY 8x-8x

Year 1, 2, and 3

Agency:

Title of Review:

Agency Review Number:

Objectives of Review:

Synopsis of Review:

Primary Findings:

Initiatives and Actions:

Agency Contact and Telephone Number:

[This format shall only be used as a guide and will not be printed, reproduced or stocked.]

Attachment E

Agency Start-Up List

Triennial Reports to Congress

First year agencies are those information-intensive agencies (identified by OMB in initial review efforts) with the longest established review programs. Second and third year agencies are information-intensive agencies not included in the first year. Agencies have been listed if they are large enough to have an established IRM organization. All other agencies are also included in the third year.

Beginning in FY 86, and every 3rd year thereafter:

Year 1 Agencies

Agriculture

Commerce

Education

Energy

General Services Administration

Health and Human Services

Interior

Justice

Labor

Transportation

Veterans Administration

Beginning in FY 87, and every 3rd year thereafter:

Year 2 Agencies

Consumer Product Safety Commission

Environmental Protection Agency

Federal Energy Regulatory Commission

Federal Trade Commission

Housing and Urban Development

Interstate Commerce Commission

National Aeronautics & Space

Administration

National Science Foundation

Office of Personnel Management

State

Treasury

Beginning in FY 88, and every 3rd year thereafter:

Year 3 Agencies

ACTION

Commodity Futures Trading Commission

Defense

Air Force

Army

Navy

Federal Communications Commission

Federal Emergency Management Agency

Federal Reserve System

Nuclear Regulatory Commission

Securities and Exchange Commission

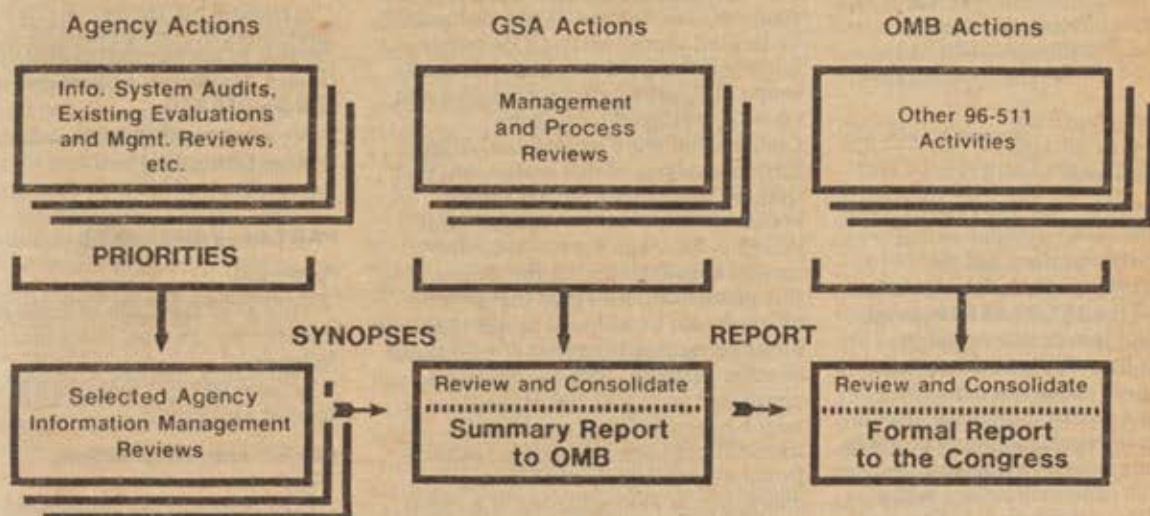
Selective Service System

All Other Agencies



Federal IRM Review Responsibilities and Structure

FIRMR Temp. Reg. 10
Attachment F



[FR Doc. 85-7067 Filed 3-25-85; 8:45 am]
BILLING CODE 5820-25-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6597

[W-87111]

Wyoming; Withdrawal of Public Lands for White Mountain Petroglyphs Site

March 13, 1985.

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order will withdraw 20 acres of public land from surface entry and mining for 20 years to protect to scientific, artistic, and educational values of the site. The lands have been and remain open to mineral leasing.

EFFECTIVE DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT:

Scott Gilmer, BLM, Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307-772-2089.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and

Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described public land is hereby withdrawn from settlement, sale, location, and entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, to protect a Bureau of Land Management recreation site.

Sixth Principal Meridian

T. 22 N., R. 105 W.,

Sec. 11, NE $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 12, W $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described contains 20 acres in Sweetwater County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary

determines that the withdrawal shall be extended.

Robert N. Broadbent,
Assistant Secretary of the Interior.
March 18, 1985.

[FR Doc. 85-7077 Filed 3-25-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 94

[PR Docket No. 84-27; RM-4351; FCC 85-119]

Elimination of the Developmental Classification of the 13.2-13.25 GHz Band

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In September of 1984 M/A-COM, Inc. filed a Petition for Limited Reconsideration of PR Docket No. 84-27. The petition asks that § 94.75 of the Commission's Rules be amended to exempt low power portable temporary-fixed transmitters operating in the 13.2-13.25 GHz band from antenna standards. The Commission granted the requested amendment thereby allowing private

users to use equipment available in other services.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Private Radio Bureau, (202) 634-2443.

SUPPLEMENTARY INFORMATION:

Memorandum Opinion and Order

In the Matter of Amendment of Part 94 of the Commission's Rules to eliminate the developmental classification of the 13.2 to 13.25 GHz band: PR Docket No. 84-27, RM-4351.

Adopted: March 15, 1985.

Released: March 18, 1985.

By the Commission.

1. On August 8, 1984, the Commission adopted a *Report and Order* which amended Part 94 of the rules to eliminate the developmental restriction on the use of the 13.2-13.25 GHz band and to exempt low power portable transmitters from the type acceptance and notification requirements.¹ The Commission's decision to allow private users to obtain regular authorizations in this band was based on the mature state of microwave radio technology which is now available in this band. Subsequent to the *Report and Order*, a Petition for Limited Reconsideration was filed by M/A-COM, Inc. The Petition asks that as part of our overall consideration of the use of this frequency band we also amend Section 94.75 of the rules to allow Part 94 users the use of small antennas with portable transmitters operating in the 13.2-13.25 GHz band. No comments were filed in response to the petition.

2. The 13.2-13.25 GHz band is shared by private users, broadcasters, and common carriers. Broadcasters and common carriers primarily use the band for portable operations in connection with electronic newsgathering (ENG). Transmissions are usually over a very short distance, for example, from a news event to a van. M/A-COM suggests that private users also have a similar need for low power portable transmitters for short range communications and should be able to use equipment currently on the market. M/A-COM points out that public safety agencies could use their equipment for crowd control and surveillance, and colleges and vocational schools could use it as an instructional aid.

3. The small antenna used on portable transmitters produces a wide beamwidth which makes it easier to set up and aim temporary links. Under Parts

21, 74, and 78 of the Commission's Rules portable microwave transmitters are exempt from antenna beamwidth standards. Part 94 does not provide for such an exemption and therefore private users could not make use of equipment that is already on the market without a waiver or rule change.

4. In the *Report and Order* we noted that antenna standards were within the scope of Gen. Docket 82-334 and would be treated there.² M/A-COM points out, however, this matter is also within the scope of this docketed proceeding and could be resolved here, if the Commission were so inclined. After further analysis of this matter, we find that the issue of portable antenna standards need not be delayed until action in Gen. Docket 82-334. After careful consideration of the record of this proceeding we agree that private users should be allowed to use the same portable transmitters that are available in other services. This exemption is consistent with § 21.108 of the rules which exempts temporary fixed transmitters used by common carriers from antenna standards.³ This exemption is also reflected in § 74.641 and § 78.105 for portables used by broadcasters and CATV operators.^{4,5} We conclude that a similar approach should be extended to portable, temporary-fixed transmitters used under Part 94. We, therefore, amend § 94.75 of the Commission's Rules to permit the use of small antennas with portable temporary-fixed transmitters operating in the 13.2-13.25 GHz band.

5. The Commission certifies that section 604 of the Regulatory Flexibility Act of 1980 does not apply to the rule change in this *Memorandum Opinion and Order* because it will not have a significant economic impact on a substantial number of small entities. The Secretary shall cause a copy of this *Memorandum Opinion and Order*, including the above certification, to be published in the *Federal Register*, and to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605(b) of the Regulatory Flexibility Act, Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

6. Accordingly, it is ordered, that pursuant to section 4(i) and 303(r) of the Communications Act of 1934, as amended, Part 94 of the Commission's Rules is amended, effective April 24,

¹ *First Report and Order*, Gen. Docket No. 82-334 [FCC 83-3933], released September 30, 1983, 48 Fed. Reg. 50722 (November 3, 1983).

² 47 CFR 21.108(c).

³ 47 CFR 74.641(a)(5).

⁴ 47 CFR 78.105(a)(5).

1985, as set forth in Appendix A. It is further ordered that this proceeding is terminated.

7. Further information on this matter may be obtained by contacting Eugene Thomson, (202) 634-2443, Private Radio Bureau, Federal Communications Commission, Washington, D.C. 20554.

List of Subjects in 47 CFR Part 94

Private Operational—Fixed microwave, Radio, Radio services.

(Secs. 4, 303, 48 stat., as amended, 1066, 1082, 47 U.S.C. 154, 303)

Federal Communications Commission.
William J. Tricarico,
Secretary.

PART 94—[AMENDED]

Appendix

Title 47 of the Code of Federal Regulations, Part 94, is amended as follows:

Section 94.75(b) footnote 6 is revised to read as follows:

§ 94.75 Antenna limitations.

(a) * * *

(b) * * *

* * * * *

⁶ Except for temporary-fixed operations in the band 13.200-13.250 MHz with output powers less than 250 mW and as provided in § 94.90.

* * * * *

[FR Doc. 85-7043 Filed 3-25-85; 8:45 am]

BILLING CODE 6712-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1803, 1804, 1805, 1806, 1807, 1809, 1810, 1813, 1814, 1815, 1816, 1817, 1819, 1827, 1831, 1832, 1836, 1837, 1852, and 1853

[NASA FAR Supplement Directive 85-2]

NASA FAR Supplement Implementation of Competition in Contracting Act

AGENCY: Office of Procurement, Procurement Policy Division, NASA.

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect, *inter alia*, applicable provisions of P.L. 98-369, Competition in Contracting Act, and P.L. 98-72, Amendment to the Small Business Act.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of

¹ *Report and Order*, PR Docket 84-27 [FCC 84-390], released August 15, 1984, 49 FR 34017 [August 28, 1984].

Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453-2119.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published on page 49648 of the *Federal Register* of December 21, 1984, which made available to the public a copy of NASA FAR Supplement Directive 85-2 for review and possible comment for a 30 day period, ending January 22, 1985. All comments received have been considered and the Directive has been revised where necessary. On January 31, 1985, the proposed document was forwarded to the Office of Management and Budget for review in accordance with OMB Bulletin 85-7, December 14, 1984. That review has been concluded in accordance with Executive Order 12291, sec. 3(e)(2)(c).

1. Existing policy on D&F's is clarified and moved from subpart 1815.3 to 1801.7.

2. Instructions at subpart 1804.6 for Form 507 have been revised to accommodate CICA. A revised Form 507 will be timely issued for April 1, 1985, use.

3. An annual report to Congress of sole source contracts is no longer required. Subsection 1804.677 is removed in its entirety.

4. Subpart 1806 has been added. It contains a detailed description of competition requirements, including full and open competition, other than full and open competition, and the role of the competition advocate. Strictures related to contracting with former NASA employees now appear at 1806.304-70, vice 1815.105-70(d)(6).

5. Procurement plans must describe how competition will be sought and promoted (subsection 1807.170).

6. Small purchases are exempted from the added justification requirements at FAR Part 6 (subsection 1813.104).

7. Delegations of authority are made (1) for cancelling invitations and rejecting all bids and (2) for completing the acquisition through negotiation (subsection 1814.404).

8. Subsections 1815.103 and 1815.105, covering the negotiation exceptions and related material, have been removed. Subparts 1815.2, Negotiation Authorities, and 1815.3, Determinations and Findings, have been removed.

9. The accuracy of certain items in Justifications for Acceptance of Unsolicited Proposals (JAUP's) must be certified by the sponsoring technical office. JAUP's, by statute, are available to the public. Pre-award synopsis of unsolicited proposals shall not be made if the conditions at FAR 5.202(c)(7) apply (Subpart 1815.507).

10. Subsection 1815.608 delegates to

the contracting officer the authority to reject all proposals received in response to a solicitation.

11. Subsection 1817.207-70 is revised to apply to all unpriced options, not just those under service contracts.

12. Citation of negotiation authority with SBA for 8(a) program contracts is no longer necessary (subsection 1819.809-1(c)(1)).

13. NASA's policy of obtaining the services of experts and consultants by appointment rather than contract is relocated from 1815.2 to subsection 1837.104.

14. Minor editorial adjustments have been made in the following provisions and/or clauses. 1852.215-71; 1852.215-72; 1852.215-73; 1852.216-7001; 1852.216-7002; 1852.216-7004; 1852.213-71 and 1852.244-70.

15. NASA Form 543, Justification for Authority to Negotiate, is removed.

16. There are several modifications which correct typographical errors, make editorial improvements or clarifications and replace coverage from NASA's Procurement Regulation that was inadvertently left out during the printing of the NASA FAR Supplement. They do not make significant changes in NASA policy or procedures.

The NFS material published in this directive is effective April 1, 1985, and shall remain in effect until: (1) Changed by a subsequent NFSD or Procurement Notice (PN); (2) incorporated into any new edition of the NFS; or (30) specifically canceled.

List of Subjects in 48 CFR Ch. 18

Government procurement.

Dated: February 27, 1985.

S.J. Evans,

Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Ch. 18 reads as follows:

Authority: 42 U.S.C. 2473(c)(1).

PART 1801—NATIONAL AERONAUTICS AND SPACE ADMINISTRATION FEDERAL ACQUISITION REGULATION SUPPLEMENT

2. Subpart 1801.7 is added to read as follows:

Subpart 1801.7—Determinations and Findings

Sec.

1801.703 Class determinations and findings.

1801.704 Content.

1801.707 Signatory authority.

Subpart 1801.7—Determinations and Findings

1801.703 Class determinations and findings.

The effective period specified in each class determination and findings (D&F) shall not ordinarily exceed one year. When periods longer than the foregoing are considered appropriate and necessary, they should be stated with the reasons therefor.

1801.704 Content.

(a) Content and format requirements in addition to those at FAR 1.704 are specified in the associated subject text.

(b) While the contracting officer is responsible for preparing the D&F's, requirements and technical personnel are responsible for the accuracy and adequacy of the factual information supporting the findings. Supporting information within the functional areas of requirements and technical personnel shall be furnished the contracting officer in writing.

1801.707 Signatory authority.

(a) Signatory authority for D&F's is specified in the FAR or NASA FAR Supplement text for the associated subject matter.

(b) The Administrator or Deputy Administrator may also make any of the D&F's that may be made by the Assistant Administrator for Procurement or by a contracting officer.

PART 1803—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

Subpart 1803.70—Contracts Between NASA and Former NASA Employees

3. In section 1803.7001, paragraph (a) is amended by changing "1815.105-70(c)" to read "1806.303-270"; paragraph (b) is revised; and paragraph (c) is amended by changing "formal advertising" to read "sealed bidding".

1803.7001 Policy.

(b) Where it has been determined that it is appropriate to contract with an individual or a firm described in paragraph (a) above, the approval authority for the justification for less than full and open competition shall be as specified in 1806.304-70.

PART 1804—ADMINISTRATIVE MATTERS

1804.6 [Amended]

4. The title of subpart 1804.6 is amended by changing "NASA Contract Reporting" to "Contract Reporting."

1804.671-1 [Amended]

5. In section 1804.671-1(b)(3) remove "and modifications."

6. Section 1804.671-4 is amended as follows:

a. Paragraph (o), the introductory text, is amended by changing "negotiation authority" to read "authority for less than full and open competition";

b. Paragraph (p) is amended by revising the entry for code 07 under "Modifications to Existing Contracts";

c. Paragraph (u) is amended by revising the headings and text for the material currently designated "advertised" and "Noncompetitively Negotiated";

d. Paragraphs (w)(1), (2) and (3) and paragraphs (x), (z) and (aa) are revised.

1804.671-4 Preparation of Individual Procurement Action Report (NASA Form 507).

(p) . . .

Modifications to Existing Contracts

07 *Additional work*—Enter this code for reporting modifications to existing contract which add new procurement. New procurement for the purpose of this report shall be a modification action which usually requires the preparation of a justification for Less than Full and Open Competition (see FAR 6.303).

(u) *Item 21—Extent of Competition* (1 position).

Competition by Sealed Bids

1 *Two-step*—Enter this code for procurement which resulted from acceptance of a bid made by a supplier in response to an invitation for bids following request for an evaluation of technical proposals. (see FAR 14.503).

2. *Other sealed bidding*—Enter this code for procurement which resulted from acceptance of a bid made by a supplier in response to an invitation for bids. (see FAR 14.101).

Without Competition

5 *Follow-on after competition*—Enter this code when the award means a new procurement placed with a particular contractor to continue or augment a specific NASA program where such placement was necessitated by prior procurement decisions, e.g., contracts with a particular contractor for continuation of research and development in the same program, contracts for support equipment and spare parts from contractor

furnishing original equipment. This code will be used *only* when the contractor was selected initially on the basis of full and open competition. Follow-on contracts where the contractor was selected initially on the basis of less than full and open competition will be reported as noncompetitive (code 6).

6 *Other noncompetitive*—Enter this code where an offer was received from only one responsive offeror capable of satisfying the Government's requirements wholly or partially and where the work involved is not a follow-on procurement reportable under item 5 above. A single source procurement is one in which there was only one responsive reply to a competitive solicitation.

7 *Unsolicited proposal*—Enter this code to identify procurements resulting from a written offer to perform work which does not result from a formal written request for proposals issued by NASA (see FAR 15.501). A noncompetitive procurement placement code will be used when reporting unsolicited proposals.

(w) . . .

(1) *Research and Development (R&D) Procurement*—R&D codes are used for the following:

(i) Most, but not all, contracts for services of educational institutions;

(ii) All contracts funded by R&D appropriations; and

(iii) All contracts for research and development work, even though not covered by paragraphs (w)(1) (i) or (ii) above.

(2) If the procurement involves space research and development, enter one of the following codes:

AR1¹ Aeronautics & Space Technology

AR2¹ Space Science and Applications

AR3¹ Space Transportation Systems

AR4¹ Tracking and Data Acquisition

ARB¹ Other Space R&D

(3) If the procurement involves other than space research and development, enter the applicable code from the FPDS Product and Service Coding Manual or Supplement 50, Subpart 2. For the fourth digit of the code use "0" or one of the following "stages of R&D":

Code and Meaning

1 Research

2 Exploratory Development

3 Advanced Development

4 Engineering Development

5 Operational Systems Development

6 Management and Support

7 Commercialization

Note. For definitions of "stage of R&D" see FPDS Product and Service Coding Manual or 1804.6727(d).

(x) *Item 24—Proposed procurement synopsis* (1 position). Enter "1" if the procurement was synopsis prior to award in the Department of Commerce

¹ See paragraph (w)(3) below.

publication "Synopsis of U.S. Government Proposed Procurement, Sales, and Contract Awards." Enter "2" if the procurement was not synopsis, except that "3" shall be entered if the procurement was not synopsis due to unusual or compelling urgency.

(z) *Item 26—Consultant type contract* (1 position). Enter Y (yes) or N (no) to indicate whether the contract is for consulting services. For the definition of consulting services see FAR 37.201.

(aa) *Item 27—Support Services Type Contract* (1 position). Enter Y (yes) or N (no) to indicate whether the contract is for support services.

(1) *In-house contractor support:*

(i) Provides a service to the installation, and

(ii) Is performed on or near the installation, and

(iii) Is continuous in nature, and

(iv) Is not provided by prime product development contractor when the work is for the purpose of fulfilling the prime contract, and

(v) Is characterized as: that support necessary due to the on or near site population and activated facilities (housekeeping M and O function), and the effort necessary to support the research, development or test efforts the installation performs in-house; and

(vi) Excludes:

(A) Construction, alteration and repair contractor;

(B) Purchase and incidental services;

(C) Prime product development contractor;

(D) Operations support contractors; and

(E) Tenants.

(2) *Operations support contractors.*

Contractors whose work is performed on or near site due to the location of major operations facilities. (This is the effort associated with carrying out mission operations and is done on-site because that is where the captured facility is—a launch pad or Mission Control Center or a tracking station.)

(i) Restricted to major national operations facilities and foreign and domestic tracking network stations:

—JPL-Mission Control Center (DSN)

—Goldstone

—Mesa Antenna Range

—JSC-Mission Control Center (MSF)

—GSFC-Mission Control Center (STDN)

—World-Wide Network Tracking Stations

—OTDA-Operations Funded Support

—KSC-Launch Complex 39 and related support facilities;

(ii) That support funded by STS operations at MSFC, KSC, and JSC;

(iii) Tracking operations support contractors are subdivided as on-site (at or near GSFC or JPL) and as offsite.

(3) *Purchased and/or incidental services.*

(i) Purchased services (described in terms of funds only) are:

- (A) Delivery orders against Federal supply schedules;
- (B) Purchase orders;
- (C) Blanket purchase agreements; or
- (D) Basic ordering agreements not exceeding \$10K per order.

(ii) Incidental services are:

- (A) Described in terms of manpower required to perform the services;
- (B) Procured from vendors who provide similar services to the local community;

(C) Vendor provides all or a substantial amount of the capital investment required to perform the work under the contract;

(D) Includes small contracts generally not exceeding four to five man-years per annum.

7. Section 1804.671-5 is amended by adding the following items to the end of paragraph (b):

1804.671-5 Limited preparation of NASA Form 507.

(b) * * *

34. Contract Physically Complete (when applicable)

40. Total price or Estimated Cost

41. Description of Contract

1804.677 [Removed]

8. Section 1804.677 is removed.

PART 1805—PUBLICIZING CONTRACT ACTIONS

Subpart 1805.2—Synopsis of Proposed Contracts

1805.201-70 [Amended]

9. Section 1805.201-70 is amended by changing "proposed contract" to read "proposed contract action."

10. Section 1805.207 is revised to read as follows:

1805.207 Preparation and transmittal of synopses.

Within NASA, each notice publicizing procurement of architect-engineer services shall be headed "R. Architect-Engineer Services." In addition to other requirements of FAR 5.207(b)(4), the project shall be listed with a brief statement concerning the relative order of importance the Government attaches to the significant evaluation criteria and the date by which responses to the

notice must be received, including submission of Standard Form 255, Architect-Engineer and Related Services Questionnaire for Specific Project, if required. Appropriate statements shall be made concerning any specialized qualifications, security classifications, and limitations on eligibility for consideration. Qualifications or performance data required from architect-engineer firms shall be described. If the procurement is to be set aside for small business, the notice shall so state, indicating the specific size standard to be used and requiring that eligible responding firms submit a small business certification statement.

Provisions of Note 62 shall apply to this notice except that in the second paragraph of the note: (a) the 'National Aeronautics and Space Administration' is substituted for the 'Department of Defense' wherever the reference appears, and (b) the fourth additional consideration listed is changed to read: '(4) past experience, if any, of the firm with respect to performance on contracts with NASA, other Government agencies, and private industry.'

11. Part 1806 is added to read as follows:

PART 1806—COMPETITION REQUIREMENTS

Subpart 1806.2—Full and Open Competition After Exclusion of Sources

Sec.

1806.202 Establishing or maintaining alternative sources.

1806.202-70 Determination and findings.

Subpart 1806.3—Other Than Full and Open Competition

1806.301 General.

1806.302-1-70 Technical equipment requiring standardization and interchangeability of parts.

1806.302-7-70 Determination and findings.

1806.303-1 Requirements.

1806.303-1-70 Sole source purchases by contractors.

1806.303-2-70 NASA or former NASA employees.

1806.304 Approval of the justification.

1806.304-70 Contracts with NASA or former NASA employees.

1806.305 Availability of the justification.

Subpart 1806.5—Competition Advocates

1806.570 NASA Competition advocacy program.

Authority: 42 U.S.C. 2473(c)(1).

Subpart 1806.2—Full and Open Competition After Exclusion of Sources

1806.202 Establishing or maintaining alternative sources.

The authority of FAR 6.202 is to be used to exclude only one source. If, for example, FAR 6.202(a)(3) appears to be

applicable but all for-profit concerns as well as the current source will be excluded, then FAR 6.302-3 must be used instead.

1806.202-7 Determination and findings.

(a) *Procedure.*

(1) D&F's shall be dated at the time of signature.

(2) Each request for Administrator or Deputy Administrator determination under 10 U.S.C. 2304(b)(1) (FAR 6.202) shall consist of—

(i) A memorandum from the Procurement Officer to the Assistant Administrator for Procurement (HS) recommending approval of the D&F; and

(ii) An original and three copies of the D&F in the appropriate format required below.

(3) The signed D&F shall be returned to the contracting office. The copies of this document shall be retained in Headquarters files.

(b) *Content.* When the authority of FAR 6.202(a) is proposed for use, it must be shown clearly that the necessity for excluding a particular source arises from genuine considerations pertinent to the authority of FAR 6.202(a)(1), (2), or (3). The supporting data, as well as the determination and findings, must name the source to be excluded from the contract action. Additionally, the D&F or supporting documents shall include the following information as applicable, and such other information as may be pertinent:

(1) The specific purpose to be served; (i.e., to increase or maintain competition, the interest of national defense in having a facility available in case of a national emergency or industrial mobilization, or the interest of national defense in establishing or maintaining an essential engineering, research or development capability) in excluding a particular source from the contract action.

(2) The acquisition history of the supplies or services, including sources, prices, quantities, and dates of award.

(3) The circumstances which make it necessary to exclude a particular source from the contract action:

(i) The reasons for lack of sources; e.g., the technical complexity and criticality of the item.

(ii) The current annual requirement and prospective needs for the supplies and services.

(iii) Address projected future requirements as justification for the exclusion of a particular source from the contract action.

(4) Explain whether the existing source must be totally excluded from a contract action or whether a partial

exclusion of the existing source from a contract action is sufficient.

(5) Describe the potential effect of exclusion on the excluded source in terms of any loss of capability to furnish the supplies or services in subsequent contract actions.

(6) When the authority of FAR 6.202(a)(1) is cited—

(i) Provide basis for assumption of future competition; and

(ii) Provide the basis for the determination that exclusion of a particular source will likely result in reduced overall costs either for the current acquisition, or for anticipated future acquisitions, including (as a minimum) discussion of start-up costs, facilitation costs, duplicative administration costs (additional inspection, testing, etc.), economic order quantities, and life cycle cost consideration.

(7) When the establishment of an additional source(s) is necessary to provide production capacity to meet current and mobilization requirements, the following information:

(i) The current annual and the mobilization requirements for the item, citing the source of, or the basis for, such planning data.

(ii) The comparison of current production capacity necessary to meet mobilization requirements.

(iii) The hazards of relying on the present source and the time required for a new source(s) to acquire the necessary facilities and skills and achieve the production capacity necessary to meet mobilization requirements.

(c) *Formats.* Set forth below is the sample format for D&F's citing the authority of FAR 6.202(a).

National Aeronautics and Space Administration, Washington, DC 20548

Determination and Findings

Authority to Exclude a Source

Upon the basis of the following findings and determination, which I hereby make as agency head pursuant to the authority of 10 U.S.C. 2304(b)(1), the proposed contract action described below may be awarded using full and open competition after exclusion of — (1) —.

Findings

1. It is proposed that the following requirement be acquired using full and open competition after exclusion of the aforementioned source.

2. The aforementioned source is the source which can be expected to receive an award for the above requirement.

3. It is necessary to establish or maintain an alternative source or sources through the use of full and open competition after exclusion of the aforementioned source.

4. The exclusion of the aforementioned source will increase or maintain competition

and is likely to result in reduction of — (2) — in overall costs for the acquisition, or for any anticipated acquisition, or such supplies or services. This estimate is based on — (3) —.

Alternate: The exclusion of the aforementioned source will be in the interest of national defense to have a supplier available for furnishing the above supplies or services in case of a national emergency or industrial mobilization, because — (4) —.

Alternate: The exclusion of the aforementioned source will be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center, because — (4) —.

Determination

The exclusion of the aforementioned source from the proposed contract action will increase or maintain competition and is likely to result in reduced overall costs for the acquisition of any anticipated acquisition of such supplies or services.

Alternate: It is in the interest of national defense to exclude the aforementioned source from the proposed contract action in order to have a supplier available for furnishing the above supplies or services in case of a national emergency or industrial mobilization.

Alternate: It is in the interest of national defense to exclude the aforementioned source from the proposed contract action in order to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center.

Date

Notes.—

1. Name of source to be excluded.
2. Description of estimated reduction in overall costs.
3. Description of how estimate was derived.
4. Description of circumstances necessitating the exclusion of source.

* In paragraph 4 and in the Determination, the basic wording shall be used when FAR 6.202(a)(1) applies; the first alternate shall be substituted when FAR 6.202(a)(2) applies; and the second alternate shall be substituted when FAR 6.202(a)(3) applies.

Subpart 1806.3—Other Than Full and Open Competition

1806.301 General.

For NASA, the appropriate statutory authorities of those cited in FAR 6.302 are those from Title 10, U.S.C.

1806.302-1-70 Technical equipment requiring standardization and interchangeability of parts.

(a) Actions taken under the authority of FAR 6.302-1(b)(6) shall be reviewed at least once every two years to determine whether the standardization

should be continued, revised, or cancelled.

(b) This authority may be used in situations where only one or a limited quantity of a particular item is to be purchased and where compatibility with existing equipment and interchangeability of parts is essential. The fact that this authority is used in such a case does not mean that a subsequent purchase of similar equipment will necessarily require the use of less than full and open competition for purposes of standardization. The facts involved in each case must be examined to determine whether compatibility with other equipment and interchangeability of parts are essential objectives.

1806.302-7-70 Determination and findings.

(a) *Procedure.* The D&F required by FAR 6.302-7(c)(1) shall be prepared using the format provided in paragraph (b) below. The original and three copies of the D&F shall be submitted to NASA Headquarters, Code HS, for concurrence and processing up to the Administrator for signature.

(b) *Format.* The following format shall be used for the D&F:

National Aeronautics and Space Administration, Washington, DC 20548

Determination and Findings

Authority To Use Less Than Full and Open Competition

Upon the basis of the following findings and determination, which I hereby make pursuant to the authority of 10 U.S.C. 2304(c)(7) as implemented by FAR 6.302-7, it is in the public interest to provide for less than full and open competition in the contract action described below.

Findings

1. The (1) proposes to enter into a contract for the acquisition of (2).
2. Use of the authority cited above is necessary in the public interest for the following reasons: (3)

Determination

For the reasons described above, it is necessary in the public interest to use procedures other than competitive procedures in the proposed acquisition.

Date

Notes.—

- (1) Name of contracting activity.
- (2) Brief description of supplies or services.
- (3) Explains the need for use of the authority.

(c) *Notice to Congress.* The notice to Congress required by 10 U.S.C. 2304(c)(7)(B) and FAR 6.302-7(c)(2) will be made by NASA Headquarters, Code C. Code HS will request said notice to be made immediately upon approval of

a D&F under paragraph (a) above, and will advise the contracting activity of the date upon which the notification period expires.

1806.303-1 Requirements.

(a) Justifications for using less than full and open competition may be prepared by the technical office initiating the contract action when it is recommending the use of the justification authority, or by the contracting officer if the technical office does not make such a recommendation.

(b) The contracting officer shall send a copy of each approved justification or D&F that cites the authority of FAR 6.302-3(a)(2)(i) or FAR 6.302-7 to NASA Headquarters, Code LI, unless one of the exceptions at FAR 25.403 applies to the procurement. The transmittal shall indicate that the justification is being furnished pursuant to FAR 6.303-1(d).

(c) Before using the authority of FAR 6.303-1(e), the contracting officer shall informally discuss the reasons for the proposed use of less than full and open competition with the justification approving authority, except that if said authority is NASA Headquarters Code H, the discussion shall be between the Procurement Officer and the Assistant Administrator for Procurement.

(d) Each approved justification shall be retained in the contract file.

1806.303-1-70 Sole source purchases by contractors.

The requirements of FAR Part 6 and 1806 shall be applied to those cases where NASA directs a prime contractor (via specifications, drawings, parts lists, or otherwise) to purchase items on a sole source basis. Accordingly, Procurement Officers are instructed to take such steps as are necessary to ensure that these sole source actions are properly justified. Where "brand name or equal" purchase descriptions, listing the salient physical, functional, or other characteristics of the item being procured, are properly used pursuant to 1810.004-71, the justification requirements of FAR Part 6 and 1806 would not be applicable.

1806.303-2-70 NASA or former NASA employees.

When it is proposed to contract with a NASA or former NASA employee on a noncompetitive basis, the justification shall so state and shall explain why it is in the best interest of the Government to do so (see 1803.7001(a) and 1806.304-70).

1806.304 Approval of the justification.

(a) All justifications for contract actions over \$100,000 shall be submitted to the Procurement Officer for concurrence before being forwarded for

approval. Justifications over \$1,000,000 shall also be submitted to the installation Deputy Director for concurrence, and those over \$10,000,000 shall be further submitted for the concurrence of the installation Director, prior to forwarding for approval.

(b) The authority of FAR 6.304(a)(3) shall not be delegated to other than the installation Deputy Director.

(c) For proposed contract actions over \$10,000,000 the original justification and three copies shall be forwarded to NASA Headquarters, Code HS. After approval by the Assistant Administrator for Procurement, the signed original will be returned to the Procurement Officer. The copies will be retained in Headquarters files.

(d) Class justifications shall be processed and approved in the same manner as individual justifications, except that the approval level is based on the estimated total value of all contract actions to be taken under the justification.

1806.304-70 Contracts with NASA or former NASA employees.

For procurements between the small purchase ceiling and \$100,000 involving an individual who was formerly employed by NASA during the past two years or a firm in which such a former employee is a partner, principal officer, majority shareholder, or which is otherwise controlled or predominantly staffed by such former employees (see Subpart 1803.70), the justification shall be submitted for the approval of the Installation Deputy Director. This is in addition to any approval required by FAR 6.304(a)(1).

1806.305 Availability of the justification.

(a) Requests for inspection of justifications should be submitted in writing, and should identify the particular procurement involved. Requestors making verbal requests should be encouraged to submit them in writing, but are not required to do so.

(b) The contracting officer should consult with counsel regarding deletion and protection of proprietary data and regarding disclosure exemptions. Requests should be processed promptly.

Subpart 1806.5—Competition Advocates

1806.570 NASA competition advocacy program.

NASA implementation of FAR 6.5 is set forth in NMI 1210.2, "NASA Competition Advocacy Program."

PART 1807—ACQUISITION PLANNING

Subpart 1807.1701—Acquisition Plans

12. Section 1807.170-1 paragraphs (a)(8) and (b)(1)(iii), (iv), and (2) are revised to read as follows:

1807.170-1 Procurement plans requiring approval by NASA Headquarters.

(a) * * *

(8) Item 8. *Separate approvals required.* Block 8.a. is changed to "D&F under FAR 6.202(b) or FAR 6.302-7(c)(1)." Indicate by checkmark in each box whether separate approvals will be required for items 8.a. through 8.i. in support of the proposed procurement. All other documents checked under Item 8 may be processed separately for approval.

(b) * * *

(1) * * *

(iii) Include a copy of any comments by Counsel for the contracting office (or a statement that Counsel has no objection to the plan) and describe the actions taken in response to any such comments; and

(iv) Discuss considerations given as to small business, including minority enterprises, participation.

(2) *Competition.* Describe how competition will be sought and promoted. If appropriate, discuss how competition will be sustained through the course of the acquisition. If full and open competition is not contemplated, cite the authority in FAR 6.302; identify the source(s); and discuss why full and open competition cannot be obtained.

13. Section 1807.170-2, paragraphs (g) through (r) are revised; paragraph (s) is removed.

1807.170-2 Procurement plans requiring approval by the Procurement Officer.

(g) * * *

(g) Synopsis or explanation of exception.

(h) Justification for less than full and open competition (may be referenced in and attached to the plan).

(i) Type of contract contemplated and, if not firm fixed-price, rationale therefor.

(j) Determination and findings for method of contracting (may be referenced in and attached to the plan).

(k) Incentive consideration, unless firm fixed-price contract is contemplated.

(l) Considerations as to small business, including minority business enterprises, participation.

(m) Government property description, monetary evaluation, and basis for requirement.

(n) Precontract costs, if any.

(o) Management information systems, if appropriate.

(p) Reliability and quality assurance, if appropriate.

(q) Technical data for reprourement.

(r) Procurement action schedule.

PART 1809—CONTRACTOR QUALIFICATIONS

Subpart 1809.1—Responsible Prospective Contractors

14. Section 1809.106-7000 is revised to read as follows:

1809.106-7000 Preaward survey procedures.

All preaward surveys shall be conducted in compliance with FAR Subpart 9.1 and sections 1809.106-7001 through 1809.106-7205.

PART 1810—SPECIFICATIONS, STANDARDS, AND OTHER PURCHASE DESCRIPTIONS

15. Section 1810.004-71, paragraph (a) is amended by changing "1810.011" to read "1810.001"; paragraph (b) is revised; paragraph (g) is amended by changing "Solicitations" to read "Offers"; and paragraph (j) is amended by changing "(g)" to read "(i)".

1810.004-71 Brand name or equal purchase description.

(b) The words "or equal" should not be added when it has been determined under paragraph (a) above that only a particular product meets the essential requirements of the Government, as, for example, where the required supplies can be obtained only from one source (see FAR 6.302-1).

PART 1813—SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES

Subpart 1813.1—General

16. Section 1813.104 is revised to read as follows:

1813.104 Procedures.

(a) Small purchase procedures are exempt from the added justification requirements of the Competition in Contracting Act of 1984 (Pub. L. 98-369). See FAR 6.001(a).

(b) When bulk funding is deemed appropriate see Financial Management Manual 9030-5e and 9040-4b.

(c) For sole source procurements over \$1,000 involving an individual who was formerly employed by NASA during the past two years or a firm in which such a former employee is a partner, principal officer, majority shareholder, or which is otherwise controlled or predominantly staffed by such former employees (see Subpart 18-3.70), the justification statement required by FAR 13.106(c)(2) shall be submitted for approval at a level above the contracting officer.

PART 1814—SEALED BIDDING

Subpart 1814.2—Solicitation of Bids

17. The heading for Part 1814 is revised to read as set forth above. Section 1814.201-3-70 is added and 1814.201-5 is revised to read as follows:

1814.201-3-70 NASA contract clause.

Section I. Contract clauses. The contracting officer shall insert in invitations for bids and resulting contracts the clause at 1852.214-70, Contract Order of Precedence, except in those for construction or that do not follow the uniform contract format. The clause may, however, be revised as appropriate and used in contracts for construction or that do not follow the uniform contract format.

1814.201-5 Part IV—Representations and Instructions.

(a) *Section L—Instructions, conditions, and notice to bidders.* In procurements involving mission-critical positions in connection with the Space Transportation System, the contracting officer shall include a statement that the selected contractor will comply with the provisions of NASA Management Instruction 8610.13, Space Transportation System Personnel Reliability Program. The statement will not be required in procurements for flight-crew members or payload specialists when covered by other NMIs which have screening requirements equivalent to NMI 8610.13. (See, for example, NMI 7100.16, Payload Specialists for NASA-Related Projects.)

(b) *Section M—Evaluation factors for award.*

(1) If no award will be made for less than the full quantities solicited, the contracting officer shall include a statement to that effect.

(2) If award is to be made by specified groups of items or in the aggregate, the contracting officer shall include a statement to that effect.

(3) In unusual cases, where bidders are required to have special technical qualifications due to the complexity of the equipment being purchased or for some other special reason, the

contracting officer shall include a statement of such qualifications.

Subpart 1814.4—Opening of Bids and Award of Contract

18. Section 1814.404 is added to read as follows:

1814.404-170 Delegation of authority.

(a) The authority to make the determination at FAR 14.404-1(c) to cancel the invitation and reject all bids is delegated to the contracting officer.

(b) The authority to make the determination at FAR 14.404-1(c)(6) that the solicitation should be cancelled and the acquisition should be completed through negotiation because no responsive bid has been received from a responsible bidder is delegated to the contracting officer.

(c) The determinations at FAR 14.404-1(c)(6) or (7) that the solicitation should be cancelled and the acquisition should be completed through negotiation because (1) all otherwise-acceptable bids received are at unreasonable prices, (2) only one bid is received and the contracting officer cannot determine the reasonableness of the bid price, or (3) the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith, shall be made by the Administrator.

Subpart 1814.5—[Amended]

19. The heading of Subpart 1814.5 is amended by changing "Formal Advertising" to read "Sealed Bidding."

PART 1815—CONTRACTING BY NEGOTIATION

1815.103, 1815.104, 1815.2, 1815.3 [Removed]

20. Sections 1815.103 and 1815.104 and Subparts 1815.2 and 1815.3 are removed.

Subpart 1815.4—Solicitation and Receipt of Proposals and Quotations

21. Sections 1815.406-3-70 is added; section 1815.406-70(b)(6) (ii) and (iii) is revised; and section 1815.406-70(b)(2) is amended by changing "Resume" to read "Summary".

1815.406-3-70 NASA contract clause.

Section I. Contract clauses. The contracting officer shall insert the clause at 1852.215-73, Contract Order of Precedence—Negotiation, in negotiated contracts to which the uniform contract format applies. The clause may, however, be revised as appropriate and used in contracts to which the uniform contract format does not apply.

1815.406-70 Instructions for technical proposal and business management proposal submission.

- (b) * * *
- (6) * * *
- (ii) For each cost-type contract required to be listed pursuant to paragraph (b)(6)(i) above, a list of amounts of cost overruns or underruns, reasons therefor, and percentage of fixed fee;
- (iii) For each contract required to be listed pursuant to paragraph (b)(6)(i) above, a record of contract completion as against completion date anticipated at time of entering into contract, giving explanations for completion delays; and

1815.413 [Amended]

22. Section 1815.413, paragraph (b) is amended by changing "FAR 15.1002 and section 1815.1002" to read "FAR 15.1003 and section 1815.1003."

Subpart 1815.5—Unsolicited Proposals

1815.502 [Amended]

23. Section 1815.502, paragraph (d), is amended by changing "innovative ideas" to read "innovative and unique ideas."

24. Section 1815.505 is revised to read as follows:

1815.505 Content of unsolicited proposals.

Proposals for renewal of ongoing projects are generally simpler to prepare than proposals for new efforts. However, they should contain the identifying number of the basic contract or other agreement and cover the items listed at FAR 15.505 (a) through (c), particularly as dictated by changes since the original award was made. Prior contact with the NASA technical officer is advisable to determine the optimum amount of technical information to include.

25. Section 1815.506, paragraph (a)(2) (iii) and (iv) and (3) are revised to read as follows:

1815.506 Agency procedures.

- (a) * * *
- (2) * * *
- (iii) Except as provided in paragraph (a)(2)(i) above, unsolicited proposals believed to be of interest to NASA Headquarters are to be submitted to NASA Headquarters, Office of Space Science and Applications, Management Operations, Code EPM, Washington, DC 20546.
- (iv) Except as provided in paragraph (a)(2)(i), proposals from colleges and universities that are of interest to more than one installation should be

submitted to NASA Headquarters, Office of Space Science and Applications, Management Operations, Code EPM, Washington, DC 20546, whereas such proposals from noneducational and other nonprofit organizations should be submitted to each installation believed to have an interest, marked for the attention of the unsolicited proposal control unit.

(3) *Proposal preparation information.* Information on the preparation of unsolicited proposals may be obtained from field installation contracting offices or NASA Headquarters. Only inquiries from academic researchers should be sent to Code EPM. All other inquiries to NASA Headquarters should be addressed to Headquarters Contracts and Grants Division, Code HW, Washington, DC 20546.

26. Section 1815.507 is revised to read as follows:

1815.507 Contracting methods.

(a) Under FAR 15.507(b)(3), the technical office sponsoring the contract shall support its recommendation with facts and circumstances that preclude competition. Under FAR 6.303-2(b), there is a further requirement for certification of the accuracy of certain supporting data. This certified information, along with consideration of the evaluation factors listed in FAR 15.506-2(a), shall be included in a Justification for Acceptance of Unsolicited Proposal (JAUP). The law (10 U.S.C. 2304(f)(4)) requires that this justification and any related information shall be made available for inspection by the public consistent with the provisions of the Freedom of Information Act. (See FAR 6.305 and 1806.305.) Accordingly, care should be taken not to include information which need not be released under the Freedom of Information Act, unless that information is essential to the justification. For purchases in excess of \$1,000, the JAUP shall be in writing and shall be submitted for the approval of the Procurement Officer or a designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable.

(b) Under FAR 15.507(b)(4), the contracting officer must comply with the preaward synopsis requirement of FAR Subpart 5.2. However, a proposal for research shall not be synopsized, provided the conditions for the exception at FAR 5.202(a)(7) are met.

Subpart 1815.6—Source Selection

27. Section 1815.608 is revised to read as follows:

1815.608 Proposal evaluation.

The authority in FAR 15.608(b) to determine in writing that rejection of all proposals received in response to a solicitation is in the public interest is delegated to the contracting officer.

28. Section 1815.613-7, paragraphs (b)(2) and (b)(4) are amended by adding a new sentence following the current first sentence to read as follows:

1815.613-71 Evaluation and negotiation of procurements conducted in accordance with Source Evaluation Board Manual (NHB 5103.6).

(b) Evaluation and selection procedures

(2) *Evaluation factors, criteria, and weights.* The establishment of evaluation factors and criteria and their weights requires the exercise of judgment on a case-by-case basis. Evaluation factors and criteria and their weights should be tailored to the requirements of each particular procurement. Technical excellence, price or estimated cost, and contractor management capability are important factors in selection. Their relative importance depends on the nature of the products or services procured. Any factor may tip the balance when competition is very close as to other factors. Evaluation criteria shall be described in each Request for Proposals (RFP's) fully enough to inform evaluators and prospective offerors of the significant matters to be addressed in the proposals. The major evaluation factors (Mission Suitability, Experience and Past Performance, Cost, and Other) shall be described and a statement of the relative importance of each must be included in the RFP. In addition, a brief narrative of the relative importance of the Mission Suitability Factors and their criteria shall be included in the RFP.

(4) * * * An SEB should not give scores for cost as such. * * *

1815.613-72 [Amended]

29. Section 1815.613-72 is amended by changing "their estimated costs for" to read "their estimated costs, except for".

Subpart 1815.10—Preaward and Postaward Notifications, Protests, and Mistakes

§ 1815.1002 [Redesignated as § 1815.1003]

30. Section 1815.1002 is redesignated as 1815.1003.

PART 1816—TYPES OF CONTRACTS**Subpart 1816.2—Fixed-Price Contracts**

31. Section 1816.203-4 is revised to read as follows:

1816.203-4 Contract clauses.

(a) When neither of the clauses prescribed in FAR 16.203-4 (a) or (b) is appropriate, the contracting officer may use one of the clauses at 1852.216-7001 or 1852.216-7002 in accordance with following instructions:

(1) *Economic price-adjustment for basic steel, aluminum, brass, bronze or copper mill products.* The price-adjustment clause at 1852.216-7001 is authorized for use in fixed-price supply contracts for basic steel, aluminum, brass, bronze or copper mill products such as sheets, plates and bars, when an established catalog or market price exists for the particular product being procured and has been verified in accordance with criteria in FAR 15.804-3(c). The ten percent figure in subparagraph (c)(1) of the clause shall not be exceeded unless approved by the Procurement Officer. No adjustment under this clause shall be made in the contract price until the requested adjustment has been verified by the contracting officer in accordance with the criteria in FAR 15.804-3(c) and as required by subparagraph (c)(4) of the clause.

(2) *Economic Price Adjustment for Nonstandard Steel Items.* The price adjustment clause at 1852.216-7002 is authorized for use in fixed-price supply contracts when (i) the contractor is a steel producer and actually manufactures the standard steel mill item referred to in paragraph (d) of the clause and (ii) the items being procured are nonstandard steel items made wholly or in part of standard steel mill items.

The 110 percent figure in paragraph (e) of the clause shall not be exceeded unless approved by the Procurement Officer after coordination with the installation Financial Management Officer.

(b) The contracting officer shall also coordinate with the installation Financial Management Officer before exceeding the ten percent limit in subparagraph (c)(1) of the clauses at FAR 52.216-2, 52.216-3, and 52.216-4.

(c) The contracting officer may modify the clause at FAR 52.216-4 for use in sealed bid procurements.

(d) This paragraph applies to adjustments based on labor or material costs (cost index method).

(1) As an alternative to the clauses at FAR 52.216-2, 52.216-3, or 52.261-4,

consideration should be given to inclusion of a special economic price adjustment clause that is designed to minimize contingency pricing and prepared under the guidelines listed in (c) below when (i) there will be an extended period of performance with significant costs to be incurred beyond one year after commencement of contract performance, (ii) the contract amount subject to adjustment is substantial, and (iii) the economic variables for labor and material are determined to be too unstable to reflect a reasonable division of risk between the parties absent economic price adjustment provisions.

(2) All economic price adjustment clauses utilizing indices require advance approval by the Assistant Administrator for Procurement. Requests for such approval shall be submitted to the Office of Procurement, NASA Headquarters, Code HS.

(3) The following factors, including construction of appropriate indices, may be considered in preparing a price adjustment clause meeting the criteria of paragraph (d)(1) above:

(i) The clause should not be overly complex.

(ii) Normally, the clause should not provide either a ceiling or a floor for adjustment unless adjustment is based on indices below the four-digit level of the Bureau of Labor Statistics Producer Price Index or the Wage and Income Series by Standard Industrial Classification (Labor).

(iii) Normally, the clause should cover all potential economic fluctuations within the original contract period of performance.

(iv) The clause must have a positive and accurate identification of the applicable index(es) upon which adjustments will be based and must provide appropriate economic fluctuation in the event of the discontinuance of the publication of the movement of the designated index. This might include the substitution of another index if the time remaining would justify it and an appropriate index is reasonably available, or some other method for repricing of the remaining portion of the work to be performed. There should not normally be any need to make an adjustment in the event computation of the identified index is altered; however, provision may be made to adjust the economic fluctuation computations if there is such a substantial alteration to the method of computing the index as to negate the original intent of the parties. When an index to be used is subject to revision (e.g., the Bureau of Labor Statistics Producer Price Indexes), the economic

price adjustment clause shall further specify that any economic price adjustment shall be based upon the applicable revised index.

(v) An index should be structured to encompass a large sample of relevant items, yet bear a logical relationship to the type of contract costs being measured. The basis of the index should not be so large and diverse that it is significantly affected by fluctuations not relevant to the contract performance, yet must be significantly broad so as to assure the minimal effect of any single company, including the anticipated contractors.

(vi) Construction of an index is largely dependent upon two general series published by the U.S. Department of Labor, Bureau of Labor Statistics (BLS). These are the Industrial Commodities portion of the Producer Price Indexes and the Wage and Income Series by Standard Industrial Classification for labor. Since there are no BLS-published series currently available that relate directly to total prices of delivered items of aeronautical electronics, space property, and so forth, such composite indices from major portions of the two series described above should be made.

(vii) Normally not more than two indices should be used; i.e., one for labor (direct and indirect) and one for material (direct and indirect).

(viii) The clause must establish and properly identify a base period comparable to the contract periods for which adjustments are to be made as a reference point for application of an index.

(ix) The clause should provide for adjustment from the beginning of the contract or from such period of time that the rate of expenditure is commensurate with the administrative cost and effort to adjust, but it should not provide for adjustment beyond the original contract performance period.

(x) The expenditure profile for both labor and material should be based on a predetermined rate of expenditure (expressed as the percentage of material or labor usage as it relates to total contract price) in lieu of actual cost incurred. In the event the clause is to be used in a competitive procurement, the labor and material allocations, with regard to both mix of labor and material and rate of expenditure by percentage, shall be determined by the contracting officer in a manner which will, as nearly as possible, approximate the average-expenditure profile of all companies to be solicited in order that all companies may compete on an equal basis. If the clause is to be used in an other-than-competitive procurement, the labor and

material allocations determined by the contracting officer may be subject to negotiation and agreement.

(xi) The clause should state that percentage of the contract price subject to price adjustment. Normally, adjustments would not be applied to the profit portion of the contract. Additionally, the labor and material portions of the contract must be examined to exclude any areas that do not require adjustment. It may not be necessary, for example, to include all subcontracting as being subject to escalation because some of the subcontracting could be for shorter periods of time during the early life of the contract and would therefore be covered by firm-priced subcontracting. It may be possible to exclude certain areas of overhead from escalation protection; e.g., depreciation charges, prepaid insurance costs, rental costs, leases, certain taxes, and utility charges are some of the areas that should be examined in detail. Consideration also should be given to including economic fluctuation protection covering that portion of labor for the period of time for which a definitive union agreement exists without additional factoring for such things as cost of living increases. Care should be taken to allocate to labor and material only those costs likely to be affected by fluctuation in the economy. That portion of the contract determined to be proper for economic fluctuation protection shall then be allocated to specific periods of time (e.g., quarterly, semiannually) based on the most-probable expenditure or commitment basis (expenditure profile).

(xii) The clause should provide for definite times or positive events for price adjustments. Adjustments should be of a frequency that will afford the contractor appropriate economic relief without at the same time creating a burdensome administrative effort. The adjustment period should normally range from a minimum of quarterly to a maximum of annually.

(xiii) When the contract contains cost incentives, any sums paid to the contractor because of economic price adjustment provisions shall be subtracted from the total of the contractor's allowable cost for the purpose of establishing the total costs to which the cost incentive provisions apply. If the incentive arrangement is cited in percentage ranges rather than dollar ranges above and below target costs, the economic price adjustment clause should be structured to maintain the original contract incentive range in dollars.

(xiv) The economic price adjustment clause should provide that once the

labor and material allocations have been established, they remain fixed through the life of the contract and are not modified except in the event of partial termination of the contract. The clause should state that pricing actions pursuant to the changes clause or other provisions of the contract will be priced as though there were no provision for economic price adjustment.

(e) Consistent with the factors in paragraph (d)(3) above, the contracting officer may also determine it appropriate to provide for certain economic price adjustment arrangements between the prime contractor and subcontractors to properly allocate risks. In such circumstances, provision for incorporation of price adjustment clauses in specified subcontracts should be included in the price adjustment provision of the prime contract.

(f) When economic price adjustment provisions are included in contracts that do not require submission of cost or pricing data (see FAR 15.804-2), it is the responsibility of the contracting officer to obtain adequate information to establish the base line from which adjustments will be made. In addition, the contracting officer may require verification of the data submitted to the extent considered necessary to permit reliance upon it as a reasonable base line.

(g) The contracting officer shall insert the provision at 1852.216-7003, Evaluation of Offers Subject to Economic Price Adjustment, in all solicitations and contracts that contain an economic price adjustment clause.

32. Subpart 1816.3 is revised to read as follows:

Subpart 1816.3—Cost-Reimbursement Contract

Sec.

- 1816.301-3 Limitations.
- 1816.303 Cost-sharing contracts.
- 1816.307 Contract clauses.
- 1816.307-70 NASA contract clauses.
- 1816.370 Forms.

Subpart 1816.3—Cost-Reimbursement Contract

1816.301-3 Limitations.

(a) The determination and findings required by FAR 18.301-3(c) may be signed by the contracting officer for individual purchases and contracts. The format below shall be used as shown.

National Aeronautics and Space Administration

Determination and Findings

Authority To Use a (a) ——— Contract

Upon the basis of the following findings and determination that I hereby make under

the authority of 10 U.S.C. 2306(c), the contract described below may be entered into on a (a) ——— basis.

Findings

1. The (b) ——— proposes to enter into a (a) ——— contract for the acquisition of (c) ———. The cost of this work is estimated at \$ ———.
2. The work to be performed is (d) ———.

Determination

1. (This contract type is likely to be less costly than any other type.) (It is impractical to obtain supplies or services of the kind or quality required without the use of this contract type.) (e) ———.

2. The estimated cost of the proposed contract is \$ ———. (f) ———.

Date:

Notes.—The contracting officer shall insert, where shown, the following information:

- (a) Type of contract contemplated.
- (b) Installation name.
- (c) Brief description of supplies or services.
- (d) Description of the nature of the proposed work and related specific facts that show why the contemplated contract type is the best alternative for this particular acquisition.
- (e) The appropriate alternative or, when both apply, insert both connected by "and."
- (f) The estimated contract cost (this paragraph is required only for cost-plus-fixed-fee contracts).

1816.303 Cost-sharing contracts.

NASA Appropriation Acts for several years have included provisions requiring cost sharing by the contractor under research contracts resulting from unsolicited proposals. The following basic guidelines shall be implemented in the negotiation of all research contracts and in supplements to such contracts which require additional funding.

(a) *When cost-sharing is applicable.* (1) Except as provided in paragraphs (b) (1) and (2) below cost sharing by non-Federal organizations is mandatory in any contract for basic or applied research that results from an unsolicited proposal.

(2) Cost sharing by non-Federal organizations which is not mandatory under paragraph (a)(1) above may nevertheless be accepted when voluntarily offered by a performing organization.

(b) *When cost sharing is not applicable.* (1) Cost sharing is not applicable to contracts for basic or applied research resulting from an unsolicited proposal when the offeror certifies in writing to the contracting officer that it has no commercial, production, educational, or service activities on which to use the results of the research and that it has no means of recovering any cost sharing on such projects. In these situations, where there

is no measurable gain to the performing organization, there is, therefore, no mutuality of interest, and it would not be equitable for the Government to require cost sharing.

(2)(i) The activities of educational institutions under NASA research grants cooperative agreements, and contracts are of benefit only to NASA and thus would not normally justify cost sharing; i.e., NASA's policy of normally reimbursing universities fully for research performed on its behalf would apply. However, in order to establish on a case-by-case basis that there is no clear indication of significant future benefit or measurable gain and that cost sharing does not apply, the contracting officer shall document the file with a determination that is substantively the same as that required in paragraph (b)(1) above. The determination shall identify the information on which it is based. If the determination cannot reasonably be made from the available material, the contracting officer shall request the offeror to certify as in paragraph (b)(1) above. Blanket procedures for obtaining certifications from offerors for all cases on a routine basis shall not be established.

(ii) Cost sharing by educational institutions may nevertheless be accepted when voluntarily offered; provided, the institution is aware of NASA's policy that the amount of cost sharing is not a factor in the determination to support a given proposal.

(c) *Amount of cost sharing.*—

(1) *Educational institutions and affiliated not-for-profit institutions.*

(i) Cost sharing for such institutions normally may vary from one percent to as much as five percent of the cost of the project. Normally, it should be presumed that the cost sharing is appropriate if it falls within the one to five-percent range.

(ii) NASA does not request inclusion of cost-sharing information in proposals from educational institutions. If it is determined that cost sharing is applicable, a cost-sharing offer will be requested during negotiations.

(2) *Other performing organizations.*

(i) Cost sharing for organizations other than those in paragraph (c)(1) above may be any percentage of the cost of the research. Mutuality of interest in the results of the work being performed is of primary significance in assessing the appropriateness of any particular level of cost sharing.

(ii) Factors which may be considered in determining mutuality of interest include—

(A) The potential of the contractor to recover its contribution from non-Federal sources;

(B) The extent to which the particular area of research requires special stimulus in the national interest; and

(C) The extent to which a research effort or result is likely to enhance the contractor's capability, expertise, or competitive position.

(d) *Implementation.*—(1) *Payment of fee or profit.* No fee or profit will be paid to a cost-sharing contractor, and only an agreed portion of allowable costs will be reimbursed.

(2) *Method of cost sharing.* Cost sharing shall be accomplished by a contribution of part or all of one or more elements of the allowable cost of the work being performed and normally shall be expressed as a stated minimum percentage of the total allowable costs of the project. Costs so contributed may not be charged to the Government under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program).

(3) *Documentation.* Grant, cooperative agreement, and contract files shall contain appropriate documentation of the reasons for cost sharing and supporting the amount of cost sharing agreed upon. For educational institutions, the reasons for cost sharing exceeding five percent or the amount originally offered shall be documented.

1816.307 Contract clauses.

In solicitations and contracts containing the clause at FAR 52.216-8, Fixed Fee, or FAR 52.216-10, Incentive Fee, the Schedule shall include appropriate terms, if any, for provisional billing against fee.

1816.307-70 NASA contract clauses.

(a) The clause at 1852.216-7004 shall be inserted in each contract in which costs are shared by the contractor pursuant to 1816.303.

(b) The contracting officer may, when appropriate, insert the clause at 1852.216-7005, Estimated Cost and Fixed Fee, in the Schedule. Modifications to the clause are authorized.

(c) The contracting officer may, when appropriate, insert the clause at 1852.216-7006, Payment of Fixed Fee, in the Schedule. Modifications to the clause are authorized.

1816.370 Forms.

Contractors shall use NASA Form 779, Assignee's Release, prescribed at 1853.216-70(d), and NASA Form 781, Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts, prescribed at 1853.216-70(d), to fulfill the

assignment and release requirements of the clauses prescribed at FAR 16.307(a) and (g).

Subpart 1816.5—Indefinite-Delivery Contracts

33. Section 1816.506 is revised to read as follows:

1816.506 Ordering.

If the contracting office retains all contract administration functions, orders may be placed by written telecommunication.

1816.702-70 [Amended]

34. Section 1816.702-70, paragraph 6, is amended by changing "formal advertising" to "sealed bidding."

PART 1817—SPECIAL CONTRACTING METHODS

Subpart 1817.2—Options

35. Section 1817.207-70 is revised to read as follows:

1817.207-70 Contracts containing unpriced options to extend the contract.

(a) The determination required by FAR 17.207(c)(3) must include the following findings:

(1) The synopsis for the original contract included the option period.

(2) The original solicitation provided that the unpriced options would be presented and considered by the selection official.

(3) The selection statement included the option period.

(4) The option clause or other identified documents evidence the parties' intent that performance would continue beyond the priced period(s).

(b) In addition to the foregoing, there shall be findings supporting why in these circumstances the exercise of the option as contemplated remains the most advantageous method fulfilling the Government's need, price and other factors considered.

(c) Where the above provisions have not been met, competition is required in accordance with FAR Part 6.

Subpart 1817.70—Procurement With Military Departments

36. Section 1817.7001, paragraph (e) is revised to read as follows:

1817.7001 Authorization and policy.

(e) The Military Departments normally will use their own funds when procuring supplies or services or performing services for NASA, and will

not cite NASA funds on any Defense obligation or payment document.

37. Section 1817.7002(b), and sections 1817.7002-1, 1817.7002-2, and 1817.7002-3 are revised to read as follows:

1817.7002 NASA-Defense Purchase Request and Acceptance.

(b) To obtain materials from the Air Force Missile Procurement Fund, the contracting officer shall follow the procedures of 1808.002-74.

1817.7002-1 Acceptance by Military Department.

(a) Except as provided in paragraph (c) below, the Military Department concerned will, within 30 days after receipt of a NASA-Defense Purchase Request, forward to the initiator of the request an Acceptance of MIPR, DD Form 448-2, in quadruplicate. Each DD Form 448-2 will show the action being taken or to be taken to fill the requirement and the name and complete address of the Department of Defense contracting activity.

(b) To the extent feasible, all documents (including acceptances, contracts, correspondence, shipping documents, work or project orders, and Standard Form 1080 (Voucher for Transfer between Appropriations and/or Funds) billings) will reference the NASA-Defense Purchase Request number and the item number.

(c) Acceptance by the Military Department is not required for NASA-Defense Purchase Requests covering deliveries of common-use standard-stock items that the supplying department has on hand or on order for prompt delivery at published prices.

1817.7002-2 Changes in estimated total prices.

When a Military Department determines that the estimated total price (Block 9, NASA Form 523) of the items to be acquired for NASA is not sufficient to cover the required reimbursement or is in excess of the amount required, a request for an amendment will be forwarded to the NASA originating office. The request will indicate a specific dollar amount, rather than a percentage, and will include justification for any upward adjustment requested. Upon approval of the request, an amendment to the NASA Defense Purchase Request shall be forwarded by the NASA contracting office concerned to the DoD contracting activity.

1817.7002-3 Payments.

Except when agreements provide that reimbursement is not required, payments to the Military Departments

for supplies and services furnished to or acquired for NASA shall be effected upon receipt of Standard Form 1080 billings by the NASA office designated in Block 11 of the NASA-Defense Purchase Request. Billings will be supported in the same manner as billings between Military Departments.

Subpart 1819.8—Contracting With the Small Business Administration (the 8(a) Program)

38. 1819.809-1, paragraph (a)(1) is revised to read as follows:

1819.809-1 General.

(a) * * *

(1) As required by FAR 19.809-1(a), the contracting officer shall prepare a Standard Form 26 for execution with the SBA without incorporating any required clauses (see FAR 52.101(e)) since they are not applicable to the SBA. This contract shall include a statement as follows:

* * * * *

PART 1827—PATENTS, DATA, AND COPYRIGHTS

Subpart 1827.3—Patent Rights Under Government Contracts

1827.372 [Amended]

39. Section 1827.372, paragraph (a), is amended by changing "free competition and enterprise" to read "full and open competition and free enterprise."

Subpart 1827.4—Data and Copyrights

1827.473 [Amended]

40. Section 1827.473-1 and 1827.473-4(c) are amended by changing "formal advertising" to read "sealed bidding."

PART 1831—CONTRACT COST PRINCIPLES AND PROCEDURES

Subpart 1831.1—Applicability

1831.101 [Amended]

41. Section 1831.101 is amended by changing "HP" to read "HC."

Subpart 1832.4—Advance Payments

42. Section 1832.410-70, paragraphs (a) (1), (2), and (3) are revised to read as follows:

1832.410-70 Instructions for Determinations and Findings

(a) A request for Headquarters approval of advance payment provisions in accordance with 18-32.402(b)(1) will be prepared in final form (original and one official file copy) and forwarded to the Assistant Administrator for Procurement, (Code HS). The request should include the following: (1) The

name of the cognizant NASA Headquarters Program or Staff Office; (2) a copy of the justification for less than full and open competition, if any; (3) if a fee is contemplated, the estimated cost, amount and percent of fee, the total cost and fee, and the factors that were considered in determining the fee (see Subpart 1815.9); and * * *

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

Subpart 1836.2—Special Aspects of Contracting for Construction

1836.203 [Amended]

43. Section 1836.203, paragraph (b) is amended by changing "formal advertising" to read "sealed bidding."

PART 1837—SERVICE CONTRACTING

Subpart 1837.1—Service Contracts—General

44. Section 1837.104 is revised to read as follows:

1837.104 Personal services contracts.

(a) Under section 203(c)(9) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2473(c)(9)), NASA is authorized "to obtain services as authorized by Section 3109 of Title 5, United States Code, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18," 5 U.S.C. 3109, in turn, provides authority to procure by contract "the temporary (not in excess of one year) or intermittent services of experts or consultants or organizations thereof, including stenographic reporting services."

(b) It is NASA policy to obtain the personal services of experts and consultants by appointment rather than by contract. The policies, responsibilities, and procedures pertaining to the appointment of experts and consultants are in the NASA Federal Personnel Manual Supp. 118.

45. Section 1837.105, paragraph (a), is revised to read as follows:

1837.105 Competition in Service Contracting.

(a) See 1837.104 regarding negotiation for personal and professional services.

* * * * *

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

46. Section 1852.215-71 is revised to read as follows:

1852.215-71 Adjustment for Subcontract Price Redetermination.

As prescribed in 1815.870-2, insert the following clause:

Adjustment for Subcontract Price Redetermination (April 1985)

Promptly upon the establishment of firm prices for each of the subcontracts listed below, the Contractor shall submit, in such form and detail as the Contracting Officer may reasonably require, a statement of costs incurred in the performance of such subcontract and the firm price established for it. Thereupon, notwithstanding any other provisions of this contract as amended by this modification, the Contractor and the Contracting Officer shall negotiate an equitable adjustment in the total amount paid or to be paid under this contract to reflect the subcontract price revision. The equitable adjustment shall be evidenced by a modification to this contract.

(List Subcontracts)

(End of clause)

47. Section 1852.215-72, the introductory text, is revised to read as follows:

1852.215-72 Restriction on Use and Disclosure of Proposal/Quotation Information (Data).

As prescribed in 1815.407-70, insert the following provision:

1852.215-73 [Amended]

48. Section 1852.215-73, the introductory text, is amended by changing "1815.406-3" to read "1815.406-370."

49. Section 1852.216.7001, the introductory paragraph and paragraphs (a), (b), and (c), introductory text, of the clause are revised; paragraph (c)(3) of the clause is amended by removing the final "and."

1852.216-7001 Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products.

As prescribed in 1816.203-4(a), insert the following clause:

Economic Price Adjustment—Basic Steel, Aluminum, Brass, Bronze, or Copper Mill Products (April 1985)

(a) The Contractor warrants that the unit price stated herein for ——— is not in excess of the Contractor's applicable established price in effect on the date set for opening of bids (or the contract date if this is a negotiated contract) for like quantities of the same item. The term "unit price" excludes any part of the price reflecting requirements for preservation, packaging, and packing beyond standard commercial practice. The term "established price" means a price that meets the criteria of paragraph 15.804-3(c) of the Federal Acquisition Regulation as an established catalog or market price for a commercial item sold in substantial quantities to the general public. Such a price

is the net price after applying any applicable standard trade discounts offered by the Contractor from its catalog, list, or schedule price.

(b) The Contractor shall promptly notify the Contracting Officer as to the amount and effective date of each decrease in any applicable established price, and each corresponding contract unit price shall be decreased by the same percentage that the said established price is decreased. This decrease shall apply to items delivered on and after the effective date of the decrease in the Contractor's established price, and this contract shall be modified accordingly. The Contractor shall certify on each invoice that each unit price stated therein reflects all decreases required by this clause or shall certify on the final invoice that all price decreases required by this clause have been applied in the manner herein required.

(c) If the Contractor's applicable established price is increased after the date set for opening of bids (or the contract date, if this is a negotiated contract) the corresponding contract unit price shall be increased, upon the Contractor's request in writing to the Contracting Officer, by the same percentage that the established price is increased, and the contract shall be modified accordingly; *provided, that—*

50. Section 1852.216-7002, the introductory paragraph and paragraphs (a), (b), and (c) of the clause are revised to read as follows:

1852.216-7002 Economic Price Adjustment—Nonstandard Steel Items.

As prescribed in 1816.203-4(a), insert the following clause:

Economic Price Adjustment—Nonstandard Steel Items (April 1985)

(a) The term "established price" means a price that meets the criteria of paragraph 15.804-3(c) of the Federal Acquisition Regulation as an established catalog or market price of a commercial item sold in substantial quantities to the general public. Such a price is the net price after applying any applicable standard trade discounts offered by the Contractor from its catalog, list, or scheduled price. (But see subparagraph (i)(8) below.)

(b) Each contract unit price shall be subject to revision under this clause to reflect changes in the cost of labor and steel. For the purpose of any such price revision, the proportion of the contract unit price attributable to costs of labor not otherwise included in the price of the steel item identified in paragraph (d) below shall be . . . percent, and the proportion of the contract unit price attributable to the cost of steel shall be . . . percent. (See subparagraph (i)(1) below.)

(c) For the purposes of this paragraph, the term "labor index" means the average straight-time hourly earnings of the Contractor's employees in the . . . shop of the Contractor's . . . plant (see subparagraph (i)(2)) for any particular month. The word "month" as used herein means "calendar month"; *provided, however, that if the*

Contractor's accounting period does not coincide with the calendar month, then such accounting period shall be used throughout the clause in lieu of "month". Unless otherwise specified in this contract, the labor index shall be computed by dividing the total straight time earnings of the Contractor's employees in the particular shop identified above for any given month by the total number of straight time hours worked by such employees in that month. Any revision in a contract unit price to reflect changes in the cost of labor shall be computed solely by reference to the "base labor index", which shall be the average of the labor indices for the three months consisting of the month of . . . 19— (see subparagraph (i)(3)), the month immediately preceding and the month immediately following, and to the "current labor index", which shall be the average of the labor indices for the month in which delivery of suppliers is required to be made in accordance with the terms of this contract and the month preceding.

1852.216-7003 [Amended]

51. Section 1852.216-7003, the introductory text, is amended by changing "1816.203(h)" to read "1816.203-4(g)."

1852.216-7004 [Amended]

52. Section 1852.216-7004, the introductory text, is amended by changing "1816.303(d)(4)" to read "1816.307-70(a)"; paragraph (d) of the clause is amended by changing "The Contractor will" to read "The Contractor shall."

1852.216-7005 [Amended]

53. Section 1852.216-7005, the introductory text, is amended by changing "1816.307-70(a)" to read "1816.307-70(b)."

1852.216-7006 [Amended]

54. Section 1852.216-7006, the introductory text, is amended by changing "1816.307-70(b)" to read "1816.307-70(c)."

55. Section 1852.231-70, the introductory text, is revised to read as follows:

1852.231-70 Pricing of Adjustments.

As prescribed in 1831.102-70, insert the following clause:

1852.231-71 [Amended]

56. Section 1852.231-71, the introductory text, is revised to read as follows:

1852.231-71 Date of Incurrence of Costs.

As prescribed in 1831.170, insert the following clause:

57. Section 1852.244-70 is revised to read as follows:

1852.244-70 Geographic Participation in the Aerospace Program.

As prescribed in 1844.170, insert the following clause:

Geographic Participation in the Aerospace Program (April 1985)

(a) It is the policy of the National Aeronautics and Space Administration to advance a broad participation by all

geographic regions in filling the scientific, technical, research and development, and other needs of the aerospace program.

(b) The Contractor agrees to use its best efforts to solicit subcontract sources on the broadest feasible geographic basis consistent with efficient contract performance and without impairment of program effectiveness or increase in program cost.

(c) The Contractor further agrees to insert this clause in all subcontracts of \$100,000 and over.

(End of clause)

PART 1853—FORMS

Subpart 1853.2—Prescription of Forms

1853.215-70 [Removed]

58. Section 1853.215-70 is removed.

Subpart 1853.3—Illustrations of Forms

1853.303 [Amended]

59. Section 1853.303 is amended by removing the entry for 1853.303-543.

[FR Doc. 85-7082 Filed 3-25-85; 8:45 am]

BILLING CODE 7510-01-M

Proposed Rules

Federal Register

Vol. 50, No. 58

Tuesday, March 26, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR PART 1126

[Docket No. AO-231-A51]

Milk in the Texas Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; correction.

SUMMARY: The decision on proposed amendments to the Texas milk marketing order, published in the *Federal Register* on Monday, March 11, 1985, (50 FR 9661) omitted certain material pertaining to the proposed amendatory language for 7 CFR Part 1126. The missing material, as indicated below, should have followed immediately after the signature of the Deputy Assistant Secretary, Marketing and Inspection Services, on page 9678 of the described *Federal Register*.

FOR FURTHER INFORMATION CONTACT: John F. Borovics, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington D.C. 20250, (202) 447-2089.

SUPPLEMENTARY INFORMATION: The following material was omitted from the decision on proposed amendments to the Texas milk order that was issued on March 6, 1985, and published in the *Federal Register* on March 11, 1985 (50 FR 9661). This missing material, as follows, should have appeared immediately after the signature of the Deputy Assistant Secretary, Marketing and Inspection Services, on page 9678.

Order¹ amending the order, regulating the handling of milk in the Texas marketing area:

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Texas marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area; and the minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof, the handling of milk in the Texas marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the

formulate marketing agreements and marketing orders have been met.

Deputy Administrator, Marketing Programs, on October 25, 1984, and published in the *Federal Register* on October 31, 1984, shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein.

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

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. In § 1126.52(a)(1), the adjustment per hundredweight for Zone 8 is changed from "Plus 36 cents" to "Plus 54 cents".

§ 1126.52 Plant location adjustments for handlers.

(a) * * *

(1) * * *

	Adjustment per hundredweight
Zone 8	Plus 54 cents

2. In § 1126.61, paragraph (e) is revised to read as follows:

§ 1126.61 Computation of uniform price (including weighted average price).

(e) Subtract not more than 5 cents per hundredweight. The result shall be the "weighted average price."

Signed at Washington, D.C., on March 20, 1985.

Karen Darling,

Acting Assistant Secretary, Marketing and Inspection Services.

[FR Doc. 85-7081 Filed 3-25-85; 8:45 am]

BILLING CODE 3410-02

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 287

Field Officers; Powers and Duties

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Proposed rule.

SUMMARY: This proposed rule would set forth in regulatory form a procedure for the issuance of subpoenas in connection with criminal and civil investigations and other immigration proceedings. In addition, the rule would specify categories of Immigration and Naturalization Service officials who may issue such subpoenas. The subpoenas-issuing authority of immigration judges would not be affected by this rule.

DATE: Comments: Written must be submitted on or by April 25, 1985.

ADDRESS: Please submit written comments in duplicate to the Director, Office of Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Room 2011, Washington, D.C., 20536.

FOR FURTHER INFORMATION CONTACT:

For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-3291

For Specific Information: Michael J. Heilman, Associate General Counsel, Immigration and Naturalization Service, 425 I Street, NW., Washington, D.C. 20536, Telephone: (202) 633-2620.

SUPPLEMENTARY INFORMATION: Under the present regulations, a subpoena may be issued by a District Director of the Immigration and Naturalization Service, or by an immigration judge, to compel the production of evidence and the attendance of witnesses in certain administrative proceedings. The new rule would extend this authority to Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, and Officers-in-Charge. In addition, the new rule would specify that these Service officers would have the authority to issue subpoenas in the context of criminal or civil investigations and to designate persons to serve subpoenas.

The subpoena-issuing authority of immigration judges would not be affected by this rule. For the sake of clarity, however, this rule would separate the provisions relating to subpoena-issuance by Service officials from those relating to issuance by immigration judges.

In accordance with 5 U.S.C. 605(b), the Commissioner of Immigration and Naturalization certifies that this rule, if promulgated, would not have a significant impact on a substantial number of small entities.

This rule is not a major rule as defined in section 1(b) of E.O. 12291.

List of Subjects in 8 CFR Part 287

Administrative practice and procedure, Authority delegation, Crime, Immigration, Immigration and Nationality Act, Law enforcement officers, Subpoena.

Accordingly, it is proposed to amend Chapter I of Title 8 of the Code of Federal Regulations as follows:

PART 287—FIELD OFFICERS; POWERS AND DUTIES

Section 287.4 is revised as follows:

§ 287.4 Subpoena.

(a) *Who may issue*—(1) *Criminal or civil investigations.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, and Officers-in-Charge, may issue a subpoena requiring the production of records and evidence for use in criminal or civil investigations.

(2) *Proceedings other than naturalization proceedings*—(i) *Prior to commencement of proceedings.* All District Directors, Deputy District Directors, Chief Patrol Agents, Deputy Chief Patrol Agents, and Officers-in-Charge, may issue a subpoena requiring the attendance of witnesses or the production of documentary evidence, or both, for use in any proceeding under this chapter, other than under Part 335 of this Chapter, or any application made ancillary to the proceeding.

(ii) *Subsequent to commencement of proceeding.* (A) In any proceeding under this chapter, other than under Part 335 of this chapter, and in any proceeding ancillary thereto, an immigration judge having jurisdiction over the matter may, upon his/her own volition or upon application of a trial attorney, the alien, or other party affected, issue subpoenas requiring the attendance of witnesses or for the production of books, papers and other documentary evidence, or both.

(B) *Application for subpoena.* A party applying for a subpoena shall be required, as a condition precedent to its issuance, to state in writing, or at the proceeding, what he/she expects to prove by such witnesses or documentary evidence, and to show affirmatively that he/she has made diligent effort, without success, to produce the same.

(C) *Issuance of subpoena.* Upon being satisfied that a witness will not appear and testify or produce documentary evidence and that the witness' evidence is essential, the immigration judge shall issue a subpoena.

(D) *Appearance of witness.* If the witness is at a distance of more than 100 miles from the place of proceeding, the subpoena shall provide for the witness'

appearance at the Service office nearest to the witness to respond to oral or written interrogatories, unless the Service indicates that there is no objection to bringing the witness the distance required to enable him/her to testify in person.

(b) *Form of subpoena.* All subpoenas shall be issued on Form I-138.

(1) *Criminal or civil investigations.* The subpoena shall command the person or entity to which it is addressed to produce the books, papers, or documents specified in the subpoena.

(2) *Proceedings other than naturalization proceedings.* Every subpoena issued under the provisions of this section shall state the title of the proceeding and shall command the person to whom it is directed to attend and to give testimony at a time and place specified. A subpoena shall also command the person to whom it is directed to produce the books, papers or documents specified in the subpoena. A subpoena may direct the making of a deposition before an officer of the Service.

(c) *Service.* A subpoena issued under this section may be served by any person, over 18 years of age not a party to the case, designated to make such service by the District Director, Deputy District Director, Chief Patrol Agent, Deputy Chief Patrol Agent, or Officer-in-Charge having administrative jurisdiction over the office in which the subpoena is issued. Service of the subpoena shall be made by delivering a copy thereof to the person named therein and by tendering to him/her the fee for one day's attendance and the mileage allowed by law by the United States District Court for the district in which the testimony is to be taken. When the subpoena is issued on behalf of the Service, fee and mileage need not be tendered at the time of service. A record of such service shall be made and attached to the original copy of the subpoena.

(d) *Invoking aid of court.* If a witness neglects or refuses to appear and testify as directed by the subpoena served upon him/her in accordance with the provisions of this section, the officer issuing the subpoena shall request the United States Attorney for the district in which the subpoena was issued to report such neglect or refusal to the United States District Court and to request such court to issue an order requiring the witness to appear and testify and to produce the books, papers or documents designated in the subpoena. If the subpoena was issued by an immigration judge, he/she shall request the District Director in the

district in which the subpoena was issued to take the action referred to in the previous sentence in the event the witness neglects or refuses to appear and testify as directed by the subpoena served upon him.

(Secs. 103 and 287 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, 1357))

Dated: March 8, 1985.

Alan C. Nelson,

Commissioner, Immigration and Naturalization Service.

[FR Doc. 85-7056 Filed 3-25-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

9 CFR Part 352

[Docket No. 83-036P]

Voluntary Inspection of Buffalo

Correction

In FR Doc. 85-6178, beginning on page 10778, in the issue of Monday, March 18, 1985, make the following corrections:

1. On page 10778, first column, in the second paragraph of the "Summary", the second line should read:

"alternative locations for inspection personnel to perform ante-mortem inspection of buffalo: (1) In the field in a".

2. On the same page, in the second column, third line, the first word should read "products".

3. In the same column, under "SUPPLEMENTARY INFORMATION", in the first paragraph, fourth line from the bottom of that paragraph "State" should read "States".

4. On page 10779, column one, first full paragraph, fifth line, the second time "consumer" appears, it should read "consumers".

5. In the same column, last paragraph, seventh line from the bottom, "areas" should read "area".

6. In column two, in the third full paragraph, third line, the first two words should read: "must ensure", and a period should be placed at the end of the last word in that paragraph.

7. In column three, second full paragraph, line three; "and" should read "are".

8. In the same column, last paragraph, fifth line, "it" should read "It".

PART 352—[CORRECTED]

9. On page 10780, in the table of contents for Part 352, in the entry for "352.12" the first time "or" appears it should read "of".

§ 352.1 [Corrected]

10. On the same page, column two, in § 352.1, first paragraph, first line, the second word should read "definitions".

§ 352.4 [Corrected]

11. On page 10781, column one, in § 352.4, paragraph (c), in the fourth line, "perform" should read "perform".

§ 352.7 [Corrected]

12. On page 10782, second column, in § 352.7, paragraph (a), line two, "inspection" should read "inspected".

§ 352.10 [Corrected]

13. On page 10783, in column three, in § 352.10, paragraph (b)(1) the last word should read "inspection".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Proposed Policy for Regulation of Advance Nuclear Power Plants

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed Policy statement.

SUMMARY: The Commission intends to improve the licensing environment for advance nuclear power reactors to minimize complexity and uncertainty in the regulatory process. Advance reactors are defined as reactor designs which are significantly different from the present generation light water reactors. It is anticipated that these designs will reflect the benefits of significant research and development work, and include the experience gained in operating the many power and developmental reactors both in the United States and throughout the world. Since the wealth of analyses, research, development and operating experience provide useful insight to designers, it is also expected these reactor plants will have an enhanced margin of safety. To provide regulatory guidance during the development of advance reactor design, the Commission wishes to encourage the earliest possible interaction between other government agencies, designers, potential licensees and the NRC. The proposed policy statement sets forth the general characteristics of advanced reactor design which the Commission believes will contribute to increased assurance of safety, to better public understanding, and to more effective regulation. As the agency responsible for protecting the public from the potential hazards of nuclear power plants, the Commission will keep the

public informed of its judgment on the known and unknown safety aspects of advanced reactor designs as they come before the Commission.

DATES: The comment period expires April 25, 1985.

ADDRESSES: Send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Copies of comments received by the Commission may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC 20555.

FOR FURTHER INFORMATION CONTACT: Dennis K. Rathbun or James G. Beckerly, Office of Policy Evaluation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone (202) 634-3295.

SUPPLEMENTARY INFORMATION: This statement gives the Commission's policy for considering advanced reactors which are those reactor designs that are significantly different from the light water reactors now under construction or in operation.

Legislative Background

The Commission's policy with respect to regulation of advanced reactors is guided by the legislative background. The Energy Reorganization Act of 1974, which established the Nuclear Regulatory Commission, specifically delegated to NRC "licensing and related regulatory authority" for demonstration nuclear reactors other than those already in existence "... when operated as part of the power generation facilities of an electric utility system, or when operating in any other manner for the purpose of demonstrating the suitability for commercial application of such a reactor..." The Energy Research and Development Administration (now the Department of Energy) was charged with "... encouraging and conducting research and development, including demonstration of commercial feasibility and practical applications of the extraction, conversion, storage, transmission, and utilization phases related to the development and use of energy from ... nuclear ... sources."

Under Section 205 of the Energy Reorganization Act, NRC must provide a "long-term plan for projects for the development of new or improved safety systems for nuclear power plants." The Commission is generally limited by language in Congressional Committee reports to research on safety systems to be incorporated into reactors of current design and on conceptual designs for both new systems and new reactors.

NRC is precluded from designing or doing research on complete new designs from the purpose of establishing or developing their commercial potential.

Previous Experience

The Commission has had experience in the regulation of advanced reactors. In the early 1970's NRC reviewed several applications for high-temperature, gas-cooled reactors (HTGRs) and a conceptual design for a gas-cooled breeder reactor, and granted an operating license to Fort St. Vrain, the only operating HTGR. The NRC also expended substantial effort from 1975 to 1979 in reviewing General Atomic's standard high-temperature, gas-cooled nuclear reactor steam supply system (GASSAR). In addition, the NRC has supported a modest program of safety research on gas-cooled reactors every year since the agency's inception.

The NRC and its predecessor, the Atomic Energy Commission (AEC), have also been involved in the review and licensing of liquid metal fast breeder reactors (LMFBRs). The Fermi-1 and SEFOR reactors were reviewed and licensed, DOE's Fast Flux Test Facility (FFTF) was reviewed but not licensed, and a formal licensing proceeding was conducted for the Clinch River Breeder Reactor (CRBR). The CRBR was subject to the same regulatory process as any current commercial nuclear power project. The NRC conducted an extensive safety research program in support of the LMFBR program and the CRBR licensing effort. When the CRBR project was cancelled, NRC's research program was revised to eliminate CRBR-specific work.

Finally, the Commission notes that the precedent for the broad policy approach to advanced reactor regulation, as proposed here, is firmly established in the 1979 Non-proliferation Alternative Systems Assessment Program (NASAP), wherein the NRC considered the safety and licensability of a variety of advanced reactor concepts within the context of non-proliferation objectives. The concepts considered and reported on by the NRC in the 1979 study ranged from preliminary conceptual designs to variations of existing (LWR) power plant designs.

Current Commission Policy

The Commission's policy with respect to regulating nuclear power reactors is

to assure adequate protection of the public health and safety and the environment, consistent with its legislative requirements.

As discussed in the 1985 Policy and Planning Guidance, while the NRC itself does not develop new designs, the Commission will maintain the capability to respond to innovative and advanced designs that might be presented for Commission review. The Commission intends to make known the factors it considers important for advanced reactor concepts in order to minimize complexity and uncertainty in the regulatory process.

On standardization of the current generation of nuclear power reactors, the Commission's 1985 Policy and Planning Guidance states:

The NRC recognizes that there are advantages to the development and use of standardized nuclear power plant and balance of plant designs. Such designs can benefit public health and safety by concentrating the resources of designers, engineers and vendors on particular approaches, by stimulating standardized programs of construction practice and quality assurance, by improving the training of personnel and by fostering more effective maintenance and improved operation. The use of such designs can also permit more effective and efficient licensing and inspection processes. Therefore, the Commission strongly encourages industry to pursue standardization in future reactor designs.

The Commission is preparing a policy statement on standardization which will be applicable to future reactors.

Proposed Policy

The Commission's proposed policy is to encourage the earliest possible interaction of applicants, vendors, other government agencies and the NRC to provide the most effective regulation for advanced reactors, and to provide all interested parties, including the public, with a timely, independent assessment of the safety characteristics of advanced reactor designs. The NRC would undertake, within its statutory responsibilities, to minimize complexity and add stability and predictability in the licensing and regulation of advanced reactors.

The Commission believes that reactor designs with some or all of the following general characteristics would be desirable. Combinations of some or all of them may help obtain early licensing or standardized design approval with minimum regulatory burden and should be more readily understood by the NRC, the utilities and the general public.

1. Designs that require few supplemental safety features to ensure safety, and/or designs that provide

longer time constants to allow for more diagnosis and management prior to reaching safety systems challenge.

2. Simplified safety systems which require the fewest operator actions, the least equipment (especially equipment subjected to severe environmental conditions), and the minimum number of components needed for maintaining safe shutdown conditions, thereby facilitating operator comprehension and reliable system function. Such simplification can also reduce the uncertainties associated with deterministic engineering judgment and probabilistic risk analyses.

3. Designs that (a) minimize the potential for severe accidents and their consequences by providing sufficient inherent safety, reliability, redundancy, diversity and independence in safety systems; (b) provide reliable equipment in the rest of the plant, thereby reducing the number of challenges to the safety systems; (c) provide easily maintainable equipment and components; and (d) reduce potential radiation exposures to plant personnel.

4. Increased standardization and ship fabrication to minimize the potential for field construction errors without creating new difficulties in factory-to-field transport, installation and maintenance.

5. Design features that can be proven by citation of existing technology or which can be satisfactorily established by commitment to a suitable technology development program.

If specific advanced reactor designs with characteristics such as the foregoing were brought to the NRC for comment and/or evaluation, the Commission could develop preliminary general design and licensing criteria for their safety-related aspects. However, until such time as detailed conceptual designs are submitted, the Commission believes that regulatory guidance must be sufficiently general to avoid placing unnecessary constraints on the development of new design concepts. The number and nature of regulatory requirements will be based on the extent to which an individual advanced reactor design incorporates the general characteristics above.

During the evolutionary phase of advanced reactor development, the Commission particularly encourages design innovations which increase safety and reliability (such as those described above) and which generally depend on technology which is either proven or can be demonstrated by a satisfactory technology development program.

¹ The general principle defining the scope of NRC's research can be described as avoiding a conflict of interest—"NRC should never be placed in position to generate, and then have to defend, basic design data of its own" as expressed in the Conference Report to the Energy Reorganization Act of 1974.

The Commission's ultimate goal is the approval of essentially complete standard plant designs. However, advanced reactor designers and prospective construction permit applicants are encouraged not to wait until detailed designs are complete, but to submit technical information on their proposed conceptual designs as far in advance of application as practicable, so that NRC staff may evaluate fundamental safety characteristics in a timely manner.

To enhance Commission participation and continuity in the review of advanced reactors, and advanced reactors group has been established in the Office of Nuclear Reactor Regulation. This group will be the focal point for NRC interaction with the Department of Energy, designers (domestic and foreign) and potential applicants and will prepare a plan for the development of regulatory criteria for licensing proposed advanced reactors. In addition, the group will provide guidance on an NRC-funded advanced reactor research program to ensure that it supports, and is consistent with, the Commission's advanced reactor policy. The Advisory Committee on Reactor Safeguards (ACRS) will play a significant role in reviewing proposed advanced reactor design concepts and supporting activities.

The Commission would also like to be informed as early as possible of new design concepts under construction by the nuclear industry so that the staff can review and comment on their safety and, if necessary, support confirmatory research on them. While the NRC itself does not develop new designs, the Commission intends to develop the capability for timely, appropriate assessment and response to innovative and advanced designs that might be presented for NRC review. Prior experience has shown that new reactor designs—even variations of established design—may involve technical problems that must be identified and solved in order to assure adequate protection of the public health and safety. The earlier such design problems are identified, the earlier satisfactory resolution can be achieved. When informing the NRC of new concepts under consideration, prospective applicants should understand that they are responsible for all research necessary to support any specific license application. NRC research is conducted only to provide the technical bases for rulemaking and regulatory decisions; to support licensing and inspection activities; to assess the feasibility and effectiveness of safety improvements; and to increase

our understanding of phenomena for which analytical methods are needed in regulatory activities.

Questions

A number of basic issues were identified in development of this policy statement. The Commission requests comments from all interested parties on the following questions, as well as on any other aspects of the policy statement:

1. Should NRC's regulatory approach be revised to reduce dependence on prescriptive regulations and, instead, establish less prescriptive design objectives, such as performance standards? If so, in what aspects of nuclear power plant design (for example, reactor core power density, reactor core heat removal, containment, and siting) might the performance standards approach be applied most effectively? How could implementation of these performance standards be verified?
2. Should the regulations for advanced reactors require more inherent safety margin in their design? If so, should the emphasis be on providing features that permit more time for operator response to off-normal conditions, or should the emphasis be on providing systems that are capable of functioning under conditions that exceed the design basis?
3. Should licensing regulations for advanced reactors mandate simplified designs which require the fewest operator actions, and the minimum number of components needed for achieving and maintaining safe shutdown conditions, thereby facilitating operator comprehension and reliable system function for off-normal conditions?
4. Should the NRC develop general design criteria for advanced reactors by modifying the existing regulations, which were developed for the current generation of light water reactors, or by developing a new set of general design criteria applicable to specific concepts which are brought before the Commission?
5. Should the NRC favor advanced reactor designs that concentrate the primary safety functions in very few large systems (rather than in multiple subsystems), thereby minimizing the need for complex benefit and cost balancing in the engineering of safe reactors?
6. What degree of proof would be sufficient for the NRC to find that a new design is based on technology which is either proven or can be demonstrated by a satisfactory technology development program? For example, is it necessary or advisable to require a prototypical

demonstration of an advanced reactor concept prior to final licensing of a commercial facility?

Dated at Washington, D.C., this 21st day of March 1985.

For the Nuclear Regulatory Commission,
John C. Hoyle,

Acting Secretary of the Commission.

[FR Doc. 85-7136 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

10 CFR Part 50

Communications Procedures Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) proposes to amend its regulations that establish the procedures for submitting correspondence, reports, applications, or other written communications pertaining to the domestic licensing of production and utilization facilities. The proposed amendments indicate the correct mailing address for delivery of the communications and specify the number of copies required to facilitate action by the NRC. The proposed amendments, if adopted, are expected to resolve a number of problems that have developed during the past several years regarding the submittal of applications and reports. In addition to clarifying the procedures, these amendments will result in a reduction in reproduction and postage costs for the affected licensees.

DATE: Comment period expires May 28, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except for those comments received on or before this date.

ADDRESSES: Interested persons are invited to submit written comments and suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch.

FOR FURTHER INFORMATION CONTACT: Steve Scott, Document Management Branch, Division of Technical Information and Document Control, Office of Administration, Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301) 492-8585.

SUPPLEMENTARY INFORMATION: Because of recent revisions to the NRC's requirements for the submittal of information by applicants and licensees,

confusion has arisen with regard to copy requirements and proper submittal procedures. In an effort to clarify these matters, the NRC issued Regulatory Guide 10.1 (Revision 4) "Compilation of Reporting Requirements for Persons Subject to NRC Regulations," and on August 8, 1982 the Director, Division of Licensing, Office of Nuclear Reactor Regulation, issued Generic Letter 82-14 "Submittal of Documents to the Nuclear Regulatory Commission." While these efforts at clarification resolved much of the confusion, applicants and licensees continue to demonstrate concern and confusion as to specific requirements. Therefore, the NRC is issuing this rule to specify copy requirements and provide mailing instructions. The rule also clarifies the current requirement in § 50.30 for making an updated copy of the application available at an appropriate office near the site for inspection by the public.

This rule supersedes all existing requirements and guidance with respect to the number of copies and mailing procedures. This rule codifies NRC actions to reduce copy requirements. For example § 50.30 would be amended to reduce copy requirements for amendment applications from 60 to 40; copy requirements for licensee reports would be reduced to three. The proposed rule would reduce overall the number of copies transmitted to the Commission. These changes would result in reduced reproduction and postage costs for licensees.

The proposed rule would also remove from § 50.4, special submittal requirements for the Fort St. Vrain Nuclear Generating Station. The rule would not affect the authority and responsibility delegated to the Regional Administrator of Region IV for implementing selected parts of the nuclear reactor licensing program for the Fort St. Vrain Generating Station.

Undesignated paragraphs in the amended text have been designated and obsolete titles of NRC personnel have been updated to reflect current NRC titles.

Environmental Impact: Categorical Exclusion

The NRC has determined that this proposed rule is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this proposed rule.

Paperwork Reduction Act Statement

This proposed rule amends information collection requirements that are subject to the Paperwork Reduction

Act of 1980 (44 U.S.C. 3501 et seq.). These requirements were approved by the Office of Management and Budget approval number 3150-0011.

Regulatory Analysis

The Commission has prepared a draft regulatory analysis on this proposed regulation. The analysis examines the costs and benefits of the alternatives considered by the Commission. The draft analysis is available for inspection in the NRC Public Document Room, 1717 H Street NW, Washington, DC 20555. Single copies of the analysis may be obtained from Steve Scott, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555; telephone 301-492-28585.

The Commission requests public comment on the draft regulatory analysis. Comments on the draft analysis may be submitted to the NRC as indicated under the ADDRESSES heading.

Regulatory Flexibility Certification Statement

Based upon the information available at this stage of the rulemaking proceeding and in accordance with the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission hereby certifies that, if promulgated, this rule will not have a significant economic impact upon a substantial number of small entities. The proposed rule would amend 10 CFR 50 by specifying submittal procedures which facilitate NRC processing. The rule is expected to affect nuclear generating facilities by reducing the overall regulatory burden of reproducing and transmitting submittals to the Commission. Therefore, it is not expected to have a significant economic impact on any licensee. However, comments on the expected economic impact of this proposed rule on any small entity are welcome.

List of Subjects in 10 CFR Part 50

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is proposing to adopt the following amendments to 10 CFR Part 50.

PART 50—[AMENDED]

The authority citation for this document is:

(Sec. 161, Pub. L. 83-703, 68 Stat. 948, as amended (42 U.S.C. 2201), and Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841))

1. Section 50.4 is revised to read as follows:

§ 50.4 Written communications.

(a) *Address requirements.* The signed original of all correspondence, reports, applications, and other written communications from the applicant or licensee to the Nuclear Regulatory Commission concerning the regulations in this part or individual license conditions must be addressed to the U.S. Nuclear Regulatory Commission, ATTN: Document Control Desk, Washington, DC 20555.

(b) *Distribution requirements.* Copies of all correspondence, reports, and other written communications concerning the regulations in this part or individual license conditions must be submitted to the Nuclear Regulatory Commission at the locations and in the quantities set forth below (addresses for the NRC Regional Offices are listed in Appendix D of Part 20 of this chapter).

(1) *Permits, licenses, and amendments.* Each licensee or applicant shall submit any written communications, as defined in paragraphs (b)(1) (i) through (xxi) of this section, which are required for an application for a construction permit, operating license, or amendment of these, as follows, except as otherwise specified in this section: the signed original and 37 copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional Office and one copy to the appropriate NRC Resident Inspector, if applicable;

(i) Application for exemption pursuant to § 50.12;

(ii) Application (including any applicable drawings, maps, photographs, models, or computer printouts) for an operating license, construction permit, or amendment pursuant to §§ 50.30 through 50.49, and any communications from the applicant to the Commission pertaining to an application except as otherwise specified in this section;

(iii) Additional TMI-related requirements pursuant to § 50.34(f);

(iv) Request for approval of design feature or specification pursuant to § 50.35(b);

(v) Analysis of hydrogen control system pursuant to § 50.44(c)(3)(vi)(A);

(vi) Proposed schedule for meeting the requirements for a hydrogen control system pursuant to § 50.44(c)(3)(vii)(A);

(vii) Analysis to ensure safe plant operation pending completion of equipment qualification pursuant to § 50.49(i);

(viii) Application for amendment of technical specifications pursuant to § 50.55a(g)(5)(ii);

(ix) Information demonstrating compliance with requirements for reduction of risk from anticipated transients without scram (ATWS) events pursuant to § 50.62 (c)(6) and (d);

(x) Application for exemption pursuant to § 50.73(f);

(xi) Application for transfer of license pursuant to § 50.80(b);

(xii) Application for termination of license pursuant to § 50.82(a);

(xiii) Application for amendment of license or construction permit pursuant to § 50.90, except as provided in paragraph (b)(4) of this section relating to safeguards information;

(xiv) Analysis of no significant hazards consideration pursuant to § 50.91;

(xv) Information concerning the modification of structures, systems or components of a facility pursuant to § 50.109;

(xvi) Evaluation of the potential for effects from long-term buildup of radioactive material in the environment pursuant to Appendix I "Concluding Statement of Position of the Regulatory Staff," A.3.a of this part;

(xvii) Complete listing of each computer program used in emergency core cooling system (ECCS) evaluation model pursuant to Appendix K.II.1.c of this part;

(xviii) Application for a manufacturing license pursuant to Appendix M of this part;

(xix) Application for license to construct and operate nuclear power reactors of the same design pursuant to Appendix N of this part;

(xx) Preliminary or final standard design for a nuclear power reactor pursuant to Appendix O of this part; and

(xxi) Application for early site suitability review pursuant to Appendix Q of this part.

(2) *Reports and other communications.* Written communications, as defined in paragraphs (b)(2) (i) through (xxvi) of this section, that are required of holders of operating license or construction permits, must be submitted as follows: the signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, one copy to the appropriate Regional

Office, and one copy to the appropriate NRC Resident Inspector, if applicable;

(i) Periodic report of the progress and results of research and development programs pursuant to § 50.35(b);

(ii) Notification of exceeding any safety limit for nuclear reactors pursuant to § 50.36(c)(1)(i)(A);

(iii) Notification of exceeding any safety limit for a fuel reprocessing plant pursuant to § 50.36(c)(1)(i)(B);

(iv) Notification of failure of an automatic safety system to function as required for nuclear reactors pursuant to § 50.36(c)(1)(ii)(A);

(v) Notification of failure of an automatic alarm or protective device to function as required for a fuel reprocessing plant pursuant to § 50.36(c)(1)(ii)(B);

(vi) Notification of failure to meet limiting conditions for operating (Licensee Event Report) pursuant to § 50.36(c)(2);

(vii) Reports required by approved technical specifications pursuant to § 50.36(c)(5). These reports include but are not limited to the following: startup reports, periodic operating reports, source leakage reports, annual environmental reports (Parts A and B), and nonroutine environmental operating reports;

(viii) Semiannual effluent release report pursuant to § 50.36a(a)(2);

(ix) Schedule for qualification of electrical equipment important to safety pursuant to § 50.49(g);

(x) Request for extension of submittal deadline pursuant to § 50.49(g);

(xi) Notification of a significant problem requiring extension of completion date pursuant to § 50.49(h);

(xii) Change to the Safety Analysis Report quality assurance program description pursuant to § 50.54(a)(3) or § 50.55(f)(3);

(xiii) Statement to enable the Commission to determine whether a license should be modified, suspended, or revoked pursuant to § 50.54(f);

(xiv) Report of levels of insurance or financial protection pursuant to § 50.54(w)(4);

(xv) Construction deficiency report and interim deficiency report pursuant to § 50.55(e)(3);

(xvi) Notification of impracticality of conforming with code requirements pursuant to § 50.55a(g)(5)(iii);

(xvii) Annual report of changes, tests and experiments pursuant to § 50.59(b);

(xviii) Reports required by the Nuclear Regulatory Commission pursuant to § 50.71(a), e.g., responses to Bulletins issued by the Nuclear Regulatory Commission;

(xix) Annual financial report pursuant to § 50.71(b);

(xx) Licensee Event Report (LER) and supplemental information pursuant to § 50.73 (c) and (d);

(xxi) Information regarding modification of structures, systems, or components of a facility pursuant to § 50.109(c);

(xxii) Information regarding reactor vessel beltline material inservice program pursuant to Appendix G.V.E. of this part;

(xxiii) Proposed withdrawal schedule for surveillance capsules pursuant to Appendix H.II.B.3 of this part;

(xxiv) Report of capsule withdrawal and fracture toughness tests pursuant to Appendix H.III.A of this part;

(xxv) Report of release in excess of design objectives pursuant to Appendix LIV.A.3 of this part;

(xxvi) Reactor containment building integrated leak rate test pursuant to Appendix J.V.B of this part.

(3) *Acceptance review application.* Written communications required for an application for determination of suitability for docketing pursuant to § 50.30(a)(6) must be submitted as follows: the signed original and 13 copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555 and one copy to the appropriate Regional Office.

(4) *Security plan and related submittals.* Written communications, as defined in paragraphs (b)(4) (i) through (iv) of this section must be submitted as follows: the signed original and three copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, and two copies to the appropriate Regional Office;

(i) Physical security plan pursuant to § 50.34;

(ii) Safeguards contingency plan pursuant to § 50.34;

(iii) Change to security plan or safeguards contingency plan made without prior Commission approval pursuant to § 50.54(p);

(iv) Safeguards information contained in an application for amendment pursuant to § 50.90.

(5) *Emergency plan and related submittals.* Written communications as defined in paragraphs (b)(5) (i) through (iii) in this section, must be submitted as follows: "the signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555, two copies to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector;

(i) Emergency plan pursuant to § 50.34;

(ii) Change to an emergency plan pursuant to § 50.54(q);

(iii) Emergency implementing procedures pursuant to Appendix E.V of this part.

(6) *Updated FSAR.* An updated Final Safety Analysis Report (FSAR) or replacement pages, pursuant to § 50.71(e) must be submitted as follows: the signed original and 10 copies to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555 one copy to the appropriate Regional Office, and one copy to the appropriate NRC Resident Inspector.

(7) *Quality assurance topical report changes.* A change to an NRC-accepted quality assurance topical report description pursuant to § 50.54(a)(3) or § 50.55(f)(3) must be submitted as follows: one signed original to the Nuclear Regulatory Commission, Document Control Desk, Washington, DC 20555.

(c) *Form of communications.* All copies submitted to meet the requirements set forth in paragraph (b) of this section must be typewritten, printed or otherwise reproduced in permanent form on unglazed paper. Exceptions to these requirements may be granted for the submittal of micrographic, photographic, or electronic forms. Prior to making any submittal in other than paper form, the applicant or licensee must contact the Division of Technical Information and Document Control, Nuclear Regulatory Commission, Washington, DC 20555, Telephone (301) 492-8585, to obtain specifications, copy requirements, and prior approval.

(d) *Delivery of communications.* Written communications may be delivered to the Document Control Desk at 7920 Norfolk Avenue, Bethesda, MD, between the hours of 8:15 a.m. and 4:00 p.m. Eastern Time.

(e) *Citation of regulatory requirement.* All correspondence, reports, and other written communications submitted to the Nuclear Regulatory Commission pursuant to the regulations of this part must cite in the upper right corner of the first page of the submittal the specific regulation requiring submission.

(f) *Conflicting requirements.* If there is a conflict between the Commission's regulations in this part, a license condition or technical specification, or other written Commission approval or authorization pertaining to the submittal requirements for the same type of application or report, the submittal requirements specified in the regulations in this part for the applications and reports apply unless the Commission, pursuant to § 50.12 grants a specific exemption from the submittal requirements specified in the regulations in this part.

2. In § 50.12, the introductory language of paragraph (b) is revised to read as follows:

§ 50.12 Specific exemptions.

(b) Any person may request an exemption permitting the conduct of activities prior to the issuance of a construction permit prohibited by § 50.10. The request must be submitted as specified in § 50.4. The Commission may grant such an exemption upon considering and balancing the following factors:

3. In § 50.30, paragraphs (a) and (b) are revised to read as follows and paragraph (c) is removed.

§ 50.30 Filing of application for licenses; oath or affirmation.

(a) *Serving of applications.* (1) Each filing of an application for a license to construct and/or operate a production or utilization facility (including amendments to the applications) must be submitted to the U.S. Nuclear Regulatory Commission in accordance with § 50.4.

(2) An additional 10 copies of the general information and 30 copies of the safety analysis report, or part thereof or amendment thereto, must be retained by the applicant for distribution in accordance with the written instructions of the Director, Office of Nuclear Reactor Regulation, or the Director, Office of Nuclear Material Safety and Safeguards, as appropriate.

(3) Each applicant shall, upon notification by the Atomic Safety and Licensing Board appointed to conduct the public hearing required by the Atomic Energy Act for the issuance of a construction permit, update the application and serve the updated copies of the application or parts of it, eliminating all superseded information, together with an index of the updated application, as directed by the Atomic Safety and Licensing Board. In addition, at that time the applicant shall serve a copy of the updated application on the Atomic Safety and Licensing Appeal Panel. Any subsequent amendment to the application must be served on those served copies of the application and must be submitted to the U.S. Nuclear Regulatory Commission as specified in § 50.4.

(4) The applicant must make a copy of the updated application available at the public hearing for the use of any other parties to the proceeding, and shall certify that the updated copies of the application contain the current contents of the application submitted in

accordance with the requirements of this part.

(5) At the time of filing an application, the Commission will establish a Local Public Document Room near the site of the proposed facility, for the use of the public, where a copy of the application, subsequent amendments, and other records pertinent to the facility will be available for public inspection and copying.

(6) The serving of copies required by this section must not occur until the application has been docketed pursuant to § 2.101(a) of this chapter. Copies must be submitted to the Commission, as specified in § 50.4, to enable the Director, Office of Nuclear Reactor Regulation, or Director, Office of Nuclear Material Safety and Safeguards, as appropriate, to determine whether the application is sufficiently complete to permit docketing.

(b) *Oath or affirmation.* Each application for a license, including whenever appropriate a construction permit, or amendment of it, and each amendment of each application must be executed in a signed original by the applicant or duly authorized officer thereof under oath or affirmation.

4. In § 50.36 paragraph (c)(5) is revised to read as follows:

§ 50.36 Technical specifications:

(c) * * *

(5) *Administrative controls.* Administrative controls are the provisions relating to organization and management, procedures, recordkeeping, review and audit, and reporting necessary to assure operation of the facility in a safe manner. Each licensee shall submit any reports to the Commission pursuant to approved technical specifications as specified in § 50.4.

5. In 50.36a, paragraph (a)(2) is revised to read as follows:

§ 50.36a Technical specifications on effluents from nuclear power reactors.

(a) * * *

(2) Each licensee shall submit a report to the Commission within 60 days after January 1 and July 1 of each year, that specifies the quantity of each of the principal radionuclides released to unrestricted areas in liquid and in gaseous effluents during the previous six months of operation, including any other information as may be required by the Commission to estimate maximum potential annual radiation doses to the public resulting from effluent releases.

The report must be submitted as specified in § 50.4. If quantities of radioactive materials released during the reporting period are significantly above design objectives, the report must cover this specifically. On the basis of these reports and any additional information the Commission may obtain from the licensee or others, the Commission may require the licensee to take action as the Commission deems appropriate.

6. In § 50.44, paragraphs (c)(3)(vi)(A) and (c)(3)(vii)(A) are revised to read as follows:

§ 50.44 Standards for combustible gas control system in light water cooled power reactors.

(c) * * *

(3) * * *

(vi)(A) Each applicant for or holder of an operating license for a boiling light-water nuclear power reactor with a Mark III type of containment or for a pressurized light-water nuclear power reactor with an ice condenser type of containment issued a construction permit before March 28, 1979, shall submit an analysis to the Commission as specified in § 50.4.

(vii)(A) By June 25, 1985, each applicant for or holder of an operating license subject to the requirements of paragraphs (c)(3) (iv), (v) and (vi) of this section shall develop and submit to the Commission, as specified in § 50.4, a proposed schedule for meeting these requirements. The schedule may be developed using integrated scheduling systems previously approved for the facility by the NRC.

7. In § 50.49, paragraph (h) and the introductory language of paragraph (i) are revised to read as follows:

§ 50.49 Environmental qualification of electric equipment important to safety for nuclear power plants.

(h) Each licensee shall notify the Commission as specified in § 50.4 of any significant equipment qualification problem that may require extension of the completion date provided in accordance with paragraph (g) of this section within 60 days of its discovery.

(i) Applicants for operating licenses granted after February 22, 1983, but prior to November 30, 1985, shall perform an analysis to ensure that the plant can be safely operated pending completion of equipment qualification required by this section. This analysis must be submitted, as specified in § 50.4, for

consideration prior to the granting of an operating license and must include, where appropriate, consideration of:

8. In 50.54, the introductory language of paragraph (a)(3), (a)(3)(i), (f), the introductory language of (p), (q), and (w)(4) are revised to read as follows:

§ 50.54 Conditions of licenses.

(a) * * *

(3) After March 11, 1983, each licensee described in paragraph (a)(1) of this section may make a change to a previously accepted quality assurance program description included or referenced in the Safety Analysis Report, provided the change does not reduce the commitments in the program description previously accepted by the NRC. Changes to the quality assurance program description that do not reduce the commitments must be submitted to the NRC at least annually in accordance with the requirements of § 50.71. Changes to the quality assurance program description that do reduce the commitments must be submitted to NRC and receive NRC approval prior to implementation, as follows:

(i) Changes made to the Safety Analysis Report must be submitted, as specified in § 50.4. Changes made to NRC-accepted quality assurance topical report descriptions must be submitted, as specified in § 50.4.

(f) The licensee shall at any time before expiration of the license, upon request of the Commission, submit, as specified in § 50.4, written statements, signed under oath or affirmation, to enable the Commission to determine whether or not the license should be modified, suspended, or revoked.

(p) The licensee shall prepare and maintain safeguards contingency plan procedures in accordance with Appendix C of Part 73 of this chapter for making decisions and the actions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan prepared pursuant to § 50.34(c) or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to § 50.34(d) or Part 73 of this chapter without prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to a

license pursuant to § 50.90. The licensee may make changes to the security plan or to the safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall submit, as specified in § 50.4, a report containing a description of each change within two months after the change is made. Prior to the safeguards contingency plan being put into effect, the licensee shall have:

(g) A licensee authorized to possess and/or operate a nuclear power reactor shall follow and maintain in effect emergency plans which meet the standards in § 50.47(b) and the requirements in Appendix E to this part. A licensee authorized to possess and/or operate a research reactor or a fuel facility shall follow and maintain in effect emergency plans which meet the requirements in Appendix E of this part. The nuclear power reactor licensee may make changes to these plans without Commission approval only if the changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the standard of § 50.47(b) and the requirements of Appendix E of this part. The research reactor licensee and/or the fuel facility licensee may make changes to these plans without Commission approval, only if these changes do not decrease the effectiveness of the plans and the plans, as changed, continue to meet the requirements of Appendix E of this part. Proposed changes that decrease the effectiveness of the approved emergency plans shall not be implemented without application to and approval by the Commission. The licensee shall submit, as specified in § 50.4, a report of each proposed change for approval. If a change is made without approval, the licensee shall submit, as specified in § 50.4, a report of each change within 30 days after the change is made.

(w) * * *

(4) The licensee shall report, as specified in § 50.4, on April 1 of each year, the present levels of insurance or financial protection it maintains and the sources of the insurance or protection.

9. In § 50.55, paragraphs (e)(3), (f)(3), and (f)(3)(i) are revised to read as follows:

§ 50.55 Conditions of construction permits.

- (e) * * *
- (3)(i) The holder of a construction permit shall also submit, as specified in § 50.4, a written report on a reportable deficiency within 30 days.
- (ii) The report must include a description of the deficiency, an analysis of the safety implications and the corrective action taken, and sufficient information to permit analysis and evaluation of the deficiency and of the corrective action. If sufficient information is not available for a definitive report to be submitted within 30 days, an interim report containing all available information shall be filed, as specified in § 50.4, together with a statement that indicates when a complete report will be filed.

(f) * * *

(3) After March 11, 1983, each construction permit holder described in paragraph (f)(1) of this section may make a change to a previously accepted quality assurance program description included or referenced in the Safety Analysis Report, provided the change does not reduce the commitments in the program description previously accepted by the NRC. Changes to the quality assurance program description that do not reduce the commitments must be submitted to NRC within 90 days. Changes to the quality assurance program description that do reduce the commitments must be submitted to NRC and receive NRC approval before implementation, as follows:

- (i) Changes to the Safety Analysis Report must be submitted for review as specified in § 50.4. Changes made to NRC-accepted quality assurance topical report descriptions must be submitted as specified in § 50.4.

10. In § 50.55a, paragraphs (g)(5)(ii) and (g)(5)(iii) are revised to read as follows:

§ 50.55a Codes and standards.

- (g) *Inservice inspection requirements.*

(5) * * *

(ii) If a revised inservice inspection program for a facility conflicts with the technical specification for the facility, the licensee shall apply to the Commission for amendment of the technical specifications to conform the technical specification to the revised program. The licensee shall submit this application, as specified in § 50.4, at least six months before the start of the

period during which the provisions become applicable, as determined by paragraph (g)(4) of this section.

- (iii) If the licensee has determined that conformance with certain code requirements is impractical for its facility, the licensee shall notify the Commission and submit, as specified in § 50.4, information to support the determinations.

11. In § 50.59, paragraph (b) is revised to read as follows:

§ 50.59 Changes, tests, and experiments.

(b)(1) The licensee shall maintain records of changes in the facility and of changes in procedures made pursuant to this section, to the extent that these changes constitute changes in the facility as described in the safety analysis report or to the extent that they constitute changes in procedures as described in the safety analysis report. The licensee shall also maintain records of tests and experiments carried out pursuant to paragraph (a) of this section. These records must include a written safety evaluation which provides the bases for the determination that the change, test, or experiment does not involve an unreviewed safety question.

(2) The licensee shall submit, as specified in § 50.4, a report containing a brief description of any changes, tests, and experiments, including a summary of the safety evaluation of each. The report must be submitted annually or at such shorter intervals as may be specified in the license.

(3) The records of changes in the facility shall be maintained until the date of termination of the license, and records of changes in procedures and records of tests and experiments shall be maintained for a period of five years.

12. In § 50.62 paragraph (c)(6) and (d) are revised to read as follows:

§ 50.62 Requirements for reduction of risk from anticipated transients without scram (ATWS) events for light-water-cooled nuclear powerplants.

(c) * * *

(b) Information sufficient to demonstrate to the Commission the adequacy of items in paragraphs (c)(1) through (c)(5) of this section shall be submitted to the Commission as specified in § 50.4.

(d) *Implementation.* By 180 days after the issuance of the QA guidance for non-safety related components each licensee shall develop and submit to the Commission, as specified in § 50.4, a proposed schedule for meeting the

requirements of paragraphs (c)(1) through (c)(5) of this section. Each shall include an explanation of the schedule along with a justification if the schedule calls for final implementation later than the second refueling outage after July 26, 1984, or the date of issuance of a license authorizing operation above 5 percent of full power. A final schedule shall then be mutually agreed upon by the Commission and licensee.

13. In § 50.71, paragraphs (a), (b) and (e)(1) are revised to read as follows:

§ 50.71 Maintenance of records, making of reports.

(a) Each licensee and each holder of a construction permit shall maintain all records and make all reports, in connection with the activity, as may be required by the conditions of the license or permit or by the rules, regulations, and orders of the Commission in effectuating the purposes of the Act, including section 105 of the Act. Reports must be submitted in accordance with § 50.4.

(b) With respect to any production or utilization facility of a type described in §§ 50.21(b) or 50.22, or a testing facility, each licensee and each holder of a construction permit shall submit its annual financial report, including the certified financial statements, to the Commission as specified in § 50.4 upon issuance of the report.

(e) * * *

(1) The licensee shall submit revisions containing updated information to the Commission as specified in § 50.4 on a replacement-page basis that is accompanied by a list which identifies the current pages of the FSAR following page replacement.

14. In § 50.73, paragraphs (c), (d), and (f) are revised to read as follows:

§ 50.73 Licensee event report system.

(c) *Supplemental information.* The Commission may require the licensee to submit specific additional information beyond that required by paragraph (b) of this section if the Commission finds that supplemental material is necessary for complete understanding of an unusually complex or significant event. These requests for supplemental information will be made in writing and the licensee shall submit, as specified in § 50.4, the requested information as a supplement to the initial LER.

(d) *Submission of reports.* Licensee Event Reports must be prepared on Form NRC 366 and submitted within 30

days of discovery of a reportable event or situation to the U.S. Nuclear Regulatory Commission, as specified in § 50.4.

(f) *Exemptions.* Requests for exemptions to the reporting requirements under this section must include adequate justification and be submitted as specified in § 50.4. Upon a request or at the initiation of the NRC staff, the NRC Executive Director for Operations may, by a letter to the licensee, grant exemptions to the reporting requirements under this section.

15. In § 50.82, paragraph (a) is revised to read as follows:

§ 50.82 Applications for termination of licenses.

(a) Any licensee may submit an application to the Commission as specified in § 50.4 for authority to surrender a license voluntarily and to dismantle the facility and dispose of its component parts. The Commission may require information, including information as to proposed procedures for the disposal of radioactive material, decontamination of the site, and other procedures, to provide reasonable assurance that the dismantling of the facility and disposal of the component parts will be performed in accordance with the regulations in this chapter and will not be inimical to the common defense and security or to the health and safety of the public.

16. Section 50.90 is revised to read as follows:

§ 50.90 Application for amendment of license or construction permit.

Whenever a holder of a license or construction permit desires to amend the license or permit, application for an amendment must be filed, as specified in § 50.4 with the Commission, fully describing the changes desired, and following as far as applicable the form prescribed for original applications.

17. In § 50.91, paragraph (a)(1) is revised to read as follows:

§ 50.91 Notice for public comment; State consultation.

(a) *Notice for public comment.* (1) At the time a licensee requests an amendment, it must provide, as specified in § 50.4, to the Commission its analysis, using the standards in § 50.92, about the issue of no significant hazards consideration.

18. In § 50.109, paragraph (c) is revised to read as follows:

§ 50.109 Backfitting.

(c) The Commission may at any time require a holder of a construction permit or a license to submit, as specified in § 50.4, any information concerning the addition or proposed addition, the elimination or proposed elimination, or the modification or proposed modification of structures, systems, or components of a facility that it deems appropriate.

19. In Appendix E, section V is revised to read as follows:

Appendix E—Emergency Planning and Preparedness for Production and Utilization Facilities¹

V. Implementing Procedures

No less than 180 days prior to the scheduled issuance of an operating license for a nuclear power reactor or a license to possess nuclear material the applicant's detailed implementing procedures for its emergency plan shall be submitted to the Commission as specified in § 50.4. Licensees who are authorized to operate a nuclear power facility shall submit any changes to the emergency plan or procedures to the Commission, as specified in § 50.4, within 30 days of such changes.

20. In Appendix G, section V, paragraph E is revised to read as follows:

Appendix G—Fracture Toughness Requirements

V. Inservice Requirements—Reactor Vessel Beltline Material

E. The proposed programs for satisfying the requirements of sections V.C. and V.D. of this appendix must be submitted as specified in § 50.4, for review and approval on an individual case basis at least three years prior to the date when the predicted fracture toughness levels will no longer satisfy the requirements of section V.B. of this appendix.

¹ NRC staff has developed two regulatory guides: 2.6 "Emergency Planning for Research Reactors," and 3.42 "Emergency Planning in Fuel Cycle Facilities and Plants Licensed Under 10 CFR Parts 50 and 70," and a joint NRC/FEMA report, NUREG-0654; FEMA-REP-1 "Criteria for Preparation and Evaluation of Radiological Emergency Response Plans and Preparedness in Support of Nuclear Power Plants for Interim Use and Comment," January 1980, to provide guidance in developing plans for coping with emergencies. Copies of these documents are available at the Commission's Public Document Room 1717 H Streets, NW, Washington, DC 20555. Copies of these documents may be purchased from the Government Printing Office. Information on current prices may be obtained by writing the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Publications Sales Manager.

21. In Appendix H, section II, paragraph B.3 and section III, paragraph A are revised to read as follows:

Appendix H—Reactor Vessel Material Surveillance Program Requirements

II. Surveillance Program Criteria

B. . . .

3. A proposed withdrawal schedule must be submitted with a technical justification as specified in § 50.4. The proposed schedule must be approved prior to implementation.

III. Report of Test Results

A. Each capsule withdrawal and the test results must be the subject of a summary technical report to be submitted as specified in § 50.4 within one year after capsule withdrawal unless an extension is granted by the Director, Office of Nuclear Reactor Regulation.

22. In Appendix I, section IV, paragraph A.3. and paragraph A.3.a of the "Concluding Statement on Position of the Regulatory Staff (Docket-RM-50-2)" are revised to read as follows:

Appendix I—Numerical Guides for Design Objectives and Limiting Conditions for Operation to Meet the Criterion "As Low As Is Reasonably Achievable" for Radioactive Material in Light-Water-Cooled Nuclear Power Reactor Effluents

Sec. IV. Guides on technical specifications for limiting conditions for operation for light-water-cooled nuclear power reactors licensed under 10 CFR Part 50.

A. . . .

3. Report these actions as specified in § 50.4, within 30 days from the end of the quarter during which the release occurred.

Concluding Statement on Positions of the Regulatory Staff (Docket-RM-50-2).

A. . . .

3. . . .

a. The applicant submits, as specified in § 50.4, an evaluation of the potential for effects from long-term buildup on the environment in the vicinity of the site of radioactive material, with a radioactive half-life greater than one year, to be released; and

23. In Appendix J, section V, paragraph B.1. is revised to read as follows:

Appendix J—Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors

V. Inspection and Reporting of Tests

B. *Report of test results.* 1. The preoperational and periodic tests must be the subject of a summary technical report submitted to the Commission as specified in § 50.4 approximately three months after the conduct of each test. The report must be titled "Reactor Containment Building Integrated Leak Rate Test."

24. In Appendix K, section II, paragraph 1.c. is revised to read as follows:

Appendix K—ECCS evaluation models

II. Required Documentation

1. * * *

C. The licensee shall submit to the Commission as specified in § 50.4, a complete listing of each computer program, in the same form as used in the evaluation model.

25. In Appendix M, Paragraph 2 is revised to read as follows:

Appendix M—Standardization of Design; Manufacture of Nuclear Power Reactors; Construction and Operation of Nuclear Power Reactors Manufactured Pursuant to Commission License

2. An application for a manufacturing license pursuant to this Appendix M must be submitted as specified in § 50.4 and meet all the requirements of §§ 50.34(a)(1)–(9) and 50.34a (a) and (b), except that the preliminary safety analysis report shall be designated as a "design report" and any required information or analyses relating to site matters shall be predicated on postulated site parameters which must be specified in the application. The application must also include information pertaining to design features of the proposed reactor(s) that affect plans for coping with emergencies in the operation of the reactor(s).

26. In Appendix N, paragraph 2. is revised to read as follows:

Appendix N—Standardization of Nuclear Power Plant Designs: Licenses To Construct and Operate Nuclear Power Reactors of Duplicate Design at Multiple Sites

2. Applications for construction permits submitted pursuant to this Appendix must include the information required by §§ 50.33, 50.33a, 50.34(a) and 50.34a (a) and (b) and be submitted as specified in § 50.4. The applicant shall also submit the information required by § 51.50 of this chapter.

27. In Appendix O, paragraph 2 is revised to read as follows:

Appendix O—Standardization of Design; Staff Review of Standard Designs

2. The submittal for review of the standard design must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 for license applications.

28. In Appendix Q, paragraph 2 is revised to read as follows:

Appendix Q—Pre-Application Early Review of Site Suitability Issues

2. The submittal for early review of site suitability issue(s) must be made in the same manner and in the same number of copies as provided in §§ 50.4 and 50.30 for license applications. The submittal must include sufficient information concerning a range of postulated facility design and operation parameters to enable the Staff to perform the requested review of site suitability issues. The submittal must contain suggested conclusions on the issues on site suitability submitted for review and must be accompanied by a statement of the bases or the reasons for those conclusions. The submittal must also list, to the extent possible, any long-range objectives for ultimate development of the site, state whether any site selection process was used in preparing the submittal, describe any site selection process used, and explain what consideration, if any, was given to alternative sites.

Dated at Bethesda, Maryland, this 14th day of March 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-7140 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-140-AD]

Airworthiness Directives; Lockheed Models 382 and 382B/E/F/G Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes to add an airworthiness directive (AD), that would require inspection and/or removal, as necessary, of certain Hoxel fire extinguisher cartridges (squibs) used in the fire extinguishers installed on Lockheed Models 382 and 382B/E/F/G series airplanes. The proposed AD is necessary because some of the squibs may indicate electrical resistance beyond acceptable limits which could prevent the squib from discharging,

when required, to extinguish an engine fire.

DATES: Comments must be received no later than May 20, 1985.

ADDRESSES: Send comments to the proposal in duplicate to FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service bulletin may be obtained from Lockheed-Georgia Company, Field Service Office, 88 South Cobb Drive, Marietta, Georgia 30063, or may be examined at FAA, Central Region, Atlanta Aircraft Certification Office, 1075 Inner Loop Road, College Park, Georgia 30337.

FOR FURTHER INFORMATION CONTACT:

Arthur W. Nelson, ACE-140A, Atlanta Aircraft Certification Office, FAA, Central Region, 1075 Inner Loop Road, College Park, Georgia 30337; telephone (404) 763-7435.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interest 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 number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Dockets for examination by interested persons. A report summarizing each FAA/public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 84-NM-140-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington, 98168.

Discussion

Certain models of the Lockheed Hercules Model 382 airplanes utilize fire extinguisher squibs manufactured by Hoxel, Inc., of Hollister, California.

Recently this manufacturer discovered that some of the squibs in its possession exceeded electrical resistance limits during a routine check. These parts were cut open and rust was discovered in the electrical contacts. All of the discrepant squibs were from production lot number 1-61 having a 1/84 loading date. Investigation revealed that this production lot had been manufactured using a different lacquer composition to seal the squib explosive cavity from that which had been used in previous squib production lots. Further investigation revealed that a solvent used in installing the powder charge had leached through the lacquer coating, allowing the oxidizer in the powder charge to contact the squib body and electrical contacts and cause rust. This action increased the resistance of the squib electrical firing circuit, which could cause it to misfire. Four hundred of the suspected squibs were delivered to both Lockheed and its domestic and foreign suppliers. Upon receiving notification of the suspected squibs, Lockheed prepared and issued Alert Service Bulletin A382-26-4 dated October 4, 1984.

Since a potential unsafe condition exists in Lockheed Model 382 and 382B/E/F/G series airplanes, the proposed AD would require a visual inspection to be made of the fire extinguisher squibs installed in certain Model 382 airplanes and in spare squib supplies, in order to determine the part number and production lot (loading date) number stamped on each squib. Squibs with part number 4199-1 (Lockheed number 695679-15) having a marking "199" and a loading date of 1/84 on the hex flats must be removed and replaced with an acceptable squib. If an acceptable replacement squib is not readily available, the AD would permit continued use of the suspect squibs which successfully pass a repetitive 30-day resistance measurement check. This check would be made before the aircraft is returned to service and every 30 days thereafter until a serviceable replacement squib is installed.

The following Lockheed Hercules Models 382 and 382B/E/F/G series airplanes of United States registry may have incorporated the suspect fire extinguisher squibs, Halex part number 4199-1 having a loading date of 1/84:

Lockheed serial numbers 4134, 4147, 4208, 4248, 4250, 4299, 4300, 4301, 4303, 4362, 4383, 4384, 4388, 4391, 4472, 4477, 4558, 4561, 4565, 4586, 4590 and 4763.

In addition, for informational purposes, the following Lockheed Hercules Models 382 and 382B/E/F/G airplanes of foreign registry may have incorporated the suspect squibs:

Lockheed Serial Numbers 3946, 4129, 4222, 4302, 4335, 4358, 4385, 4414, 4450, 4475, 4512, 4562, 4582, 4593, 4600, 4606, 4610, 4673, 4676, 4679, 4684, 4691, 4695, 4698, 4701, 4706, 4708, 4710, 4715, 4796, 4798, 4799, 4800, 4824, 4826, 4828, 4832, 4833, 4834, 4850, 4851, 4853, 4880, 4883, 4886, 4889, 4891, 4893, 4895, 4917, 4949, 4951, 4953, 4954, and 4995.

The Lockheed-Georgia Company has accomplished the service bulletin requirements (and the requirements of the proposed AD) on four airplanes prior to delivery, and on five undelivered airplanes. There remains twenty-two airplanes of U.S. registry which would be affected by the proposed AD. It is estimated that the inspection of the two squibs per airplane would require 3 manhours to accomplish; replacement of the squibs, if necessary, would require 2 manhours to accomplish; and labor costs would be approximately \$40 per manhour. Based on these figures, the total cost impact of the proposed AD on U.S. operators would be \$8,800.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation that is not major under the provisions of Executive Order 12291 and (2) is not significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and 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 because few, if any, Lockheed Model 382 or 382B/E/F/G series airplanes are operated by small entities. A draft regulatory evaluation has been prepared and has been placed in the public docket. A copy of it may be obtained by contacting the individual identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

Lockheed: Applies to Lockheed Models 382, 382B, 382E, 382F, and 382G series Hercules airplanes with Lockheed serial number 4134, 4147, 4208, 4248, 4250, 4299, 4300, 4301, 4303, 4302, 4383, 4384, 4388, 4391, 4472, 4477, 4558, 4561, 4565, 4586, 4590, and 4763.

Caution: The fire extinguisher squibs are similar to a pistol cartridge. The squibs contain an explosive charge which could cause injury or death if accidentally fired. Do not expose squibs to heat or an electric

current or strike or drop squibs. Failure to comply may result in serious injury or death to personnel.

Compliance is required within 30 days after the effective date of this AD, unless already accomplished.

To preclude misfiring of fire extinguisher systems, accomplish the following:

A. Inspect each fire extinguisher squib (two per airplane) in accordance with Lockheed Alert Service Bulletin A382-26-4 dated October 4, 1984, to determine part number and loading date. Squibs having Halex part number 4199-1 (Lockheed number 695679-15) and having a loading date of 1/84, must be replaced with a serviceable squib prior to further flight, except as provided in paragraph B, below.

B. If a serviceable replacement squib is not available, a part number 4199-1 squib having a loading date of 1/84 may be used during the interim, provided the following is accomplished:

1. Make a resistance measurement of the squib in accordance with applicable maintenance instructions of Lockheed Alert Service Bulletin A382-26-4, dated October 4, 1984, before the aircraft is returned to service, and every 30 days thereafter, until an acceptable replacement squib has been installed or until the squib reaches its life limit, whichever occurs first.

2. Ensure that the resistance measurement is, and remains at each 30 day check, within the tolerances specified in the applicable maintenance instructions referred to in Lockheed Alert Service Bulletin A382-26-4, dated October 4, 1984.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Atlanta Aircraft Certification Office, FAA, Central Region.

(Secs. 313(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) [Revised Pub. L. 97-449, January 12, 1983]; and 14 CFR 11.85)

Issued in Seattle, Washington, on March 19, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-7039 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-23-AD]

Airworthiness Directives; HTL Advanced Technology Fire Extinguishers Installed on Boeing Models 707, 727, 737, 747, 757, and 767 Series Airplanes, and on Airbus Industrie Model A310 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require physical and x-ray inspections of certain HTL Advanced Technology fire extinguishers. The proposed AD is prompted by a report of an inadvertent ground firing of an engine fire extinguisher and the separation of the discharge outlet from the extinguisher. This action is necessary to minimize potential misfires of the fire extinguishers.

DATES: Comments must be received on or before April 8, 1985.

ADDRESSES: Send comments on the proposal in duplicate to FAA, Northwest Mountain Region, Office of Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-23-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from HTL Advanced Technology, 1800 Highland Avenue, Duarte, California 91010, Attention: J.W. Battis, Vice-President-Quality Assurance. This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long Beach, California 90808; telephone (213) 548-2835.

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 number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-23-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

A report was recently received of an inadvertent ground firing of an engine fire extinguisher in which the discharge outlet separated from the bottle and the fire extinguishing agent was then discharged into the wrong area. The reported incident occurred on an Airbus Industrie Model A310 airplane. However, the same or similar fire extinguishers are installed on Boeing Models 707, 727, 737, 747, 757, and 767. Subsequent inspections have been conducted by at least one operator and the Boeing Company. Reports of results indicate there are a number of defective installations.

This condition is likely to exist on numerous fire extinguishers installed on many airplane models in the engine, auxiliary power unit (APU), and cargo compartments. It presents a hazard in that a defective fire extinguisher would be unable to properly discharge, when required, to extinguish a fire. Therefore, an airworthiness directive (AD) is being proposed which would require compliance with the inspections described in latest revision of the following Alert Service Bulletins:

Alert Service Bulletin No.

35203000-28-A-3
35203010-26-A-1
35203016-26-A-2
35203018-26-A-2
35203021-26-A-2
35203022-26-A-2
35203030-26-A-1
35203037-26-A-3
35289950-26-A-1
35290250-26-A-2

It is estimated that approximately 5000 fire extinguishers on airplanes of U.S. registry would be affected by this AD. It would require 2 manhours per fire extinguisher to accomplish the required inspections, at an average labor cost of \$40 per manhour. Based on these figures, the total cost impact of this AD to U.S. registered owners is estimated to be \$400,000.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation

Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and 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 because few, if any, airplanes equipped with HTL Advanced Technology Fire Extinguishers are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects: 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

HTL Advanced Technology: Applies to HTL Advanced Technology Fire Extinguishers installed on Boeing Model 707, 727, 737, 747, 757, and 767 series airplanes, and on Airbus Industrie Model A310 series airplanes.

To preclude the potential for misfiring of the fire extinguisher, accomplish the following within one year after the effective date of this AD, unless already accomplished:

A. Complete the inspections specified in HTL Advanced Technology Alert Service Bulletins listed below, dated November 30, 1984, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region:

HTL Alert Service Bulletins

35203000-28-A-3
35203010-26-A-1
35203016-26-A-2
35203018-26-A-2
35203021-26-A-2
35203022-26-A-2
35203030-26-A-1
35203037-26-A-3
35289950-26-A-1
35290250-26-A-2

The inspections defined in these Alert Service Bulletins must be performed on all HTL extinguishers of the part numbers listed in the bulletins.

B. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

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

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the HTL Advanced Technology, 1800 Highland Avenue, Duarte,

California 91010, Attention: J.W. Battis, Vice-President Quality Assurance. These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1982]; and 14 CFR 11.85)

Issued in Seattle, Washington, on March 19, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-7031 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 85-NM-24-AD]

Airworthiness Directives; McDonnell Douglas Model DC-10-15, -30 and KC-10A (Military) Series Airplanes, and CF6-50C-Powered Airbus Industrie Model A-300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM).

SUMMARY: This notice proposes a new airworthiness directive (AD) that would require installation of modified fuel flowmeter tube assemblies. This action is prompted by reports of failures of the fuel flowmeter tube assembly, which, if not corrected, could lead to engine flameout in flight.

DATE: Comments must be received no later than May 20, 1985.

ADDRESSES: Send comments to the proposal in duplicate to FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-24-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publication and Training, C1-750 (54-60). This information also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Roy A. McKinnon, Aerospace Engineer, Propulsion Branch, ANM-140L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 4344 Donald Douglas Drive, Long

Beach, California 90808; telephone (213) 548-2835.

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 number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received. All comments submitted with be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the FAA, Northwest Mountain Region, Office of the Regional Counsel, Attention: Airworthiness Rules Docket No. 85-NM-24-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

Discussion

There have been 34 occurrences of fuel flowmeter tube assembly failures reported, 20 of which have resulted in engine flameout in flight. Other failures were detected by ground inspection of fuel leaks. The fuel flowmeter tube assembly connects the main engine fuel control to the fuel flowmeter. The main engine fuel pump/control is mounted through a Quick Attach-Detach (QAD) ring to the gearbox. The fuel flowmeter is mounted directly to the fan case.

Any gearbox looseness or relative motion between the main engine fuel pump/control and the fuel flowmeter can cause tube failures. All of the failures examined to date have been attributed to fatigue. The fuel flowmeter tube assembly is excited at the fan frequency. The cracks detected have been initiated in a bend in the tube immediately adjacent to the fuel flowmeter. The cracks have been found to start at both inner and outer surfaces. After crack initiation, the tube vibrates at fan rotor frequency until failure occurs.

Since this conditions is likely to exist or develop on other airplanes of the

same type design, an airworthiness directive (AD) is being proposed which would require periodic inspections until compliance with McDonnell Douglas Alert Service Bulletin A73-20 dated January 7, 1985, is accomplished. All Airbus Industrie propulsion pod assemblies affected are included in the McDonnell Douglas Alert Service Bulletin A73-20.

It is estimated that 39 DC-10 airplane (3 engines per airplane) of U.S. registry, and 35 A-300 airplanes (2 engines per airplane) of U.S. registry would be affected by this AD. It is estimated that it would require approximately 7.7 manhours per airplane to accomplish the inspection, and 4.7 manhours per airplane to accomplish the required installation. The average labor cost is \$40 per manhour. The cost of the new tube assemblies is \$852 per tube (one tube per engine). Based on these figures, the total cost impact of this AD to U.S. registered owners is estimated to be \$158,816.

For these reasons, the FAA has determined that this document (1) involves a proposed regulation which is not major under Executive Order 12291 and (2) is not a significant rule pursuant to the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and 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 because few, if any, Model DC-10 and KC-10A (Military) series airplanes are operated by small entities. A copy of a draft regulatory evaluation prepared for this action is contained in the regulatory docket. A copy may be obtained by contacting the person identified under the caption "FOR FURTHER INFORMATION CONTACT."

List of Subjects; 14 CFR Part 39

Aviation safety, Aircraft.

The Proposed Amendment

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDonnell Douglas and Airbus Industrie:
Applies to McDonnell Douglas Model DC-10-15, -30, and KC-10A (Military) series and CF 6-50C powered Airbus Industrie Model A-300 series airplanes. Compliance is required as indicated.
To prevent failure of the fuel flowmeter tube assembly, accomplish the following, unless already accomplished.

A. Within the next 1000 flight hours after the effective date of this AD, inspect the fuel flowmeter tube assemblies in accordance with McDonnell Douglas Alert Service Bulletin A73-20, dated January 7, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region. Perform the inspection every 1000 flight hours until paragraph B., below, is accomplished. If any cracks are found, accomplish the requirements of paragraph B. before any further revenue flight.

B. Within one year after the effective date of this AD, install the fuel flowmeter tube assembly P/N-ASL0538-503 in accordance with McDonnell Douglas DC-10 Alert Service Bulletin A73-20, dated January 7, 1985, or later revisions approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

D. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, Los Angeles Aircraft Certification Office, FAA, Northwest Mountain Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to the McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Director, Publications and Training, C1-750 (54-60). These documents also may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at 4344 Donald Douglas Drive, Long Beach, California.

(Secs. 313(a), 314(a), 601 through 610, and 1102 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421 through 1430, and 1502); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.85)

Issued in Seattle, Washington, on March 19, 1985.

Charles R. Foster,

Director, Northwest Mountain Region.

[FR Doc. 85-7032 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 73

[Airspace Docket No. 85-AWA-13]

Proposed Alteration of Restricted Area R-6501A Underhill, VT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to change the times of use of Restricted Area R-6501A located in the vicinity of Underhill, VT, to indicate more accurately when the area is being utilized.

DATE: Comments must be received on or before May 10, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, New England Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWA-13, Federal Aviation Administration, 12 New England Executive Park, Burlington, MA 01803.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 918, 800 Independence Avenue, SW., Washington, D.C.

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWA-13." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 73.65 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) to change the time of use for Restricted Area R-6501A from continuous to a specific time of use. A review of R-6501A conducted by the Department of the Army indicated R-6501A is not used on a continuous basis. This would amend the time of designation to reflect actual times of use. Section 73.65 of Part 73 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 73

Aviation safety, Restricted areas.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.65 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as follows:

R-6501A Underhill, VT [Amended]

By removing the word "Continuous," and substituting the words "0700 to 2300 local

time, Monday-Friday and 0000 Saturday to 2359 Sunday, local time. Other times by NOTAM 24 hours in advance."

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

Issued in Washington, D.C., on March 19, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-7030 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 84-ASO-25]

Proposed Establishment of Jet Route J-207

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a jet route between Miami, FL, and Raleigh-Durham, NC, to improve traffic flow along the eastern seaboard and to provide an alternate north/south coastal route when missile/space launch and recovery activities preclude the use of the primary Atlantic Routes.

DATES: Comments must be received on or before May 10, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 84-ASO-25, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking

by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 84-ASO-25." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

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, or by calling (202) 426-8058. Communications must identify the notice of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to establish new Jet Route J-207 between Miami, FL, and Raleigh-Durham, NC, to relieve the present heavy flow of jet traffic operating in the Wilmington, DE, Charleston, SC, and Jacksonville, FL, areas. The new J-207 will facilitate a more efficient traffic flow in the north/south coastal corridor. The route will also serve as an alternate for such north/south traffic when missile/space launch and recovery activities preclude the use of the

primary Atlantic Routes. Section 75.100 of Part 75 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

List of Subjects in 14 CFR Part 75

Aviation safety; Jet routes.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as follows:

J-207 [New]

From Miami, FL, via INT Miami 335°T(335°M) and Navy Cecil, FL, 180°T(180°M) radials; Navy Cecil; Savannah, GA; Florence, SC; to Raleigh-Durham, NC. (Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on March 19, 1985.

John W. Baier,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-7029 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 240

[Release No. 34-21865; File No. S7-8-84]

Customer Protection Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule amendment.

SUMMARY: The Securities and Exchange Commission ("Commission") is proposing amendments to Rule 15c3-3 under the Securities Exchange Act of 1934 ("Act"). Under the rule, the broker-dealer is required to make a weekly computation (or in certain cases a monthly computation), as of the close of business Friday, to determine how much money it is holding which is either customer money or money obtained from use of customer securities (i.e., formula credits). From that amount the broker-dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers because of customer transactions (i.e., formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debits exceed the credits, no deposit is necessary. This process is commonly referred to as the Reserve Formula Computation.

The proposed amendments will, for purposes of the debit items of the Reserve Formula: (1) Exclude the debit balances of household members and other persons related to broker-dealer principals or affiliated in a certain way with a broker-dealer; (2) exclude, under certain circumstances, the debit balances of accounts in which "principals" of a broker-dealer have ownership interests; and (3) exclude the amount by which a broker-dealer's margin accounts receivable (a debit item) with a single customer exceeds twenty-five percent of the net capital of the broker-dealer prior to securities haircuts ("tentative net capital").

The proposed amendments are designed to assure that customers' funds and securities held by broker-dealers are protected against misuse or insolvency. The net effect of the proposed amendments will be to require that greater deposits be made in the Reserve Bank Accounts of some broker-dealers.

DATE: Comments to be received by May 3, 1985.

ADDRESSES: Persons wishing to submit written comments should file three copies thereof with John Wheeler, Secretary, Securities and Exchange Commission, 450 5th Street, N.W., Washington, D.C. 20549. References should be made to File No. S7-8-84. Copies of the submission and of all written comments will be available for public inspection at the Commission's Public Reference Room, 450 5th Street, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Michael A. Macchiaroli, or Steven J. Gray, Division of Market Regulation, 450

5th Street, N.W., Washington, D.C. 20549, (202) 272-2904.

SUPPLEMENTARY INFORMATION:

I. Introduction

The use of customer free credit balances¹ to finance the activities of broker-dealers has been a matter of concern to the Commission for some time. Over twenty years ago, the Report of Special Study of Securities Markets² summarized the Commission's finding that, with the exception of a few jurisdictions, no restrictions existed on the use of free credit balances. The Commission adopted Rule 15c3-2 in response to its findings. However, that Rule called only for disclosure and made no attempt to regulate the use of the free credit balances in the custody of broker-dealers. Based on the 1967-70 period of severe operational and financial problems for broker-dealers, Congress determined there existed a need for increased protection of customer funds. This led to the enactment of the Securities Investor Protection Act of 1970 ("SIPA") as a part of which Congress directed the Commission to adopt rules designed to protect customer funds in the custody of broker-dealers. After a series of proposed rules and extensive comments from broker-dealers and others, the Commission adopted the present Rule 15c3-3.

Rule 15c3-3 was designed to assure that customers' funds (as well as securities) held by broker-dealers are protected against broker-dealer misuse or insolvency. The rule requires, among other things, that a broker-dealer maintain with a bank or banks a "Special Reserve Bank Account for the Exclusive Benefit of Customers" ("Reserve Bank Account") and deposit in this account its reserve requirement as computed in accordance with the Formula for Determination of Reserve Requirement For Brokers and Dealers ("Reserve Formula"), Exhibit A of the Rule. In addition, before making a withdrawal from the Reserve Bank Account, a broker-dealer must make a computation which shows that after the withdrawal there is an amount remaining in the Reserve Bank Account at least equal to that required to be on deposit.

Under the Rule, a broker-dealer is required to make a weekly computation

¹ Free credit balances are liabilities of a broker-dealer to customers which are subject to immediate cash payment to customers on demand, whether resulting from sales of securities, dividends, interest, deposits or otherwise.

² Report of Special Study of Securities Markets of the Securities and Exchange Commission, House Doc. No. 95, Pt. 1, 88th Cong., 1st Sess. (1963) pp. 393-397.

(or in certain cases a monthly computation), as of the close of business Friday, to determine how much money it is holding which is either customer money or money obtained from the use of customer securities (i.e., formula credits). From that amount the broker-dealer subtracts the amount of money it is owed by its cash or margin customers or by other broker-dealers and certain other entities because of customer transactions (i.e., formula debits). If the credits exceed the debits, the broker-dealer must deposit the excess by Tuesday morning in a Reserve Bank Account. If the debits exceed the credits, no deposit is necessary.

One of the purposes of the Reserve Formula is to ensure that customers' funds held by a broker-dealer are deployed only in areas of the broker-dealer's business related to servicing its customers (i.e., debit items in the Reserve Formula) or, to the extent that the funds are not deployed in these limited areas, that they be deposited in a Reserve Bank Account. Thus, the Reserve Bank Account includes all funds held by a broker-dealer that have as their source customer assets and which have not been utilized to finance the broker-dealer's customer related transactions. The rule makes it unlawful for a broker-dealer to accept or use customer funds to finance any part of its proprietary business activities.³ This prohibition applies as well to transactions of principal officers, directors, and general partners ("principals") of a broker-dealer and thereby prevents the broker-dealer from using customer funds to finance the insiders' own personal investment activities.

Recent events, particularly the financial failures of two broker-dealers,⁴ have caused renewed concern in the area of misuse of customer free credit balances. Proposed revisions to Rule 15c3-3 were recommended by a Committee of the Securities Industry Association ("SIA") in response to the problem of protecting customer free

³ One of the objectives of Rule 15c3-3 is to inhibit the unwarranted expansion of a broker-dealer's business through the use of customers' funds. During the 1967-70 period, many broker-dealers expanded their trading activities and office facilities through the use of customers' funds. Consequently, the rule prohibits the utilization of customers' funds and customer derived funds in areas of a broker-dealer's business such as underwriting, trading and overhead.

⁴ For information on the Bell and Beckwith and Stix & Co., Inc. failures respectively, see *United States v. Edward P. Wolfson, Jr.* Litigation Release No. 9952 (April 5, 1983) 27 SEC Docket 1066 and; *SEC v. Stix & Co., Inc.* Litigation Release No. 9517 (December 1, 1981) and *U.S. v. Massa, et al.* Litigation Release No. 9791 (October 25, 1982).

credit balances.⁶ Based on the SIA's concerns and the Commission's beliefs, the Commission proposed remedial revisions to Rule 15c3-3 in Securities Exchange Act Release No. 20655 (February 15, 1984).

The Commission received thirty-six comment letters on the proposed amendments. Many of the commentators supported the stated objective of the proposed amendments: to protect customers' funds held by broker-dealers from misuse or insolvency, and to ensure that those funds are used only to service bona fide customer accounts. Many of these same commentators however, thought that the costs of compliance (e.g., additional recordkeeping and financing costs) would exceed any benefits to be derived from the proposal or that the proposal would not contribute toward the attainment of the objective. In addition, several commentators were concerned with particular aspects of the original proposal. In light of the specific comments received, the Commission has modified the proposed amendments as discussed below.

II. Discussion

In its Release, the Commission proposed three amendments to Rule 15c3-3. Each of these amendments is described below, along with a summary of the comments received and the modified amendments proposed for public comment in this release.

The Commission believes that if the modified amendments proposed below had been in place, certain broker-dealer liquidations which cost the Securities Investor Protection Corporation and, indirectly through assessments, the broker-dealer community many million dollars might have been avoided.⁶ However, the Commission is aware that the proposed amendments will result in some additional compliance costs for broker-dealers. Therefore, the Commission seeks comments on whether the revised amendments will further the objectives of the rule and do so in a cost effective manner. Among other things, the Commission solicits comment on whether the proposed amendments will prove useful in addressing the kind of fraudulent misuse of customer funds exhibited by Stix & Co. and Bell and Beckwith. In addition, the Commission seeks comment on the

extent of the anticipated compliance costs associated with the proposed amendments. The Commission urges commentators to be as specific as possible in identifying and estimating the costs of compliance with the proposed amendments.

A. Household Members, Related Persons and Affiliates

As stated in its prior release, the Commission is concerned that certain broker-dealer principals have been able to utilize the securities accounts of family members (or persons under their control) or affiliates to circumvent the prohibition against the use of customer funds held by their firms (i.e., credit items in the Reserve Formula) to finance their own securities activities. The Commission is concerned that, as was the case in the firm failures referred to above, this financing activity can lead to a reduction or total elimination of the broker-dealer's reserve deposit requirements to the possible detriment of bona fide public customers.

The Commission thus proposed to add a paragraph to Note E of the Reserve Formula which would provide that:

"the debit balances in the accounts of household members and other persons related to principals of a broker-dealer or affiliated with a broker-dealer are not 'customer' debit balances, and therefore should not be included in the Reserve Formula, unless it can be shown that such debit balances are directly related to formula credit items for those same persons."

The Commission proposed to define the terms "household members and other persons related to * * *" to include parents, mothers-in-law or fathers-in-law, husbands or wives, brothers or sisters, brothers-in-law or sisters-in-law, children or any relative to whose support the broker-dealer principal contributes directly or indirectly.

Several of the commentators noted that the term "broker-dealer principal" needed to be precisely defined. The term was designed to include partners, directors and principal officers of a broker-dealer. The term "principal officer" has been defined to include the president, executive vice president, treasurer, secretary or any persons performing a similar function with such broker-dealer.⁷ The Commission now proposed that the term "principal" include the general partners and directors of a broker-dealer and its principal officers as presently defined.

Other commentators suggested that "household members and other persons

related to * * *" be considered "non-customers" for purposes of Rule 15c3-3. Such an approach would result in the exclusion of both the debits and credits associated with the particular account. While appealing because of its simplicity, this approach ignores the fact that regardless of how they are treated for the Reserve Formula, those household members and relatives would be "customers" for purposes of SIPA.⁸ Accordingly, under SIPA they would share in the pool of customer assets available in the event of a broker-dealer liquidation. The Commission believes, therefore, that it would be inappropriate to exclude the credit items of household members and other related persons.

Some commentators suggested that the proposed definition for "household members and other persons related to * * *" was too broad and that a narrower definition would be more appropriate. Only one commentator, however, suggested an alternative to the proposed definition. That commentator would only include parents, spouses and minor children in the definition. The Commission believes that definition would be too restrictive and would not necessarily eliminate the ability of principals of a broker-dealer to accomplish indirectly what Rule 15c3-3 prohibits them from doing directly. The Commission believes the broader definition of "household members and other related persons" would not overly burdensome particularly since it is the same definition as that used in the rules of the National Association of Securities Dealers, Inc. (NASD).⁹ Consequently, the Commission is reproposing its original proposed definition of "household members and other related persons" for public comment.¹⁰ But the Commission again seeks comment not only on the appropriateness of the proposed definition but also possible alternative definitions.

In the prior release, the Commission also took note of the fact that the persons (other than principal officers, directors or partners) controlling a broker or dealers, such as its parent, or under its control or under common control are "customers" of the broker-dealer for purposes of Rule 15c3-3. Since this is equivalent to having bona fide customers finance the activities of the broker or dealer itself, it was proposed

⁶ See Section 16(2) of SIPA.

⁷ See "Free-Riding and Withholding" Interpretation of Article III, Section 1 Paragraph 2151 of the NASD's Rules of Fair Practice.

¹⁰ Unlike the original proposal, the present definition includes sons-in-law or daughters-in-law

⁶ The comments of the Committee are contained in its letter dated July 13, 1983 to James G. Stearns, Chairman of the Securities Investor Protection Corporation which has been included in Public File No. S7-B-84.

⁷ As of February 8, 1985, the failures of Bell and Beckwith and Stix & Co., Inc. cost the SIPC fund approximately \$60 million.

⁷ See Securities Exchange Release No. 9922, 38 FR 1737 (January 2, 1973).

to eliminate these debits from item 10 of the formula, except to the extent that the broker-dealer can demonstrate that such debit balances are directly related to formula credit items. No adverse comments were received on this aspect of the proposal. Nevertheless, commentators are again requested to comment on this aspect of the proposal.

B. Joint Accounts, Etc.

In Securities Exchange Act Release No. 20655 the Commission proposed a revision of an earlier interpretation (issued in Securities Exchange Act Release No. 9922) regarding the definition of the term "customer" for purposes of Rule 15c3-3. In that earlier release, a joint account, custodian account, participation in a hedge fund or limited partnership, or a similar type account or arrangement by a person who would be excluded from the definition of customer [*i.e.*, a general partner, director or principal officer of a broker-dealer] with persons includible in the definition of customer, was considered a customer's account. The proposal would have treated those accounts as non-customer accounts insofar as the debit items in the Reserve Formula were concerned, unless the broker-dealer demonstrated that the debits were directly related to formula credit items.

Several commentators suggested that this proposal was too broad in that a minimal interest held by a "non-customer" would result in the exclusion of the entire debit balance unless the broker-dealer demonstrated that the debits were directly related to formula credit items. Some suggested that the debit balance should be excluded only if the person defined to be a non-customer has a controlling interest in the account.

Based on the comments received, the Commission has modified its proposed note E(6) to the Reserve Formula as follows: If the non-customer has less than a five percent ownership interest in the subject account, then the entire debit balance will be included in the formula; if such percentage ownership is between five percent and fifty percent, then the portion of the debit balance attributable to the non-customer will be excluded from the formula and the remainder of the debit balance will be included in the formula, unless the broker-dealer can demonstrate that such debit balances are directly related to credit items in the formula; if such percentage ownership by a non-customer is greater than fifty percent, then the entire debit balance shall be excluded from the formula unless the broker-dealer can demonstrate that such debit balances

are directly related to credit items in the formula.

C. Concentration Provision

Finally, the Commission's proposal would have provided that debit balances in margin accounts must be reduced by the amount by which a single customer's margin debit balance exceeds ten percent of the aggregate of all debit balances in customers' margin accounts included in Item 10 of the Reserve Formula.

Many of the commentators stated that they believed that the proposed revision would be unfair to small and medium sized firms in that there would be a greater likelihood of a single customer comprising a significant percentage of the aggregate debit balances in those firms than would be the case in a larger firm. In particular, they believed that a firm should not be required to exclude a concentrated debit from the formula if it could demonstrate that such debit balance is directly related to credit items in the formula, as is the case with the Commission's other proposed revisions to the formula. In addition, many commentators believed that a concentration test tied to the firm's tentative net capital, rather than aggregate debits, would be a more appropriate means of measuring a firm's ability to manage the credit risk associated with any one account.

Several commentators suggested that reporting a concentrated debit to the broker-dealer's self-regulatory organization (possibly as part of the monthly FOCUS Report) might be an alternative to the revision proposed by the Commission. Other commentators stated their belief that any concentration charge should take into account the quality, diversity, and marketability of the collateral securing the margin debit. Finally, some commentators stated their belief that the applicability of the concentration charge to omnibus accounts was unclear.

Based on the comments received, the Commission believes it appropriate to modify the proposed concentration provision. First, the proposed amendment will make clear that a concentrated debit balance may be included in the formula to the extent that it is directly related to credit items in the formula. Second, the concentration charge will be based on the amount of the broker-dealer's tentative net capital rather than its overall margin debt and is proposed at a level of 25 percent. Finally, the modified concentration provision will make clear that the Commission does not intend it to apply to omnibus accounts.

The Commission believes its revised proposal is a more effective and less burdensome method of dealing with concentrated margin debits than either attempting to develop objective criteria for the evaluation of collateral securing such debits or creating additional reporting requirements. The Commission does not believe that it is feasible for it to develop objective criteria which would satisfactorily account for the quality, diversity, and marketability of the collateral securing margin debt in all cases.

The Commission is concerned that an additional reporting requirement will be burdensome and will not be as effective as the proposal in dealing with concentrated margin debt. The Commission does believe, however, that a flexible approach to the treatment of concentrated margin debits is appropriate and therefore proposes that, in situations where a broker-dealer is maintaining a margin debit which exceeds the threshold proposed herein, the broker-dealer may apply to its designated examining authority ("DEA") which may grant a partial or plenary exception from the concentration provision. The Commission believes this approach is preferable to an additional reporting requirement. The threshold level (twenty-five percent of a broker-dealer's tentative net capital) at which the concentration provision will become effective is high enough to ensure that only situations of extreme concentration of margin debits will be affected. A lower threshold would seem to be necessary for a reporting requirement in order to allow sufficient time to respond to problematic situations. The Commission seeks comment on this matter. Specifically, commentators are asked whether a reporting requirement would be an effective alternative to the concentration provision proposed and whether a reporting requirement would be preferable even if it meant a lower threshold (for example, ten percent of tentative net capital).

The DEA's exemptive authority also should permit the alleviation of any unnecessary burdens on smaller broker-dealers, where an analysis of the collateral securing the margin debt suggests that the concentration with one customer does not raise concerns over the financial stability of the broker-dealer. The Commission seeks comment on potential administrative problems with this aspect of the proposal. For example, how much time will the DEA's require for the review and what should be the status of the concentrated account during that time period? How should a change in the composition of

the collateral securing a concentrated debit balance be dealt with? For example, should the DEA's granting of an exception be conditioned on the broker-dealer's agreement to send notification of any change in the collateral?

III. Statutory Basis

Pursuant to the Securities Exchange Act of 1934 and particularly Sections 15(c)(3), 17 and 23(a) thereof, 15 U.S.C. 78o(c)(3), 78q and 78w(a), the Commission proposes to amend § 240.15c3-3 in Part 240 of Chapter II of Title 17 of the Code of Federal Regulations in the manner set forth below.

IV. Summary of Initial Regulatory Flexibility Analysis

The Commission has prepared an Initial Regulatory Flexibility Analysis in accordance with 5 U.S.C. 603 regarding the proposed amendments to Rule 15c3-3. The Analysis notes that the objective of the proposed amendments is to further the purposes of Rule 15c3-3 which are to assure that customer funds and securities held by broker-dealers are protected against broker-dealer misuse or insolvency. The Analysis states that the proposed amendments will subject small broker-dealers to some additional recordkeeping requirements and may require some broker-dealers to maintain additional customer money in their Reserve Bank Accounts. The Analysis notes that the Commission is specifically seeking comment on whether there should be exemptions from the coverage of the proposed amendments and whether the proposed threshold amount of \$50,000, below which the concentration provision regarding margin accounts would not be applicable, is appropriate or whether some other amount would be more appropriate.

A copy of the Initial Regulatory Flexibility Analysis may be obtained by contacting Steven J. Gray, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, (202) 272-2807.

Lists of Subjects in 17 CFR Part 240

Reporting and recordkeeping requirements, Securities.

V. Text of the Proposed Amendments

In accordance with the foregoing, it is proposed to amend 17 CFR Part 240 as follows:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

1. By revising paragraph (a)(1) of § 240.15c3-3, and by adding paragraphs (a)(11), (a)(12) and (a)(13), to read as follows:

§ 240.15c3-3 Customer protection—reserves and custody of securities

(a) * * *

(1) The term "customer" shall mean any person from whom or on whose behalf a broker or dealer has received or acquired or holds funds or securities for the account of that person. The term shall not include a broker or dealer or a registered municipal securities dealer. The term shall not include general partners or directors or principal officers of the broker or dealer or any other person to the extent that that person has a claim for property or funds which by contract, agreement or understanding, or by operation of law, is part of the capital of the broker or dealer or is subordinated to the claims of creditors of the broker or dealer. The term customer shall, however, include a broker or dealer to the extent that the broker or dealer maintains an omnibus account for the account of customers with the broker or dealer in compliance with Regulation T under the Securities Exchange Act of 1934.

(11) The term "principal officer" shall mean the president, executive vice president, treasurer, secretary or any other person performing a similar function with the broker or dealer.

(12) The term "household members and other persons related to principals" includes parents, mothers-in-law or fathers-in-law, husbands or wives, brothers or sisters, brothers-in-law or sisters-in-law, children, sons-in-law or daughters-in-law and any relative to whose support a principal contributes directly or indirectly. For purposes of this paragraph (a)(12), a principal shall be deemed to be a director, general partner, or principal officer of the broker or dealer.

(13) The term "affiliated person" includes any person who directly or indirectly controls a broker or dealer or any person who is directly or indirectly controlled by or under common control with the broker or dealer. Ownership of 10% or more of the common stock of the relevant entity will be deemed prima facie control of that entity for purposes of this paragraph.

2. By adding paragraphs 4, 5 and 6 to Note E of § 240.15c3-3a as follows:

§ 240.15c3-3a Exhibit A—formula for determination of reserve requirement for brokers and dealers under § 240.15c3-3.

Note E * * *

(4) Debit balances in cash and margin accounts of household members and other persons related to principals of a broker or dealer and debit balances in cash and margin accounts of persons affiliated with a broker or dealer shall be excluded from the Reserve Formula, unless the broker or dealer can demonstrate that such debit balances are directly related to credit items in the formula.

(5) Debit balances in margin accounts (except for omnibus accounts) shall be reduced by the amount by which any single customer's debit balance exceeds 25% (to the extent such amount is greater than \$50,000) of the broker-dealer's tentative net capital (i.e., net capital prior to securities haircuts) unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the Reserve Formula. Related accounts (e.g., the separate accounts of an individual, accounts under common control or subject to cross guarantees) shall be deemed to be a single customer's accounts for purposes of this provision. If the registered national securities exchange or the registered national securities association designated pursuant to 17 CFR 240.17d-1 as having responsibility for examining the broker or dealer ("designated examining authority") is satisfied, after taking into account the circumstances of the concentrated account including the quality, diversity, and marketability of the collateral securing the debit balances of margin accounts subject to this provision, that the concentration of debit balances is appropriate, then such designated examining authority may grant a partial or plenary exception from this provision. Each such designated examining authority shall make and preserve for a period of not less than three years a record of each exception granted pursuant to this provision which shall contain a summary of the justification for the granting of the exception.

(6) Debit balances of joint accounts, custodian accounts, participations in hedge funds or limited partnerships or similar type accounts or arrangements of a person who would be excluded from the definition of customer ("non-customer") with persons includible in the definition of customer shall be included in the Reserve Formula in the following manner: If the percentage ownership of the non-customer is less than 5 percent then the entire debit balance shall be included in the formula; if such percentage ownership is between 5 percent and 50 percent then the portion of the debit balance attributable to the non-customer shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balances is directly related to credit items in the formula; if such percentage ownership is greater than 50 percent, then the entire debit balance shall be excluded from the formula unless the broker or dealer can demonstrate that the debit balance is directly related to credit items in the formula.

By the Commission.

Dated: March 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-7128 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-241 (Kentucky-4)]

High-Cost Gas Produced From Tight Formations, Kentucky; Notice of Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission is authorized by section 107(c)(5) of the Natural Gas Policy Act of 1978, 15 U.S.C. 3301-3432 (1982) 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. Under section 107(c)(5), the Commission issued a final regulation designating natural gas produced from tight formations as high-cost gas which may receive an incentive price (18 CFR 271.703 (1983)). This rule established procedures for jurisdictional agencies to submit to the Commission recommendations of areas for designation as tight formations. This Notice of Proposed Rulemaking by the Director of the Office of Pipeline and Producer Regulation contains the recommendation of the Commonwealth of Kentucky that the "Corniferous-Big Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group be designated as tight formations under § 271.703(d).

DATES: Comments on the proposed rule are due on May 6, 1985. Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 4, 1985.

ADDRESS: Comments and requests for hearing must be filed with the Office of the Secretary, 825 North Capitol Street, NE., Washington, D.C. 20426.

FOR FURTHER INFORMATION CONTACT: Edward Gingold, (202) 357-5491, or C. W. Gray, Jr., (202) 357-8731.

SUPPLEMENTARY INFORMATION:

Issued March 20, 1985.

I. Background

On December 4, 1984, the Commonwealth of Kentucky (Kentucky) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703(1983)), that the "Corniferous-Big Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group located in Lawrence and Johnson Counties, Kentucky, be designated as tight formations. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Kentucky's recommendation that the "Corniferous-Big Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group be designated as tight formations should be adopted. Kentucky's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

Kentucky recommends that the "Corniferous-Big Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group in Lawrence and Johnson Counties in eastern Kentucky, except for excluded areas as shown on maps on file with the Commission, be designated as tight formations.

The "Corniferous-Big Six" formation is a lower Devonian through middle Silurian marine deposit with interbedded layers of dolomitic limestone, calcareous dolomite, and sandstone. Individual formations that comprise the interval from oldest to youngest are the (1) Keefer Sandstone, (2) Lockport Dolomite, (3) Salina Formation, (4) Helderberg Limestone, (5) Oriskany Sandstone, and (6) Onondaga Limestone. The interval is found between the underlying Silurian Rose Hill Shale and the overlying Devonian Ohio Shale. The average depth to the top of the "Corniferous-Big Six" Formation ranges from 2,900 feet in the east to 1,750 feet in the west and has a thickness ranging from 500 to 775 feet in the recommended area.

The "Clinton" Formation is a lower Silurian marine sandstone deposit. The interval is found between the overlying Rose Hill Shale and the underlying Brassfield Dolomite. The average depth to the top of the "Clinton" Formation ranges from 2,460 feet in the west to 4,050 feet in the east and has a thickness ranging from 0 to 35 feet in the recommended area.

III. Discussion of Recommendation

Kentucky claims in its submission that evidence gathered through information

and testimony presented at a public hearing in Frankfort convened by Kentucky on this matter demonstrates that:

(1) The average *in situ* gas permeability throughout the pay section of the proposed area is not expected to exceed 0.1 millidarcy;

(2) The stabilized production rate, against atmospheric pressure, of wells completed for production from the recommended formations, without stimulation, is not expected to exceed the maximum allowable production rate set out in § 271.703(c)(2)(i)(B); and

(3) No well drilled into the recommended formations is expected to produce more than five (5) barrels of oil per day.

Kentucky further asserts that existing State and Federal Regulations assure that development of the formations will not adversely affect any fresh water aquifers.

Accordingly, pursuant to the authority delegated to the Director of the Office of Pipeline and Producer Regulation by Commission Order No. 97, [Reg. Preambles 1977-1981] FERC Stats. and Regs. ¶30,180 (1980), the Director gives notice of the proposal submitted by Kentucky that the "Corniferous-Big Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group as described and delineated in Kentucky's recommendation as filed with the Commission, be designated as tight formations under § 271.703.

IV. Public Comment Procedures

Interested persons may comment on this proposed rulemaking by submitting written data, views or arguments to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before May 6, 1985. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79-76-241 (Kentucky-4) and should give reasons including supporting data for any recommendations. Comments should include the name, title, mailing address, and telephone number of one person to whom communications concerning the proposal may be addressed. An original and 14 conformed copies should be filed with Secretary of the Commission. Written comments will be available for public inspection at the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, D.C. during business hours.

Any persons wishing to present testimony, views, data, or otherwise participate at a public hearing should

notify the Commission in writing that they want to make an oral presentation and so request a public hearing. The person shall specify the amount of time requested at the hearing, and should file the request with the Secretary of the Commission no later than April 4, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formations.

Accordingly, the regulations in Part 271, Subchapter H, Chapter I, Title 18, Code of Federal Regulations, will be amended as set forth below, in the event the Commission adopts Kentucky's recommendation.

Kenneth A. Williams,

Director, Office of Pipeline and Producer Regulation.

PART 271—[AMENDED]

Section 271.703 is amended as follows:

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

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

2. Section 271.703 is amended by adding paragraph (d)(211) to read as follows:

§ 271.703 Tight formations.

(d) Designated tight formations.

(190) through (210) [RESERVED]

(211) "Corniferous-Bix Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group in Kentucky RM79-76-241 [Kentucky-4.

(i) Delineation of formations. The "Corniferous-Bix Six" Formation of the Hunton Group and the "Clinton" Formation of the Crab Orchard Group is found in Lawrence and Johnson Counties, Kentucky. Several areas in these counties are excluded from the designation and are shown on maps on file with the Commission.

(ii) Depth. The average depth to the top of the "Corniferous-Bix Six" Formation ranges from 2,900 feet in the east to 1,750 feet in the west and has a thickness ranging from 500 to 775 feet. It is overlain by the Devonian Ohio Shale and underlain by the Silurian Rose Hill Shale. The average depth to the top of the "Clinton" Formation ranges from 2,460 feet in the west to 4,050 feet in the east and has a thickness ranging from 0 to 35 feet. It is overlain by the Rose Hill

Shale and underlain by the Brassfield Dolomite.

[FR Doc. 85-7065 Filed 3-25-85; 8:45 am]

BILLING CODE 4717-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1304

Records and Reports of Registrants; Changes in Record Requirements for Individual Practitioners

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: Section 514 of the Diversion Control Amendments, which was included in the Comprehensive Crime Control Act of 1984 (Pub. L. 98-473), effective October 12, 1984, amends the Controlled Substances Act at 21 U.S.C. 827(c)(1)(A) and 21 U.S.C. 827(c)(1)(B). Section 827 of the Controlled Substances Act describes records which are required to be kept by DEA registrants. The amended paragraphs in section 827 listed above make certain recordkeeping requirements inapplicable to practitioners who dispense controlled substances in the lawful course of professional practice. The legislative history relating to these newly amended paragraphs states the purpose of the amendment is to clarify the recordkeeping requirements for practitioners and to remove the distinction between records required for narcotic and nonnarcotic controlled substances. The changes in 21 CFR 1304.03 are a direct reflection of the statutory amendment.

DATE: Written comments and objections must be received on or before April 25, 1985.

ADDRESS: Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative.

FOR FURTHER INFORMATION CONTACT: G. Thomas Gitche, Chief, Diversion Operations Section, Office of Diversion Control, Drug Enforcement Administration, 1405 I Street, N.W., Washington, D.C. 20537, (202-633-1216).

SUPPLEMENTARY INFORMATION: Title 21 Code of Federal Regulations 1304.03 (b) and (c) currently reflect the recordkeeping exceptions for individual practitioners found in 21 U.S.C. 827

(c)(1)(A) and (c)(1)(B) as they read prior to enactment of Pub. L. 98-473, the Comprehensive Crime Control Act of 1984. Contained within this new Act are the Diversion Control Amendments. These amendments to the Controlled Substances Act were enacted by Congress for the purpose of strengthening the authority to prevent diversion of controlled substances. This purpose is made clear in the legislative history of the amendments. The purpose of section 514 of the Diversion Control Amendments, which amends 827(c)(1)(A) and 827(c)(1)(B) of the Controlled Substances Act is to clarify and simplify the language describing the records required to be kept by practitioners who prescribe, administer and dispense controlled substances. One major change is the removal of the distinction between records required for narcotic versus nonnarcotic controlled substances. The amendments require the same records, or exempt the keeping of records, based on type of dispensing activity and not on type or schedule of controlled substances. The activity of prescribing controlled substances in Schedules II, III, IV and V continues to be exempt from recordkeeping under the Act. This is reflected in the revised 21 CFR 1304.03(c). Administering of controlled substances in Schedules II, III, IV and V only requires that records be maintained if the practitioner regularly administers and dispenses controlled substances to patients and also charges for such services. The charge may be a separate one, or included in a fee which includes all professional services. The provisions for records when controlled substances are administered are found in the newly revised 21 CFR 1304.03(d). Those individual practitioners who dispense controlled substances other than by prescribing or administering, for example, providing controlled substances to a patient to be taken at a later time, are required to keep records in the form specifically outlined in 21 CFR 1304.17b and 1304.24. Pursuant to the authority vested in the Attorney General by 21 U.S.C. 821 and 871(b) as delegated to the Administrator of the Drug Enforcement Administration and redelegated to the Deputy Assistant Administrator of the Office of Diversion Control by 28 CFR 0.100 and 0.104, the Deputy Assistant Administrator hereby proposes that 21 CFR Part 1304 be amended as follows:

List of Subjects in 21 CFR Part 1304

Drug traffic control, Reporting and recordkeeping requirements.

PART 1304—[AMENDED]

1. The authority citation for Part 1304 reads as follows:

Authority: Pub. L. 98-473; 98 Stat. 2074 (21 U.S.C. 827).

2. Section 1304.03 is amended by revising paragraphs (b) and (c), adding a new (d) and redesignating existing paragraphs (d), (e) and (f) as (e), (f) and (g) respectively:

§ 1304.03 Persons required to keep records and file reports.

(b) A registered individual practitioner is required to keep records, as described in § 1304.04, of controlled substances in Schedules II, III, IV and V which are dispensed, other than by prescribing or administering, in the lawful course of professional practice.

(c) A registered individual practitioner is not required to keep records of controlled substances in Schedules II, III, IV and V which are prescribed in the lawful course of professional practice, unless such substances are prescribed in the course of maintenance or detoxification treatment of an individual.

(d) A registered individual practitioner is not required to keep records of controlled substances listed in Schedules II, III, IV and V which are administered in the lawful course of professional practice unless the practitioner regularly engages in the dispensing or administering of controlled substances and charges patients, either separately or together with charges for other professional services, for substances so dispensed or administered. Records are required to be kept for controlled substances administered in the course of maintenance or detoxification treatment of an individual.

3. Section 1304.03 is further amended by changing the reference to paragraphs (d) and (e) in newly designated paragraph (g) to read paragraphs (e) and (f) respectively.

The Deputy Assistant Administrator hereby certifies that this proposal will have no significant impact upon small entities whose interests must be considered under the Regulatory Flexibility Act, 5 U.S.C. 601, et seq. A very small percentage of registered individual practitioners are regular dispensers of controlled substances. As some records are already required to be kept by the current regulation, the increased requirements for certain controlled substances are minimal.

Pursuant to section 3(c)(3) and

3(e)(2)(B) of the Executive Order 12291, this proposed action has been submitted for review by the Office of Management and Budget, and approval of that Office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501, et seq.

Dated: March 5, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85-6176 Filed 3-25-85; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Part 885

[Docket No. R-85-1227; FR-2066]

Loans for the Elderly or Handicapped; Interest Rate Adjustments

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

ACTION: Proposed rule.

SUMMARY: The Department is proposing to amend 24 CFR § 885.410(g), which governs the establishment of the interest rate for direct loans for housing for the elderly or handicapped under section 202 of the Housing Act of 1959. Under the proposed rule, the Secretary would set the interest rate for loans at or below a prescribed rate ceiling. The interest rate determination would be announced annually by placing a notice in the Federal Register. This notice would include a statement explaining the basis of the interest rate determination, if the interest rate is set below the prescribed rate ceiling.

DATE: Comments due: May 28, 1985.

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

FOR FURTHER INFORMATION CONTACT: Robert W. Wilden, Director, Assisted Elderly and Handicapped Housing

Division, 451 Seventh Street, SW., Room 6116, Washington, D.C. 20410, Telephone (202) 426-8730. [This is not a toll-free number.]

SUPPLEMENTARY INFORMATION: Section 202(a)(3) of the Housing Act of 1959 provides that a loan for housing for the elderly or handicapped shall bear interest at a rate, established by the Secretary of Housing and Urban Development, "which is not more than a rate determined by the Secretary of the Treasury taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt, computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percentum, plus an allowance adequate in the judgment of the Secretary [of HUD] to cover administrative costs and probable losses under the program." HUD's current regulation at 24 CFR 885.410(g) states that the Secretary will set the direct loan interest rate at the rate determined by the Secretary of the Treasury, plus an allowance at .25 percent per annum to cover administrative costs and probable losses.

In recent years, the Department has made annual amendments to § 885.410(g) to set a lower interest rate, in response to statutory amendments modifying section 202 of the Act. On March 4, 1982, the Secretary amended the regulation to continue the Fiscal Year 1981 rate (including the allowance for administrative costs and probable losses) at 9.25 percent for Fiscal Year 1982 (47 FR 9207). Similarly, on February 8, 1983 (48 FR 5721), December 23, 1983 (48 FR 56749) and January 22, 1985 (50 FR 2781), the Department amended § 885.410(g) to set the interest rate (and allowance) for section 202 loans at 9.25 percent for Fiscal Years 1983, 1984 and 1985, in accordance with the Further Continuing Appropriations Act, 1983 (Pub. L. 97-377), the Housing and Urban-Rural Recovery Act of 1983 (Pub. L. 98-181), and the Housing and Urban Development-Independent Agencies Appropriations Act, 1985 (Pub. L. 98-371).

To avoid further annual amendments to Part 885, the Department proposes to revise § 885.410(g) to state that the interest rate on section 202 loans will not exceed either: (1) The average interest rate on all interest-bearing obligations of the United States, as determined by the Secretary of the Treasury, plus an allowance of .25

percent per annum to cover administrative costs and probable losses; or (2) any applicable statutory ceiling on interest rates or allowances for administrative costs and probable losses established for section 202 loans. This amendment would also require the Secretary to annually announce the section 202 interest rate by placing a notice in the *Federal Register*. If the Secretary determines that the interest rate should be set below the rate ceiling, the *Federal Register* notice will explain the Secretary's rationale for the lower rate.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291 on Federal Regulation. Analysis of the rule indicates that it does not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under 24 CFR 50.20(1), an environmental finding is not necessary because statutory required establishment of interest rates is among matters categorically excluded from the environmental requirements of 24 CFR Part 50.

This rule was not listed in the Department's October 22, 1984 Semiannual Agenda of Regulations (49 FR 41684) published under Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance Program title and number is: Housing for the Elderly and Handicapped, 14.157.

Under section 605(b) of the Regulatory Flexibility Act, the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, since, if this rule becomes effective, the interest rate on section 202 loans would continue to be set at or below the rate that would be established under the existing regulations, and the rate would be established on the same basis as in the past.

List of Subjects in 24 CFR Part 885

Aged, Grant programs: Housing and community development, Handicapped, Loan programs: Housing and community development, Low and moderate income housing.

PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, in 24 CFR Part 885, § 885.410(g) would be revised to read as follows:

* * *

§ 885.410 Amount and terms of financing.

* * *

(g) *Loan interest rate.* (1) Loans shall bear interest at a rate established by the Secretary. The interest rate set by the Secretary shall not exceed either:

(i) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made, plus an allowance to cover administrative costs and probable losses under the program. (This allowance has been determined by the Secretary of Housing and Urban Development to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods); or

(ii) Any statutory ceiling on interest rates or allowances for administrative costs and probable losses for such loans as may be applicable.

(2) The Secretary of Housing and Urban Development shall annually establish the loan interest rate by publishing a notice of the rate in the *Federal Register*. If the Secretary sets a loan interest rate below the interest rate ceilings described under paragraph (g)(1), the *Federal Register* notice will include a statement explaining the basis for the interest rate determination.

(Sec. 202, Housing Act of 1959, 12 U.S.C. 1701q; sec. 7(d), Department of Housing and Urban Development Act, 42 U.S.C. 3535(d))

Dated: March 19, 1985.

Shirley McVay Wiseman,

General Deputy Assistant Secretary for Housing—Deputy Federal Housing Commissioner.

[FR Doc. 85-7042 Filed 3-25-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY Internal Revenue Service

26 CFR Parts 1, 31, and 54

[LR-145-84 and LR-216-84]

Limitation on Account of Depreciation and Investment Credit for Luxury Automobiles; Limitation When Certain Property Is Used for Personal Purposes; and Taxation of Fringe Benefits; Public Hearing

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations—clarification.

SUMMARY: This document provides clarification of a previously published notice of public hearing. The public hearing pertains to proposed tax regulations relating to the limitation on amount of depreciation and investment tax credit for luxury automobiles, and limitation when certain property is used for personal purposes (LR-145-84), and the taxation of fringe benefits (LR-216-84).

DATES: The public hearing will be held on three consecutive days, April 16-18, 1985. Outlines of oral comments must be delivered or mailed by Tuesday, April 2, 1985.

ADDRESS: The hearing will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Service Building, 1111 Constitution Avenue NW, Washington, D.C. Requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-145-84 or LR-216-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley or Cynthia Grigsby, Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224, telephone 202-566-3935 (not a toll-free call).

SUPPLEMENTARY INFORMATION: On Wednesday, February 20, 1985, the Internal Revenue Service published in the *Federal Register* (50 FR 7072) a notice of public hearing on proposed regulations. The regulations that are to be the subject of the hearing also were published in the *Federal Register* on February 20, 1985 (50 FR 7071 for LR-145-84 and 50 FR 7073 for LR-216-84).

Clarification

Although the principal subject of the hearing on April 16 will be the proposed regulations relating to the limitation on amount of depreciation and investment tax credit for luxury automobiles, and limitation when certain property is used for personal purposes, and the principal

subject of the hearing on April 17 and 18 will be proposed regulations relating to fringe benefits, because of the interrelationship of the subject matters and the desire of many to speak to both, those who wish to address both subjects will be expected to combine their comments at the hearing, rather than to appear on consecutive days.

To avoid any misunderstanding with respect to the total amount of time that will be allotted to each speaker at the hearing, this document clarifies that each speaker will be limited to a total of 10 minutes for the speaker's entire oral presentation, exclusive of time consumed by questions and answers, and that speakers who wish to address both proposals may allocate the 10 minutes between the two proposed regulations in any proportion the speaker may desire.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-7171 Filed 3-25-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF JUSTICE

28 CFR Part 18

Office of Justice Programs Hearing and Appeal Procedures

AGENCY: Office of Justice Programs, Justice.

ACTION: Proposed regulation, with request for comment.

SUMMARY: The Office of Justice Programs (OJP) proposes to revise the regulation for the hearing and appeal procedures of the Justice Assistance agencies. These include: The Office of Justice Programs (OJP); the National Institute of Justice (NIJ); the Bureau of Justice Statistics (BJS); The Bureau of Justice Assistance (BJA); the Office of Juvenile Justice and Delinquency Prevention (OJJDP); and the Office for Victims of Crime (OVC). The new regulation is necessary to reflect changes made by Congress in the authorizing legislation of these agencies. The proposed regulation will provide guidelines for the hearing and appeal process available to a block grant or formula grant applicant or recipient or a recipient of a categorical grant or cooperative agreement whose grant or cooperative agreement may be terminated.

DATE: Comments must be received on or before May 28, 1985.

ADDRESS: Mail Comments to: Office of General Counsel, Office of Justice Programs, U.S. Department of Justice,

633 Indiana Ave., NW., Room 1268, Washington, D.C. 20531.

FOR FURTHER INFORMATION CONTACT: Charles A. Lauer, 202/724-7792.

SUPPLEMENTARY INFORMATION: The changes to Title 28, Part 18 are proposed to implement three new legislative provisions and to otherwise simplify the appeal process.

The Justice Assistance Act of 1984, Title II, Chapter VI, Division I, of Pub. L. 98-473, 98 Stat. 1837 (Oct. 12, 1984) reauthorized and amended Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Crime Control Act). The amendments eliminated the Office of Justice Assistance, Research, and Statistics and the Law Enforcement Assistance Administration and established an Office of Justice Programs (OJP) and a Bureau of Justice Assistance (BJA). BJA will administer a criminal justice block and discretionary grant program. The National Institute of Justice and the Bureau of Justice Statistics (BJS) were reauthorized by the amendments. Section 802 of the Justice Assistance Act contains hearing and appeal provisions applicable to OJP, BJA, NIJ, and BJS under the express terms of the Crime Control Act.

The Juvenile Justice, Runaway Youth, and Missing Children's Act amendments of 1984, Title II, Chapter VI, Division II, of Pub. L. 98-473, supra, reauthorized and amended the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Juvenile Justice Act). The Juvenile Justice Act is administered by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), under the administrative authority of the Attorney General and with coordination and staff support services provided by OJP. Sections 223(d), 226, and 228(e) of the Juvenile Justice Act contain hearing and appeal provisions incorporating or comparable to those in Sections 802-804 of the Crime Control Act.

The Victims of Crime Act of 1984, Title II, Chapter XIV of Pub. L. 98-473, supra, established a Crime Victims Fund to be administered by the Attorney General. An Office for Victims of Crime has been established by the Attorney General in the Office of Justice Programs. Section 1407(f) of the Victims of Crime Act contains hearing and appeal provisions comparable to those in section 802 of the Crime Control Act.

The Justice Assistance Act of 1984 made two substantive changes to existing hearing and appeal provisions which had been implemented by 28 CFR Part 18. Section 802(b) (previously section 803(b)) was amended to eliminate access to a formal hearing process for applicants for categorical

grants. The Juvenile Justice amendments and the Victims of Crime Act provisions are comparable. Access to the statutory hearing process remains available to State block grant applicants for criminal justice block grants, State applicants for Juvenile Justice Act formula grant funds, and Victims of Crime Act State compensation or assistance programs.

This formal hearing process leads to a recommendation by a hearing officer and reconsideration by the responsible agency official, resulting in a "final" agency decision. The termination of any existing block, formula, or categorical grant or cooperative agreement remains an appealable action under all of the above referenced Acts and the revised 28 CFR Part 18. Categorical grant applicants are not provided access to the formal hearing process. A direct and informal request for reconsideration of the denial of categorical grant or cooperative agreement applications was deemed to be more appropriate, to take less time, and to be less costly to both the applicant and the agency.

The second substantive change, also provided in section 802(b), provides for the responsible agency official to take "final action without a hearing if, after an administrative review of the denial of such application or termination of such grant, it is determined that the basis for the appeal, if substantiated, would not establish a basis for awarding or continuing of the grant involved." This change is designed to avoid a waste of resources on frivolous or unsubstantiated appeals. Appellate court review is available to avoid abuse of this provision.

The OJP administrative appeal process continues to be unavailable to sub-grant applicants or recipients of a State agency administering one of the block, formula or victims assistance/compensation programs. These subgrant applicants or recipients must continue to pursue appropriate due process remedies under applicable State law and procedure.

The changes to Title 28 Part 18 are proposed to implement these new legislative provisions and otherwise simplify the appeal process.

This order is not a rule within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601-612. This order is not a "major rule" as defined by § 1.1 of Executive Order No. 12291, 3 CFR 127 (1981).

List of Subjects in 28 CFR Part 18

Administrative practice and procedure, Crime, Grant programs—law, Investigations, Law enforcement.

Title 28 of the Code of Federal Regulations is amended by revising Part 18 to read as follows:

**PART 18—OFFICE OF JUSTICE
PROGRAMS HEARING AND APPEAL
PROCEDURES**

Sec.

- 18.1 Purpose.
- 18.2 Application.
- 18.3 Definitions.
- 18.4 Preliminary hearings.
- 18.5 Hearings.
- 18.6 Conduct of hearings.
- 18.7 Discovery.
- 18.8 Recommended decision.
- 18.9 Final agency decision.
- 18.10 Rehearing.

Authority: Sections 801–804 of the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended (Pub. L. 90–351, as amended by Pub. L. 93–83, Pub. L. 93–415, Pub. L. 94–430, Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–157, and Pub. L. 98–473).

Section 223(d), 226 and 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended (Pub. L. 93–415, as amended by Pub. L. 94–503, Pub. L. 95–115, Pub. L. 96–509, and Pub. L. 98–473).

Section 1407(f) of the Victims of Crime Act of 1984, — U.S.C. —, Pub. L. 98–473, 98 Stat. 2176.

§ 18.1 Purpose.

The purpose of this regulation is to implement the hearing and appeal procedures available to State block or formula grant applicants or recipients and existing categorical grantees under sections 802 through 804 of Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended (Crime Control Act); sections 223(d), 226 and 228(e) of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended (Juvenile Justice Act); and section 1407(f) of the Victims of Crime Act of 1984 (Victims of Crime Act).

§ 18.2 Application.

(a) These procedures apply to all appeals and hearings of State formula or block grant applicants or recipients and all existing recipients of categorical grants or cooperative agreements requested under section 802 of the Justice Assistance Act; sections 223(d), 226 and 228(e) of the Juvenile Justice Act; section 1407(f) of the Victims of Crime Act; the nondiscrimination provision of section 809 of the Crime Control Act, or the cross-referenced provisions of the Emergency Federal Law Enforcement Assistance Program. The method of notifying recipients of their non-compliance with section 809 (the nondiscrimination provision of the Crime Control Act) is set forth at section

809 of the Crime Control Act, and 28 CFR 42.208.

(b) These procedures do not apply to hearings requested under the Public Safety Officers' Benefits Act, 42 U.S.C. section 3796, *et seq.* The hearing and appeal procedures available to claimants denied benefits under that Act are set forth in the Appendix to 28 CFR Part 32.

(c) These procedures do not apply to subgrant applicants or to recipients or third party beneficiaries of block or formula grants awarded to a State.

(d) These procedures do not apply to categorical grant applicants.

(e) These procedures do not apply to private sector/prison industry enhancement certification applicants; Regional Information Sharing Systems grant applicants; surplus Federal property certification applicants; or the State reimbursement program for Incarcerated Mariel-Cubans.

§ 18.3 Definitions.

(a) "Block or formula grant applicant or recipient" means an applicant for a grant awarded under the provisions of Part D of the Crime Control Act; Part B, Subpart I of the Juvenile Justice Act; and sections 1403 and 1404 of the Victims of Crime Act.

(b) "Categorical grant recipient" means a public or private agency which has received a research, statistics, discretionary, technical assistance, special emphasis, training, concentration of Federal effort or other direct Federal assistance award of grant funds.

(c) "Categorical grant applicant" means a public or private agency which has applied for a research, statistics, discretionary, technical assistance, special emphasis, training, concentration of Federal effort or other direct Federal assistance award of grant funds.

(d) "Grant" includes cooperative agreements and means a direct award of financial assistance from OJP, BJA, NIJ, OJJDP, BJS or OVC.

(e) "Crime Control Act" means the Omnibus Crime Control and Safe Streets Act of 1968, 42 U.S.C. 3701, *et seq.*, as amended.

(f) "Juvenile Justice Act" means the Juvenile Justice and Delinquency Prevention Act of 1974, 42 U.S.C. 5601, *et seq.*, as amended.

(g) "Responsible agency" means the organizational unit whose action is being appealed. This will be OJP, NIJ, BJS, OJJDP, BJA or OVC as appropriate. In hearings requested under the nondiscrimination provisions of the Crime Control Act, the responsible agency is OJP. In hearings requested to

contest block or formula grant denials or terminations or categorical grant terminations, the responsible agency is the organizational unit that took the action at issue: OJP, BJA, OJJDP, NIJ, BJS or OVC.

(h) "Responsible agency official" means the Assistant Attorney General, Office of Justice Programs (OJP); the Director, Bureau of Justice Assistance (BJA); the Director, National Institute of Justice (NIJ); the Director, Bureau of Justice Statistics (BJS); the Director, Office for Victims of Crime (OVC); or the Administrator, Office of Juvenile Justice and Delinquency Prevention (OJJDP), as appropriate.

(i) "Sub-grant applicant or recipient" means the State agency, unit of local government or private non-profit organization which applies for, or receives, a grant from a State agency which administers a block or formula grant.

(j) "Victims of Crime Act" means the Victims of Crime Act of 1984, — U.S.C. —.

§ 18.4 Preliminary hearings.

(a) A grantee determined to be in noncompliance with the nondiscrimination provisions of the Crime Control Act, the Juvenile Justice Act or the Victims of Crime Act may request a preliminary hearing within 90 days after receipt of the notification of noncompliance.

(b) The preliminary hearing shall be initiated within 30 days of the request.

(c) The sole issue to be adjudicated by the hearing officer is whether the grantee is likely to prevail on the merits of the issue at a full hearing requested under 28 CFR 42.215. The grantee shall have the burden of persuading the hearing officer that the grantee is likely to prevail on the merits.

(d) The hearing officer may permit the parties to argue the issue by briefs, oral argument, or the presentation of testimony and exhibits. The hearing officer shall accept as evidence documents and other exhibits which can reasonably be authenticated and subjected to cross-examination at a full hearing.

(e) The hearing officer shall make the final decision on the issue within 15 days after the conclusion of the preliminary hearing.

§ 18.5 Hearings.

(a) Whenever the responsible agency official finds that there has been a substantial failure to comply with:

(1) The provisions of the Crime Control Act, the Juvenile Justice Act, or the Victims of Crime Act;

(2) Regulations promulgated by the responsible agency pursuant to appropriate statutory authority; or

(3) A plan or application submitted in accordance with the provisions of the Crime Control Act, the Juvenile Justice Act, the Victims of Crime Act, or the provisions of any other applicable Federal act, regulation or guideline; the responsible agency shall notify the grantee or applicant State that all or part of its grant or subgrant will be terminated or suspended until the responsible agency is satisfied that there is no longer such failure.

(b) The notice shall contain:

- (1) A statement of facts sufficient to inform the party of the reasons for the agency's proposed action;
- (2) A statement of the nature of the action proposed to be taken; and
- (3) A reference of the available appeal rights.

(c) If a block or formula grant applicant or recipient or a categorical grant recipient wishes to appeal any action covered by paragraph (a) of this section it may request a review of the issues in controversy within 30 days after notice of termination, noncompliance or denial by writing to: Office of General Counsel, Office of Justice Programs, U.S. Department of Justice, 633 Indiana Avenue, NW., Room 1268, Washington, D.C. 20531.

(d) The request for a review shall contain:

- (1) A factual statement sufficient to inform the responsible agency of the nature of the issues involved;
- (2) A recital of the relief requested; and
- (3) A request for an oral hearing, or in the alternative, an opportunity to submit only written information or argument to a hearing officer.

(e) If the responsible agency official determines that basis for the appeal in paragraph (c) of this section would not, if substantiated, establish a basis for grant award or continuation, the official may take final agency action on the appeal.

(f) The responsible agency or its representative may attempt to informally resolve a controversy arising under this section prior to initiating a hearing. Unless it is expressly agreed otherwise, an agreement to attempt informal resolution does not waive the right to the formal hearing.

(g) If the responsible agency or its representative does not receive a request for a review within 30 days after notice has been sent, the opportunity for review is waived.

(h) All oral hearings requested under this section shall be held in Washington,

D.C., unless the hearing officer decides that the hearing could be conducted in a more expeditious, fair, or cost effective manner in another location.

(i) The responsible agency may suspend all or part of the grantee's funding pending the completion of the review process. If, at the conclusion of the review process, the responsible agency determines that the grantee is in compliance, it shall restore all previously suspended funding to the grantee.

(j) Any person may request the responsible agency official to determine whether a grantee has failed to comply with the terms of the statute under which the grant was awarded, agency regulations or the terms and conditions of the grant. The responsible agency may, in its discretion, conduct an investigation into the matter and, if warranted, make a determination of noncompliance. Only a grantee determined to be in noncompliance may request a compliance hearing.

§ 18.6 Conduct of hearings.

(a) A hearing officer appointed by the responsible agency official shall preside over the hearing. The hearing officer may be an administrative law judge, or an employee of the Department of Justice who was not involved in the administration, investigation or prosecution of the matter at issue. In hearings held under the nondiscrimination provisions of the Crime Control Act, the Juvenile Justice Act or the Victims of Crime Act, the hearing officer shall be an administrative law judge.

(b) If the hearing officer appointed is unacceptable to the appellant, it shall promptly inform the responsible agency official of the reasons for its position. The responsible agency official may select another hearing officer, or affirm the initial selection. In either case, the official shall inform the appellant of the reasons for the decision.

(c) The hearing officer shall have the following powers and duties:

- (1) The power to hold hearings and regulate the course of the hearings and the conduct of the parties and their counsel;
- (2) The power to sign and issue subpoenas and other orders requiring access to records;
- (3) The power to administer oaths and affirmations;
- (4) The power to examine witnesses;
- (5) The power to rule on offers of proof and to receive evidence;
- (6) The power to take depositions or to cause depositions to be taken;
- (7) The power to hold conferences under paragraph (d) of this section for

the settlement or simplification of the issues or for any other proper purpose;

(8) The power to consider and rule upon procedural requests and other motions, including motions for default;

(9) The duty to conduct fair and impartial hearings;

(10) The duty to maintain order;

(11) The duty to avoid unnecessary delay; and

(12) All powers and duties reasonably necessary to perform the functions enumerated in paragraphs (c)(1)-(11) of this section.

(d) The hearing officer may call upon the parties to consider:

(1) Simplification or clarification of the issues;

(2) Stipulations, admissions, agreements on documents, or other understandings which will expedite conduct of the hearing;

(3) Limitation of the number of witnesses and of cumulative evidence;

(4) Settlement of all or part of the issues in dispute;

(5) Such other matters as may aid in the disposition of the case.

(e) All hearings under this part shall be public unless otherwise ordered by the responsible agency official.

(f) The hearing shall be conducted in conformity with sections 5-8 of the Administrative Procedure Act, 5 U.S.C. 554-557.

(g) The responsible agency shall have the burden of going forward with the evidence and shall generally present its evidence first.

(h) Technical rules of evidence shall not apply to hearings conducted pursuant to this part, but rules designed to assure production of the most credible evidence available and to subject testimony to cross-examination shall be applied where reasonably necessary by the hearing officer. The hearing officer may exclude irrelevant, immaterial, or unduly repetitious evidence. All documents and other evidence offered or taken for the record shall be open to examination by the parties, and opportunity shall be given to refute facts and arguments advanced on either side of the issues. A transcript shall be made of the oral evidence except to the extent the substance thereof is stipulated for the record.

(i) During the time a proceeding is before a hearing officer, all motions shall be addressed to the hearing officer and, if within his or her delegated authority, shall be ruled upon. Any motion upon which the hearing officer has no authority to rule shall be certified to the responsible agency official with a recommendation. The opposing party may answer within such time as may be

designated by the hearing officer. The hearing officer may permit further replies by both parties.

§ 18.7 Discovery.

(a)(1) At any time after the initiation of the proceeding, the hearing officer may order, by subpoena if necessary, the taking of a deposition and the production of relevant documents by the deponent. Such order may be entered upon a showing that the deposition is necessary for discovery purposes, and that such discovery could not be accomplished by voluntary methods. Such an order may also be entered in extraordinary circumstances to preserve relevant evidence upon a showing that there is substantial reason to believe that such evidence could not be presented through a witness at the hearing. The decisive factors for a determination under this subsection, however, shall be fairness to all parties and the requirements of due process. Depositions may be taken orally or upon written questions before any person who has the power to administer oaths.

(2) Each deponent shall be duly sworn, and any adverse party shall have the right to cross-examine. Objections to questions or documents shall be in short form, stating the grounds upon which objections are made. The questions propounded and the answers thereto, together with all objections made (but not including argument or debate), shall be reduced to writing and certified by the officer before whom the deposition was taken. Thereafter, the officer shall forward the deposition and one (1) copy thereof to the party at whose instance the deposition was taken and shall forward one (1) copy to the representative of the other party.

(3) A deposition may be admitted into evidence as against any party who was present or represented at the taking of the deposition, or who had due notice thereof, if the hearing officer finds that there are sufficient reasons for admission and that the admission of the evidence would be fair to all parties and comport with the requirements of due process.

(b)(1) At any time after the initiation of the appeal, any party may serve upon any other party written interrogatories to be answered by the party served, or by an authorized representative of the party if the party served is a corporate or governmental entity. The party served shall furnish all information which is available to it.

(2) Each interrogatory shall be answered separately and fully in writing under oath by the party addressed or by an authorized representative. The time and manner of returning the

interrogatory shall be prescribed by the hearing officer.

§ 18.8 Recommended decision.

Within a reasonable time after the close of the record of the hearings conducted under § 18.6, the hearing officer shall submit findings of fact, conclusions of law, and a recommended order to the responsible agency official, in writing. The hearing officer shall promptly make copies of these documents available to the parties.

§ 18.9 Final agency decision.

(a) In hearings conducted under § 18.6, the responsible agency official shall make the final agency decision, on the basis of the record, findings, conclusions and recommendations presented by the hearing examiner.

(b) Prior to making a final decision, the responsible agency official shall give the parties an opportunity to submit the following, within thirty (30) days after the submission of the hearing officer's recommendations:

(1) Proposed findings and determinations;

(2) Exceptions to the recommendations of the hearing officer; and

(3) Supporting reasons for the exceptions or proposed findings or determinations; and

(4) Final briefs summarizing the arguments presented at the hearing.

(c) All determinations, findings and conclusions made by the responsible agency official shall be final and conclusive upon the responsible agency and all appellants.

§ 18.10 Rehearing.

(a) Any appellant dissatisfied with a final agency decision under § 18.9 may, within 30 days after the notice of the final agency decision is sent, request the responsible agency official to re-review the record, and present additional evidence which is appropriate and pertinent to support a different decision.

(b) If the responsible agency official finds that the appellant has:

(1) Presented evidence or argument which is sufficiently significant to require the conduct of further proceedings; or

(2) Shown some defect in the conduct of the initial hearing sufficient to cause substantial unfairness or an erroneous finding in that hearing, the responsible agency official may require that another oral hearing be held on one or more of the issues in controversy, or permit the dissatisfied party to present further evidence or argument in writing.

(c) Any rehearing ordered by the responsible agency official shall be conducted pursuant to §§ 18.5-18.8.

Lois Haight Herrington,
Assistant Attorney General,
March 8, 1985.

[FR Doc. 85-7095 Filed 3-25-85; 8:45 am]

BILING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A-3-FRL-2603-8]

Air Quality Implementation Plans; Delayed Compliance Orders; Proposed Approval of Administrative Order Issued by Pennsylvania Department of Environmental Resources to Container Corporation of America

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking; invitation for public comment.

SUMMARY: EPA has proposed to approve an Administrative Order issued by the Pennsylvania Department of Environmental Resources to Container Corporation of America. The Order requires the company to bring Volatile Organic Compounds (VOC) air emissions from its graphic arts facility in Upper Providence Township, Pennsylvania into compliance with certain regulations contained in the Federally approved Pennsylvania State Implementation Plan (SIP). The facility is located in a nonattainment area for ozone for which VOC emissions are a major contributor. Compliance is to be effected through a phased schedule of VOC reductions with full facility compliance to be achieved no later than December 31, 1985. Because the Order has been issued to a major source and permits a delay in compliance with provisions of the SIP, it must be approved by EPA before it becomes effective as a Delayed Compliance Order pursuant to the Clean Air Act (the Act). If approved by EPA, the Order will constitute an addition to the SIP. In addition, a source in compliance with an approved Order may not be sued under the Federal enforcement or citizen suit provisions of the Act for violations of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment on EPA's proposed approval of the Order as a Delayed Compliance Order.

DATE: Written comments must be received on or before April 25, 1985.

ADDRESSES: Comments should be submitted to Director, Air Management Division, EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107. The State Order, supporting material, and public comments received in response to this notice may be inspected and copied (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Joseph S. Arena, Environmental Scientist, Enforcement Policy and State, Coordination Section, Air Management Division, U.S. EPA Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, Telephone: (215) 597-6553.

SUPPLEMENTARY INFORMATION:

Container Corporation of America operates a graphic arts facility at Upper Providence Township, Pennsylvania. The Order under consideration addresses emissions from the two rotogravure printing processes, which are subject to section 129.67 of Title 25 of the Pennsylvania Code. The regulations limit the emissions of Volatile Organic Compounds (VOC), and is part of the Federally approved Pennsylvania State Implementation Plan. The Order requires final compliance with the regulation by December 31, 1985 through the use of low solvent coatings. Upon satisfying all provisions of the Order emissions of VOC will be reduced from current levels of 270 tons per year to less than 100 tons per year.

Because this Order has been issued to a major source of VOC emissions and permits a delay in compliance with the applicable regulation, it must be approved by EPA before it becomes effective as a Delayed Compliance Order under Section 113(d) of the Clean Air Act (the Act). EPA has reviewed the Order and has found that the Order does satisfy the requirements of this subsection.

EPA's review indicates that the Container Corporation facility is a major source of VOC emissions. The facility is unable to comply with regulations limiting emissions of VOCs codified at section 129.67 of Title 25 of the Pennsylvania Code, part of the Federally approved State Implementation Plan, because low solvent coatings are still being developed. The Order requires compliance with the regulation by December 31, 1985, 20 months after April 21, 1984, the date by which compliance is otherwise required. Prior to issuance of the Order, Pennsylvania provided an opportunity for public comment and hearing on the Order. The Order contains expeditious increments of

progress towards compliance and emission monitoring reduction requirements to avoid an imminent and substantial endangerment to health. Pennsylvania has determined that the Order requires the facility to comply with the State Implementation Plan whenever it is temporarily able to do so. The Order notifies Container Corporation of its liability for noncompliance penalties under Section 120 of the Clean Air Act, 42 U.S.C. 7420.

If the Order is approved by EPA, source compliance with its terms would preclude Federal enforcement action under Section 113 of the Act against the source for violations of the regulation covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provision of the Act (Section 304) would be similarly precluded. If approved, the Order would also constitute an addition to the Pennsylvania SIP. However, source compliance with the Order will not preclude assessment of any noncompliance penalties under Section 120 of the Act, unless the source is otherwise entitled to an exemption under Section 120(a)(2) (B) or (C).

All interested persons are invited to submit written comments on the proposed Order. Written comments received by the date specified above will be considered in determining whether EPA may approve the Order. After the public comment period, the Administrator of EPA will publish in the Federal Register the Agency's final action on the Order in 40 CFR Part 65.

[42 U.S.C. 7413, 7601]

Dated: March 14, 1985.

Stanley Laskowski,

Acting Regional Administrator, Region III.

[FR Doc. 85-7086 Filed 3-25-85; 8:45 am]

BILLING CODE 6550-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 Part 1

[MM Docket No. 85-41; RM-4864]

Table of Assignments To Change Noncommercial Educational Reservations; Correction

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; correction.

SUMMARY: This action corrects the Notice of Proposed Rule Making in MM Docket No. 85-41 (FCC 85-73, RM-4864), adopted February 14, 1985, 50 FR 10817 (March 18, 1985) proposing to amend the Commission's Rules to establish a

procedure to modify licenses of commercial and noncommercial educational television stations pursuant to exchange agreements in the course of rule making proceedings. The Notice is corrected to change the rule sections referenced in paragraph 17 of the Notice to read §§ 1.415 and 1.419. In addition, the comment/reply comment period is corrected.

DATES: Comments are now due by June 17, 1985 and replies by July 17, 1985.

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

FOR FURTHER INFORMATION CONTACT: Rose Perez, (202) 632-7792, or Joel Rosenberg, (202) 634-6530, Mass Media Bureau.

SUPPLEMENTARY INFORMATION:

Erratum

In the matter of Amendments to the Television Table of Assignments to Change Noncommercial Educational Reservations; MM Docket No. 85-41, RM-4864.

Released: March 18, 1985.

The Notice of Proposed Rule Making in the above-captioned proceeding (FCC 85-73, MM Docket No. 85-41, RM-4864, adopted February 14, 1985 and released March 8, 1985) IS CORRECTED to change the filing deadlines and Sections of the Commission's Rules listed in paragraph 17 of the Commission released copy.

The first sentence of Paragraph 17 is amended to read as follows:

17. Pursuant to §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before June 17, 1985, and reply comments on or before July 17, 1985.

The remainder of the text is the same.

Federal Communications Commission.

William J. Tricarico,
Secretary.

[FR Doc. 85-7110 Filed 3-25-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Parts 42 and 43

[CC Docket No. 78-302; FCC 83-33]

Changes Regarding Provisions for the Reporting of Detailed Traffic Statistics of Telephone Common Carriers

Correction

FR Doc. 85-6581 published on page 11161 in the issue of Wednesday, March 20, 1985, appeared in the Rules section; however, it should have appeared in the Proposed Rules section.

BILLING CODE 1505-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Ch. 5

Multiple Award Schedule Procurement

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed acquisition policies.

SUMMARY: This notice invites written comments on proposed clarifications and revisions to the General Services Administration (GSA) Multiple Award Schedule (MAS) policy statement of October 1, 1982, (47 FR 50242, November 5, 1982). The proposed clarifications and revisions are based on the results of an internal GSA review of the MAS policies and procedures in that policy statement and their implementation in the MAS contracting program. The revised MAS policy statement will alleviate difficulties encountered in implementing the MAS policies; further reduce the paperwork burden on industry and Government; and continue to ensure that the Government's interests are adequately protected when contracting under the MAS program.

DATES: Comments are due on or before April 25, 1985.

ADDRESS: Comments should be addressed to Mr. Allan W. Beres, Assistant Administrator for Acquisition Policy, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: Mr. Edward J. McAndrew, Office of GSA Acquisition Policy and Regulations, Office of Acquisition Policy, (202) 566-1224.

SUPPLEMENTARY INFORMATION:

Background

On September 27, 1982, the General Services Administration (GSA) issued a statement of policy concerning the negotiation of multiple award schedule (MAS) contracts. The policy statement was issued after considering public comments received from parties interested in the MAS program. After a year's experience of operating under the new policy, a review to evaluate the impact of the policies was made to determine whether modifications were necessary. To conduct the review, GSA reconvened the MAS task group that had developed the original policy statement. This task group included representatives from GSA's Office of Acquisition Policy, Office of Federal Supply and Services, Office of Information Resources Management, Office of the General Counsel and

Office of the Inspector General. Its recommendations are reflected in this proposed revision of the MAS policy statement.

Other Information

The complete text of the revised MAS policy statement, on which public comment is being solicited, appears at the end of this Federal Register notice. The revised policy statement and attachments, i.e., the MAS Pricing Guide (Attachment I) and the Discount Schedule and Marketing Data sheets (Attachment II), are in the same format as the current MAS policy statement. The following is a summary of the significant clarifications and revisions proposed:

1. Elimination of the distinction between participating and nonparticipating dealers in establishing the Government's negotiation objective. (Section II, paragraph 1 of the policy statement).
2. Deletion of the language in the definition of the most favored customer discount which some parties have interpreted as a categorical exclusion for dealers/distributors and OEM's from consideration in establishing the Government's negotiation objective. (Section II, paragraph 1 of the policy statement).
3. Implementation of section 903, Pub. L. 98-63, prohibiting the identification of the Congress, its offices or instrumentalities as the customer upon which price reductions will be based under the MAS price reductions clause. (Section III, paragraph 1 of the policy statement).
4. Clarification of the type of information required on the Discount Schedule and Marketing Data sheets to include business activity and transactions over the maximum order limitation (MOL). (Sections III, paragraph 1 of the policy statement).
5. Establishment of a dual certification requirement on sales, discount and marketing data submitted with initial proposal and, at the conclusion of negotiations, on information provided during negotiations, including any changes to data initially submitted with the proposal. (Section III, paragraph 3 of the policy statement).
6. Deletion of the coverage from the policy statement on the consideration to be given dealer/distributor and OEM discounts in developing the Government's negotiation objective in order to give GSA Contracting offices the management flexibility needed to analyze offers and determine the Government's negotiation objective under these circumstances. (Section IV

of the original MAS policy statement is deleted in its entirety.)

7. Establish policy to exclude discounts to educational institutions from consideration in establishing the Government's negotiation objective where the items to which the discount applies are used for educational purposes and such discount is also offered to Government educational institutions. (Section IV of the revised policy statement.)

8. Modification of the Price Reductions clause to require reporting price reductions affecting the customer or category of customers identified as the basis of negotiations rather than reporting all price reductions; to clarify the effective dates and notification requirements for price reductions; to clarify the end of the contract certification requirement for price reductions. (Section VII of the policy statement).

9. Revisions of the MAS Pricing Guide (Attachment I to the policy statement) to be consistent with the changes in the MAS policy statement.

10. Revision of the Discount Schedule and Marketing Data sheets (Attachment II to the policy statement) to clarify the type of discount and price information required where the lowest prices are not based on discounts from established price lists or are based on discounts from price lists other than the price list to which the Government's discount applies; and to delete certain information requirements on the dealer's role on marketing products to the Government, the offeror's assessment of the Government's warranty with their commercial warranty, and installation and instructions offered.

11. Replacement of Federal Procurement Regulations (FPR) citations in the MAS policy statement and attachments with the appropriate Federal Acquisition Regulation (FAR) citations.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration (GSA) certifies that this document would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.) Therefore, no regulatory flexibility analysis has been prepared. The information collection requirements in this rule has been

submitted to OMB for approval under 44 U.S.C. 3501 et. seq.

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

The complete text of the revised MAS policy statement follows:

Dated: March 15, 1985.

Allan W. Beres,
Assistant Administrator for Acquisition Policy.

Policy Statement on Multiple Award Schedule

CONTRACT PRICING ARRANGEMENTS

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CONTRACT PRICING ARRANGEMENTS

I. Introduction

This policy statement addresses certain significant issues concerning the establishment and maintenance of pricing arrangements under multiple award schedule (MAS) contracts for supplies and services. Except where otherwise stated, this policy statement applies to the Office of Information Resources Management (OIRM) and the Office of Federal Supply and Services (FSS) MAS contracts.

In providing supply support to customer agencies, GSA is responsible for determining the best method of such support. GSA will continue to review its MAS contracts to ensure that the appropriate method of procurement is used to obtain maximum competition, beneficial pricing, and satisfactory support to customer agencies.

When GSA provides supply support through the MAS program, it acts as the contracting agent for all Government organizations authorized to use MAS contracts. Customer agencies should be able to buy schedule items at prices that are better than they could obtain from any other source under similar circumstances. In its role as the Government's contracting agent, GSA will attempt to obtain beneficial pricing arrangements with vendors, consistent

with the Government's large volume of purchases.

II. MAS Contract Pricing Arrangements

The Government's objective in negotiating MAS contract pricing arrangements is to obtain a discount from a firm's established catalog or commercial price list which is equal to or greater than the discount given to that firm's most favored customer. The most favored customer (MFC) discount is equal to the best discount given by a firm to any entity with which that firm conducts business.

However, under certain circumstances, the contracting officer may consider an award where the discount offered to the Government is not equal to or greater than a firm's MFC discount. This recognizes that there are situations where the Government's terms and conditions may be different from those given the firm's most favored customer. Such difference may be meaningful in terms of pricing the contract. Offerors may cite factors that they claim make the Government different from other customers with which they do business. In these situations, it is the offeror who must provide information identifying such factors, the valuation of the factors identified and the method used for developing the valuation. Contracting officers shall obtain information necessary to judge whether these factors and their valuation are reasonable, in order to support any modification of the Government's negotiation objective. The decision to modify a negotiation objective is solely within the discretion of the Government.

Offerors and contracting officers should understand that there is no guarantee that every offeror who submits an offer will receive a contract. In the event that the Government's negotiation objective cannot be met, the contracting officer must exercise judgment in deciding whether to reject an offer. In exercising this judgment, the contracting officer must weigh the effect that the rejection of the offer will have on meeting the Government's needs.

In any event, GSA will not award an MAS contract to a firm that does not give the Government a price equal to the best price given or available to its large volume end user customers with comparable terms and conditions, except where the Government's overall volume of purchases does not warrant the best price given to end user customers.

In all MAS contracts, the contracting officer is required to make an affirmative determination that the prices

offered to the Government are fair and reasonable (FAR 15.803(c)).

III. Discount Schedule and Marketing Data

MAS solicitations will require offerors to submit all information on sales, discounts and marketing practices. The required information will be submitted for the twelve month period specified in section VII of the Discount Schedule and Marketing Data sheets. The offeror is required to submit such information regardless of whether it applies to business activity and transactions over the MAS maximum order limitation (MOL). Further, offerors are required to submit such information on its business activity and transactions with the Congress of the United States, including any of the offices or instrumentalities of the Congress. Public Law 98-63, section 903 (2 U.S.C. 111b), does not preclude obtaining such information from the offeror in the negotiation process. This section of the Public Law 98-63 does preclude identifying the Congress and its offices or instrumentalities as the customer upon which the MAS contract was predicated (see Para. VII of this policy statement on Price Reductions).

The required information will be used by the Government to determine whether the products or services offered meet the tests of commerciality, to analyze the offeror's proposal, establish the Government's negotiation objective and to determine price reasonableness.

Offerors will certify, as part of their initial proposals, that sales, discount and marketing data submitted with their initial proposals is complete, current and accurate as of the date the proposal is submitted. At the conclusion of negotiations, offerors will certify that: (1) information provided to the Government during the negotiation process is current, complete and accurate; and (2) any changes to the sales, discount and marketing data submitted with initial proposals were reported to the contracting officer along with the reasons for the changes and such data is current, complete and accurate.

Failure to submit the required sales, discount and marketing data or failure to certify to the completeness, currency and accuracy of such data will result in no award. If, subsequent to award, the required data is found not to be complete, current and accurate, the defective pricing clause will be activated and consideration will be given to cancelling the MAS contract if still in effect.

The tests of commerciality must be met before a catalog price exemption

from the submission of cost or pricing data can be granted. (FAR 15.804-3(c)). FAR 15.804-3(f) contains the quantified criteria for these tests and shall be used as the basis for the catalog price exemption.

Offerors will be able to certify to those products or services meeting these tests of commerciality in the Discount Schedule and Marketing Data sheets. Information will only be required on a representative sample of the best selling items. Data will be required on all other items offered under the solicitation that are not certified as commercial in accordance with the criteria in FAR 15.804-3(c) and 15.804-3(f). Cost or pricing data shall be required where sales of a product or service to the general public do not exceed 35 percent of total sales of that product or service (FAR 15.804-3(f)); or, where the price cannot be considered "based on" established catalog or market prices of commercial items sold in substantial quantities to the general public in accordance with FAR 15.804-3(c)(6).

Even though an item qualifies for an exemption from the submission of cost or pricing data, price analysis must be performed to determine the reasonableness of price and the need for further negotiations (FAR 15.804-3(h)).

IV. Discounts to Educational Institutions

Where an offeror's most favored customer pricing arrangement is given to a customer or category of customers identified as "Educational Institutions" and the items are to be used for educational purposes, the Government's negotiation objective will be other than the pricing arrangement to the educational institution. The Government's negotiation objective under these conditions will be the offeror's next best pricing arrangement. However, to be considered for a MAS contract, the offeror must also offer the same pricing arrangement that it grants to other educational institutions to the Government for its educational institutions when the items are to be used for educational purposes.

V. Quantity and Aggregate Discounts

In establishing negotiation objectives and in the negotiation process, emphasis will be placed on obtaining discounts based on the aggregate volume of sales for an MAS contract. Negotiation objectives will be established to obtain volume discounts in line with the discounts available to the offeror's other customers. In developing negotiation objectives based on the aggregate volume of sales, consideration may be given to taking discounts on aggregate volume of sales at the conclusion of the

contract period, although it is preferred that the discounts be obtained when orders are placed.

VI. Maximum Order Limitation (MOL)

All MAS contracts will contain an MOL. The level at which the MOL is established will depend upon the Government's discount arrangement under the schedule and the estimate of sales volume above which suppliers are likely to quote lower prices in other types of contracts. The contracting officer will establish the MOL level for the contract at the conclusion of negotiations.

VII. Price Reductions

All MAS contracts will contain the price reductions clause contained in this document. The price reductions clause is intended to maintain the relationship that was established at the time of award between the Government and the offeror's customer or category of customer upon which the MAS contract was predicated. The contracting officer will identify at the conclusion of negotiations, the customer or category of customers upon which the MAS contract was predicated. In this regard, the Congress of the United States, including any of the offices or instrumentalities of the Congress, shall not be identified as the basis of an MAS contract for purposes of the price reduction clause. This implements Public Law 98-63, Section 903 (2 U.S.C. 111b), which excludes the Congress, its offices or instrumentalities from the operation of the price reductions clause. This is an offeror's only customer not eligible to be identified as the basis of an MAS contract.

After the conclusion of negotiations, any changes in pricing practices by the contractor that results in a less advantageous relationship between the Government and the customer or category of customers upon which the MAS contract was predicated shall result in a price reduction to the Government to the extent necessary to retain the original relationship.

The following price reductions clause will be used in all MAS contracts:

Price Reductions Clause

a. *General.* This price reductions clause is intended to ensure that throughout the term of the contract, the Government shall maintain its relative position to include price, discount, and terms and conditions, in relation to that of the contractor's customer or category of customers upon which this contract award is predicated. The customer or category of customers upon which the contract award is predicated will be

identified at the conclusion of negotiations. Price reduction means reducing prices, increasing discounts, or giving more favorable terms and conditions after the conclusion of negotiations to the customer or category of customers upon which the contract award is predicated.

b. *Reductions to Customers Other than the Federal Agencies.*

(1) At the conclusion of negotiations, the contracting officer and the offeror shall reach an agreement as to the relationship between the Government and the offeror's identified customer or category of customers upon which the contract award is predicated. This relationship shall be maintained throughout the contract period. Any change in the contractor's arrangement for the identified customer or category of customers which disturbs this relationship will constitute a price reduction.

(2) After the conclusion of negotiations, and for the duration of the contract period, the contractor shall report all price reductions to that customer or category of customers upon which the award is predicated. The report shall include an explanation of the conditions under which the reductions were made. All price reductions to the identified customer or category of customers shall be reported. Those price reductions to a customer or category of customers not identified pursuant to paragraph b(1) above will not be subject to the provisions of the clause and will not be required to be reported. The contracting officer will determine whether the price reductions have disturbed the relationship between the Government and the identified customer or category of customers.

(3) If, after the date of the conclusion of negotiations, the contractor (i) reduces the prices contained in the commercial catalog, pricelist, schedule, or other documents or grants any more favorable terms and conditions offered by the contractor and used by the Government to establish the prices in the contract; or (ii) reduces the prices, increases discounts or changes terms and conditions of sales to the identified customer or category of customers upon which the award was predicated so as to disturb the relationship of the Government to that identified customer or category of customers, a price reduction shall apply to this contract for the remainder of the contract period, or until a further price reduction occurs, or, in the case of temporary price reductions, for the duration of any temporary price reduction period as

agreed to by the contracting officer and the contractor.

(4) The Government will not be due price reductions under this clause on the contractor's firm fixed price definite quantity contracts with a specified delivery in excess of the maximum order limitation specified in the contract. Price reductions of this type shall be reported under the circumstances described in paragraph b(2) above.

(5) The contracting officer may exempt from the application of this clause any sale at a price below the contract price if caused by an error in quotation or billing, provided adequate documentation is furnished by the contractor immediately following the discovery of the error.

c. Reduction to Federal Agencies. [This paragraph does not apply to Non-Schedule ADP/Communications/Teleprocessing Services contracts entered into with Federal Agencies or to Office of Federal Supply and Services optional use schedule contracts for maintenance and repair of equipment.]

Except for temporary "Government-only" price reductions described below, if, after the conclusion of negotiations, the contractor gives a price reduction on any contract item to any Federal agency and the sale falls within the contract maximum order limitation, such price reduction shall apply to all subsequent sales of the contract item to Federal agencies for the duration of the contract period or until a further price reduction is granted. The contractor may offer to the contracting officer a temporary "Government-only" price reduction which has a duration of 30 calendar days or more, except during the last month of the contract period when any such offer must be for the remainder of the contract period.

d. Effective Dates and Notifications. [This paragraph does not apply to Non-Schedule ADP/Communications/Teleprocessing Contracts entered into with Federal Agencies or to Office of Federal Supply and Services optional use schedule contracts for maintenance and repair of equipment.]

(1) Any price reduction pursuant to b. above, shall be effective for the Government at the same time as the acceptance of the order by the contractor from another customer.

(2) Any price reduction pursuant to c. above shall be effective at the same time as the acceptance of the initial order from the Federal agency (Government) under the price reduction except a temporary "Government-only" price reduction which shall be effective at the beginning of any temporary price reduction period as agreed to by the contracting officer and the contractor.

The effective date of any temporary price reduction due the Government under this clause will allow sufficient time for the notification of Federal agencies of the applicable price reduction prior to the beginning of the Government's temporary price reduction period.

(3) The amount of time allowed for notification of Federal agencies and the duration of the Government's temporary price reduction period will be commensurate with that provided by the contractor to the customer or category of customer who received the temporary price reduction due the Government under the clause.

(4) Except for temporary "Government-only" price reduction notifications in c. above, the contractor shall notify the contracting officer and the Federal agencies in writing of any price reduction pursuant to b. and c. above at the same time as notice is given to the contractor's customer of the price reduction. Price reduction of this type shall be reported under the circumstances described in paragraph b(2) above.

(5) Failure to give timely notice of any price reduction pursuant to b. and c. above, shall require that such price reduction (including temporary price reductions) apply to the contract for the duration of the contract period, or until further price reduction is granted, and may constitute a basis for termination of the contract as provided in the Default Clause of the contract.

(6) The contractor shall invoice at such reduced price and indicate thereon that the price reduction is pursuant to this Price Reductions clause until such time as this contract is modified.

e. Contractor's Statement of Price Reductions. [This paragraph does not apply to Non-Schedule ADP/Communications/Teleprocessing Contracts entered into with Federal Agencies or to Office of Federal Supply and Services optional use schedule contracts for maintenance and repair of equipment.]

The contractor shall furnish within 10 calendar days after the end of the contract period a statement certifying either (1) that there were no applicable price reductions; or (2) that all applicable price reductions were reported to the contracting officer and that such price reductions were passed on to the Federal agencies.

(End of Clause)

VIII. Economic Price Adjustment

An economic price adjustment (EPA) clause will be used in FSS MAS contracts where uncertainty exists as to

the stability of market prices during the term of the contract. The contracting officer will determine whether items under the MAS contract are subject to unforeseen price fluctuations, thus warranting the use of an EPA clause. The contracting officer's determination on the use of an EPA clause will be made in the negotiation process.

Attachment I—Multiple Award Schedule Pricing Guide

MULTIPLE AWARD SCHEDULE (MAS) PRICING GUIDE

I. Discount Schedule and Marking Data

A. Requirement for Offeror to Submit Pricing Data. Proposals shall be supported by statements and analyses or other evidence of reasonable prices and by such information concerning other vital matters as is deemed necessary by the contracting officer. Each MAS solicitation will include Discount Schedule and Marketing Data sheets to be completed for each Special Item Number (SIN) and submitted as a part of the offeror's proposal. When this form is completed in its entirety, along with pricing data from current or prior contracts and preaward audits, it should provide the necessary data, in most cases, to enable the contracting officer to complete the price analysis and develop the negotiation objective.

B. Initial Review of Offeror's Proposal. As soon as possible after receipt of proposals, the contracting officer should review in detail the offeror's submission in response to the Discount Schedule and Marketing Data sheets. If the offer has failed to respond to specific data elements or if the response is not adequate, the contracting officer should immediately request that the offeror correct any deficiencies in the data submission. In this regard, a specific date for the receipt of the required data should be established with the offeror. Also, it is important that the data be received well in advance of schedule negotiations to permit adequate time for a price analysis by the contracting officer.

C. Timeliness of the Procurement Action. The process, to the extent practical, should begin early enough to allow for award of MAS contracts by the beginning of the proposed schedule period.

II. Prenegotiations

A. Establishing the Negotiation Objective. In preparing for negotiations, the contracting officer will establish specific negotiation objectives based upon a properly prepared price analysis. This price analysis will serve as the

basis for the negotiation objectives including the rationale for the objectives established. The elements of the price analysis are listed in Section IV of this pricing guide.

B. Negotiation Objective. In establishing negotiation objectives, contracting officers must remain cognizant of the Government's goal in negotiating MAS contracts, namely, to obtain discounts equal to or better than an offeror's discounts to its most favored customer. The most favored customer discount is defined as the largest discount given to any entity with which the offeror does business. There are factors, such as, terms and conditions, warranties and FOB point, that may make the Government different from a firm's other customer. Although the contracting officer may recognize these differences through proper analysis and documentation, the contracting officer must also consider the volume purchased by the Government under the MAS contract. In addition, the contracting officer must take into consideration whether the most favored customer discount is the discount to educational institutions. (See paragraph IV of the MAS policy statement).

C. Documentation of the Price Analysis and Negotiation Objective. The contract file will contain the written price analysis report in support of the Government's negotiation position.

The supporting documentation will necessarily vary depending upon the complexity and estimated dollar volume of the contract. The price analysis and negotiation objective will be a part of the price negotiation memorandum (See section V of this pricing guide). The supporting documentation required at this point in the procurement process will normally include:

1. General description of the procurement.
2. Adequacy of data submitted by the offeror.
3. The elements of pricing analyzed preparatory to establishing the negotiation objective. (See section IV of this pricing guide).
4. The negotiation objective and the supporting rationale.
5. Major differences between the offeror's proposal and the negotiation objectives.
6. The offeror's documentation and rationale if less than the MFC discount is offered. This will also include the contracting officer's evaluation of that data.

D. Approval of Negotiation Objectives. The negotiation objectives should be approved by the chief or the purchasing officer of designee.

III. Catalog Item Verification

A. Definition of Established Catalog Price. FAR 15.804-3(c) states that for an item to qualify as a catalog price, the price must be, or be based on, (A) an established catalog price, (B) of commercial items, (C) sold in substantial quantities, (D) to the general public. The criteria contained in the following paragraphs should be applied in determining whether an item falls within the scope of this definition.

B. Established Catalog Price (FAR 15.804-3(c)(1)). This is a price that is included in a catalog, price list, schedule or other form that is regularly maintained by the manufacturer or vendor, is either published or otherwise available for inspection by customers and states prices at which sales are currently or were last made to a significant number of buyers who constitute the general public. The following questions will help you determine if there is an established catalog price.

1. Is there a printed catalog, price list, published price or other formal document showing prices and applicable discounts, if any?
2. Can audit validate from seller's records that the price offered is a regular catalog price with appropriate discounts?
3. If the answer to either (1) or (2) above is not "yes" the proposal does not meet the test of a catalog priced item.

C. Commercial Item (FAR 15.804-3(c)(3)). This is an item (the term includes both supplies and services) of a class or kind that is regularly used for other than Government purposes and is sold or traded in the course of normal business operations. The following questions will help you determine if the item is a commercial item.

1. Is the item or service identical to that described in the catalog?
2. Is the item or service so similar it can be priced by reference to catalog prices?
3. Is the item or service so similar that differences can be identified and priced as add-ons or deducts from catalog prices by price analysis or other known prices?

4. If the answer to either (1), (2) or (3) above is not "yes", the proposal does not meet the test of a catalog item.

D. General Public (FAR 15.804-3(c)(5)). An item is sold "to the general public" if it is sold to other than affiliates of the seller and to non-government entities. Items sold to affiliates of the seller and sales for end use by the government are not sales to the general public. The following

questions will help you determine if an item is sold to the general public.

1. Does the seller's data show sales over the appropriate past period as between Government and nongovernment entities?

2. Is there general knowledge of large public sales of products regularly stocked by dealers or regularly traded in the marketplace?

3. Can audit validate from the seller's records that sales have been made to nongovernment entities?

4. If you did not answer "yes" to any of the preceding checklist items, the proposal does not meet the test of a catalog item.

E. Substantial Quantities (FAR 15.804-3(c)(4) and (FAR 15.804-3(f)). Supplies are sold in substantial quantities when the facts or circumstances are sufficient to support a reasonable conclusion that the quantities regularly sold are sufficient to constitute a real commercial market for the item. This test is usually in terms of total quantities sold, but it also should include the number of times the item has been sold and how many times a given price or price structure has been accepted by buyers free to choose. Nominal quantities, like models, specimens, samples and prototype or experimental units do not meet this requirement. Services sold in substantial quantities are those that are customarily provided by the company, with personnel regularly employed and with equipment regularly maintained solely or principally to provide such services. FAR 15.804-3(f) contains the guidelines for determining whether the "substantial quantities" criterion are met. Also, the sales data requested in section VII of the Discount Schedule and Marketing Data is set forth in a format to facilitate your analysis of this requirement. The following questions will help you determine if the items have been sold in substantial quantities:

1. Are reported sales to nongovernment entities at least 55% of total sales and those at catalog price less applicable discounts at least 75% of this amount? When the answer to this question is "yes" the item meets the "substantial quantity" test.

2. Are reported sales to nongovernment entities at least 35% of total sales and those at catalog price less applicable discounts at least 55% of this amount? When the answer to this question is "yes" the test of substantial may be deemed to have been met when (i) the criteria in B, C, and D above are met, (ii) the nature of the item or total quantities sold clearly supports such a conclusion even though the Government

is the major user, and (iii) approval of the chief or deputy chief of the Procurement Office is obtained.

3. Can audit verify from the seller's records that commercial sales meet the test of (1) and (2) above?

4. Are reported sales to nongovernment entities less than 35% of total sales to all customers (government and nongovernment)? If the answer is "yes," the item does not meet the test of substantial quantities. Therefore, if the item is to be included in the MAS, cost or pricing data must be obtained and evaluated in accordance with FAR 15.804.

F. Catalog Price Exemption. A catalog price exemption to the need for submission of cost or pricing data can be granted for products or services offered on MAS solicitations when the requirements set forth in paragraph A through E above have been met.

The Discount Schedule and Marketing Data sheets provides in section VII for the information to determine commerciality. This section permits offerors to certify the commerciality of items offered under the solicitation. Along with this certification, offerors are required to submit sales information on a representative sample of the best selling items under the SIN. The contracting officer will establish the representative sample size in the solicitation. For items that the offeror cannot certify as commercial, sales information will be required for each item offered under the solicitation. The information provided will be used in determining whether an item should be exempt from the cost and pricing data requirement.

IV. Price Analysis

A. Requirement for Price Analysis. FAR 15.805-2 and -3 state that some form of price or cost analysis should be made in connection with every negotiated procurement action. FAR 15.804-3(h) states that even though an item qualifies for exemption from the requirements for submission of certified cost or pricing data, price analysis must be performed to determine the reasonableness of the price and the need for further negotiation.

B. Preparation for Negotiations. Preparation for negotiations after receipt of the offer begins with a properly prepared price analysis report. The price analysis should provide the basis for establishing the specific negotiation objectives and the reasons why these objectives were established.

C. Price Analysis Techniques. Most of the data needed to perform the price analysis will be submitted by the offerors as required by the Discount

Schedule and Marketing Data sheets and the historical files on existing or prior contracts. Questions on the proposal that arise during the price analysis effort will be addressed to the offeror. The price analysis may include the following elements, as appropriate:

1. Discount arrangements on the existing or prior year contract. Data from these sources can be accumulated prior to receipt of proposals. Information should include: estimated and actual sales volume; categories of customers and discount arrangements; the MAS discounts negotiated; and, any problems or significant events that were experienced during the negotiations affecting the Government's negotiation position. Price reduction information submitted in accordance with the price reductions clause shall also be included. This information is the data base from which to start the price analysis after proposals are received.

2. Offeror's commercial sales data. The sales data submitted in Part B, Section VII of the Discount Schedule and Marketing Data Sheets will be used to determine price reasonableness, the commerciality of products or services offered and the discount the Government should receive. As a general rule, the larger the percent of commercial sales to total sales, the more reliance the Government can place on prices being set in the marketplace. Because products or services available under schedules should be for the most part commercial items, it is essential that the commerciality of the products or services be established preparatory to negotiations. Where products or services do not clearly meet the tests of commerciality, contract negotiators are required to analyze whether these products or services are comparable to others which meet the tests of commerciality or there are other circumstances that can be used in judging why such items should be considered commercial. Additional information may be required from the offeror in assessing commerciality. Where products or services are not commercial, cost or pricing data is required.

3. The prices and discounts proposed by the offeror. The offeror's proposal should be reviewed to ascertain an understanding of the prices or discounts offered to the Government as compared with offeror's discounts to other entities and to determine if the sales data required is included in the proposal. The analysis of the proposal should determine the reasons for differences between the offered discounts, and other discount arrangements; whether there are special discount arrangements;

or other concessions that the offeror makes which should be included in determining the Government's negotiation position.

4. Net price evaluation. Comparison of net prices may be utilized in the evaluation of offers under MAS contracts. Every effort should be made to include products with the lowest net price on the schedule even though there may be instances where the offeror offering the lowest net price may not offer the most favored customer pricing. In addition, you may compare the net prices offered by one offeror with net prices of similar items offered by other offerors to assist in the price reasonableness determination. This may be done on a sampling basis using the high dollar volume items listed on the Discount Schedule and Marketing Data sheets.

5. Recommendations contained in preaward audits or from other pricing specialists or from other appropriate sources.

6. Trend analysis of price changes using appropriate indices such as the Producer Price Index, other similar market indicators, and price changes in similar products offered by other companies.

7. The comparison of offered prices/discounts to local retail and discount house catalog prices.

8. The overall discount policy of the offeror. The Discount Schedule and Marketing Data sheets require that complete disclosure regarding discount policy and price reductions in any other form be made. This would include, but not limited to, such things as quantity discounts, end-of-year discounts, discounts for multiple quantities, free service or installation, training, bonus goods of any kind, trade-in allowances, rebates of any kind, F.O.B. point, payment terms, incentives, guaranteed prices. The price analysis should determine whether any such items are included in the offeror's proposal to the Government and the consideration that they should be given in establishing the Government's negotiation position.

9. That the offeror's price to the Government takes into account the volume of Government business anticipated for a fixed period, such as a fiscal year of annual contract period.

V. Negotiations

1. Negotiations can begin upon completion of a properly prepared price analysis and establishment of the Government's negotiation objectives.

2. During the negotiations, Government negotiators will address the following:

a. Aggregate discounts based on the estimated volume of sales under the schedule contract giving consideration to the Government's manner of ordering.

b. In FSS, the use of an economic price adjustment clause considering the uncertainty of prices for the contract term and the resultant improved discounts offered the Government by the offeror for this price protection. The use of the EPA clause is a matter for negotiation.

3. In the event that the Government's negotiation objective cannot be met, the contracting officer must exercise judgment in deciding whether to reject the offer. In exercising this judgment, the contracting officer must weigh the effect that the rejection of the offer will have on meeting the Government's needs. Whenever a decision is made to award an MAS contract where the Government's discount is not equal to or better than the MFC discount, the contracting officer will:

a. Ensure the analysis and reasons for this decision are fully documented and justified in the contract file.

b. Obtain approval for such a decision at a supervisory level higher than the contracting officer, regardless of the dollar value.

4. The Government will not award an MAS contract to a firm that does not give the Government a price equal to the best price given or available to its volume end user customers under similar circumstances except where the Government's overall volume of purchases for the contract period does not warrant the best price given to end user customers.

5. At the conclusion of negotiations, the contracting officer will decide on the level of the MOL in the contract. The level of the MOL depends on the Government's negotiated discount arrangement and the estimate of sales volume above which suppliers are likely to quote lower prices in other types of contracts.

6. In all MAS contract negotiations, the contracting officer is required to make an affirmative determination that the prices negotiated are fair and reasonable (FAR 15.803(c)).

7. A price negotiation memorandum (PNM) shall be prepared at the conclusion of each negotiation (See FAR 15.808). The PNM is the document that brings together all the principal elements of the negotiation leading to the decision that the price/discount is fair and reasonable. In support of that decision, the PNM should contain the significant considerations shaping the pricing/discount arrangement. These include:

a. A summary of the offer received (prices, terms, etc.), the Government's negotiation position (objectives) and the negotiation results. Any revised or adjusted offers and any revised or adjusted Government negotiation objectives will be explained.

b. Names and titles (position) of the Government and contractor representatives who participated in the negotiations.

c. Reference to the price analysis report should be made or, where appropriate, actual incorporation of the price analysis. (Elements of the price analysis report are in Section II, paragraph C of this pricing guide).

d. Where cost or pricing data is required, the narrative should cover the products or services that require it, the source of the data, the analysis of the data and its use in negotiations. Where the requirement for cost or pricing data is waived, the determination and findings in support of such waiver will be appended to the PNM.

e. Where preaward audit or other pricing assistance is available, the PNM should identify the recommendations. Where the recommendations are not used, appropriate rationale will be included on why they were not used. Any alternate position will be documented and supported with factual data.

f. Any exceptions to the Government's terms and conditions will be documented as will any special or non-standard contract provision.

g. The PNM will document the initial negotiation objectives and actual negotiations including the offers and counter-offers made by the parties with supporting rationale for all Government positions.

h. The document will include the MOL level established with supporting rationale.

i. The document must clearly demonstrate and support that the price/discount negotiated is reasonable. It must document any decision to accept less than the best pricing arrangement granted to the most favored customer. The PNM should also identify the offeror's data used in the negotiation process.

j. The PNM should be signed and dated by the contracting officer as evidence that it is the official record of negotiations and it complies with GSA policies and procedures.

Price analysis

CHECK SHEET

	Yes	No
11. Did the offeror submit adequate data in response to the solicitation?		
12. If data submitted by offeror was not adequate, did you request that deficiencies be corrected?		
13. Did offeror then submit adequate data?		
14. Did you verify that the items meet the test of (see FAR 15.804-3(f))		
a. Established catalog price		
b. Commercial item		
c. General public		
d. Substantial quantities		
15. Did you prepare a price analysis on the offeror's proposal?		
16. Did you compare the offeror's prices/discounts to existing or prior contracts and reconcile differences?		
17. Did you compare proposed price lists to prior lists and evaluate changes?		
18. Did the offeror propose the MFC discount to the Government?		
19. If MFC discount was not offered, did the offeror's proposal provide the required documentation in support thereof?		
20. If MFC discount was not offered, did you evaluate why and use it in developing the Government's negotiation position?		
21. On a sample basis, did you compare "net prices" on high dollar volume items to similar items offered or available from other sources?		
22. Did you determine whether the offeror is a manufacturer selling direct to the Government without a dealer network; or a manufacturer selling direct to the Government even though he has dealers; or a manufacturer selling to the Government through dealers; or a dealer selling direct to the Government (dealer must submit manufacturer's price list); or sells to the Government through some other means?		
23. Did the offeror furnish their standard commercial warranty and specify where it is located in their offer?		
24. In FSS procurements, did the offeror state whether the warranty offered to GSA is more favorable, less favorable, or equal to the commercial warranty? If the warranty offered to GSA is more favorable or less favorable than the commercial warranty, did the offeror submit information describing the differences between the warranty offered and the commercial warranty and provide the value (expressed as a percentage of the catalog price)?		
25. In FSS procurements, are installation and instructions offered (if "yes" did the offeror provide details or indicate where the information may be found in the offer)?		
26. In FSS procurements, are installation and instructions offered to the Government more favorable than those offered to other customers (if "yes", did the offeror describe how it is more favorable and provide the value expressed as a percentage of the catalog price)?		
27. In FSS solicitations, was information obtained on the following:		
a. Is stock on hand of the items offered maintained?		
b. Is the Special Item Number(s) offered displayed in showrooms?		
c. Are design and layout assistance related to this Special Item Number provided free of charge?		
d. If the offeror is a dealer, has the offeror arranged for other dealers to participate under the schedule contract?		
e. Will the offeror administer all incoming orders, including requests for expediting and follow-up?		
28. Are the prices negotiated at least equal to the best price that the offeror grants to its end user most favored customer?		
29. Does the PNM contain an affirmative determination that the prices negotiated are fair and reasonable and set forth the basis for such determination?		

CHECK SHEET—Continued

	Yes	No
20. Did the contractor certify data initially submitted with the proposal and again, at the conclusion of negotiations, on information provided during negotiations and any changes to the data originally submitted with the proposal?		

Attachment II—Discount Schedule and Marketing Data Sheets

Solicitation No. _____

Discount Schedule and Marketing Data

Instruction To Offerors:

Part A—General Information applies to each GSA Special Item Number (SIN) for which an offer is submitted. (If all information is the same, SINs may be combined.)

Part B—Discount and Sales Information must be completed for each Special Item Number for which an offer is submitted. (If discount information is the same for all products under each SIN, SINs may be combined. However, separate sales information required under Part B VII must be provided for each SIN.)

Information required by each space must be furnished. If not applicable, indicate by "N/A". Information furnished in Part B relating to discounts, allowances and sales information will be treated as "CONFIDENTIAL" by the Government. *Failure to provide current, accurate and complete information under Parts A and B may subject the offeror to liability for refunds pursuant to the Price Reductions or Defective Pricing clauses.*

Part A—General Information

(applicable to all special item numbers)

I. Identification of a Price List as the Basis for this Offer (check and attach _____ copies of the dated prices list)

- (a) _____ Manufacturer's catalog/pricelist (indicate type)
 (b) _____ Dealer's catalog/pricelist
 (c) _____ Retailer's catalog/pricelist
 (d) _____ Other (specify) _____

II. Aggregate or End of Contract Additional Discounts. An additional discount of _____ percent is offered to the Government which will be applied to the actual aggregate sales in excess of the following base figure under this contract:

1. For current MAS contractors, aggregate sales (annualized) to the Government for most recent 12 month period under similar contract(s) is \$_____, based on sales during the period _____ to _____.

2. For other offerors, projected aggregate sales under this contract is \$_____.

Solicitation No. _____

Part B—Discount and Sales Information

Name of Offeror _____ GSA Special Item

Number _____

I. Identification of Items Offered. How many model/type of catalog items do you offer under this GSA Special Item Number _____ (enter number).

II. Discounts. The following concessions are offered to the Government for delivery FOB destination. In OIRM solicitations, list also concessions to the Government for delivery FOB origin.

(a) Discount offered on the above GSA Special Item Number is _____ % from pricelist dated _____. Plus prompt payment discount, as stated on the first page of this solicitation (additional details may be entered below or attached). If discounts vary, show discounts on pricelist.

(b) **Quantity Discounts.**

	Regular discounts (per cent)	Quantity discounts (per cent)	Aggregate discounts	Commissions to other than employees (per cent)	Prompt payment	FOB point	Other discounts
(1) To dealers/retailers							
(2) To distributors/wholesalers							
(3) To educational institutions							
(4) To state, county, city, and local governments							
(5) To original equipment manufacturers (OEM)							
(6) To others (specify): e.g., nat'l accts., sales agreements, Federal agencies, etc.							
(7) If a dealer, indicate discount from mfg's pricelist.							

III b. Do you offer, for any customer of any class within the MOL or outside of the MOL, other discounts and/or concessions including but not limited to the following, regardless of price list, which result in lower net prices than those offered the Government in this offer?

Yes _____ No _____ rebates of any kind, including year-end or end of contract discounts?

Yes _____ No _____ multiple quantity unit pricing plan?

Yes _____ No _____ cumulative discounts of any type which cover items being offered?

Yes _____ No _____ products (models)/services that may be combined for maximum discounts?

Yes _____ No _____ others (specify).

1. List below any quantity discounts included in this offer.

2. Can models/products be combined to obtain quantity discounts?

Yes _____ No _____. If yes, provide details.

Solicitation No. _____

Special Item No. _____

III a. List below the best discount and other concessions resulting in the lowest net price (regardless of quantity and terms and conditions) to other than authorized GSA contract users from pricelist for the same or similar products or services offered to the Government under this solicitation. NOTE: Where the best (lowest) net price offered was based on other than a discount from a pricelist or was based on a discount from a pricelist other than the pricelist used as the basis of the offer to the Government under this solicitation, the lowest net price granted shall be translated into a discount from the pricelist used as the basis of the offer to the Government under this solicitation. The discounts shown below should reflect the lowest net prices granted to any customer under any circumstances. (Show percentages and delivery terms).

If answer to any of the above is "Yes", provide detailed explanation including the value expressed as a percentage of the list price and the manner in which the value of the discount/concession was calculated.

IV (a) Are any of the models/products offered herein sold by the offeror under a different trade name(s)? Yes _____ No _____. If "Yes", explain and provide applicable pricelists.

(b) To your knowledge, are there identical products offered herein contained in any other GSA Federal Supply Schedule contract? Yes _____ No _____. If "Yes", identify the product, schedule and contract.

V. Allowances: Do you offer any of the following allowances to any customer?

(a) _____ Trade-in allowances?

(b) _____ Return/Exchange goods policy?

(c) _____ Reduced prices on samples, demonstrator models, reconditioned items or floor models?

(d) _____ Do you give any allowances not mentioned above?

If the answer to any of the above is "yes," provide a detailed explanation of

the allowance and identify the customer or category of customer to whom the allowance is offered.

VI. Sales Information (This section only applies to FSS solicitations).

Estimate the percentage of your sales made to the U.S. Government under Federal Supply Schedule Blanket Purchase Arrangements.

List agencies below:

1. _____
2. _____
3. _____
4. _____

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Solicitation No. _____ Special Item No. _____ Offeror Name _____

VII.

A. This section requires (1) that sales information be provided to enable the contracting officer to determine that the items offered under this solicitation meet the tests of commerciality in (FAR 15.804-3(c)); and, (2) that pricing data is furnished in sufficient detail to enable the contracting officer to perform a price analysis in accordance with FAR 15.804-3(h).

B. The offeror certifies that, except for the individual models/types or catalog numbers cited in paragraph C below, all other models/types or catalog numbers offered to the Government under this solicitation meet the tests of commerciality in FAR 15.804-3(c) and the criterion prescribed in FAR 15.804-3(f). Of the individual models/types or catalog numbers so certified, sales information shall be provided in the table below for each of the models/types or catalog numbers with the largest actual dollar sales volume under the offeror's schedule contract for the preceding schedule period. Where an offeror had no schedule contract for the preceding schedule period, the sales information to be provided under this paragraph VII.B. shall be for items certified commercial with the largest estimated dollar sales volume for the schedule period identified in this solicitation under any resultant schedule contract. The sales information provided is for the prior 12 months, from _____ to _____ for this special item number.

1. Total annual sales to the Government under this special item number \$ _____.
2. Total annual sales to all entities (excluding sales included in #1 above) under this special item number \$ _____.

1	2	3	4	5	6	7	8
Model/Type or catalog no.	Total annual sales to Fed. Govt.	Total annual sales to nongovernment customers at catalog price (less published discounts).	Total annual sales to non- government customers at other than catalog price. % of column 3 if more than 25%	Total annual sales; Columns 2, 3, and 4.	Provide information below for largest discount granted to any customer.	List the lowest price at which the item was sold for comparable sales/quantities shown in column 2 to any customer during the past year.	Is the discount in column number 6 greater than your current offer under this solicitation? Yes No. If yes, provide complete docu- mentation and rationale of the difference. Merely submitting copies of documents such as terms and conditions of commercial contracts, commercial warranties, etc., will not be adequate to justify the difference.
	\$	\$	\$			Qty	
	column 5	column 5	column 3			Discount	Price

Solicitation No. _____

Special Item No. _____

Offeror Name _____

VII. (continued)

C. Sales information in the table below shall be provided for each individual model/type or catalog number in the above special item number that is not certified commercial when experienced annual Government sales are \$100,000 or more.

1	2	3	4	5	6	7	8
Model/Type or catalog no.	Total annual sales to Fed. Govt.	Total annual sales to nongovernment customers at catalog price (less published discounts).	Total annual sales to non-government customers at other than catalog price.	Total annual sales: Columns 2, 3, and 4.	Provide information below for largest discount granted to any customer.	List the lowest price at which the item was sold for comparable sales/quantities shown in column 2 to any customer during the past year.	Is the discount in column number 6 greater than your current offer under this solicitation? Yes <u>No</u> . If yes, provide complete documentation and rationale of the difference. Merely submitting copies of documents such as terms and conditions of commercial contracts, commercial warranties, etc., will not be adequate to justify the difference.
	\$ of column 5		\$ of column 3 if more than 25%		Qty. Discount	Qty. Price	

Note: 1. Federal Government sales include all sales to U.S. Government and its instrumentalities and for U.S. Government use, sales directly to U.S. Government prime contractors and to their subcontractors or suppliers at any tier, for use as an end item or as part of an end item, by the U.S. Government.

2. Nongovernment customer is defined as other than Government or affiliates (include sales to distributors, dealers, OEM, national accounts, educational institutions, state, etc.).

3. Discounts are reductions to catalog or market prices (published or unpublished) applicable to any customer, including OEMs, dealers, distributors, national accounts, states, etc.; and any other form of price reduction such as concessions, rebates, quantity discounts, allowances, services, warranties, installation, free parts, etc., which are granted to any customer.

[FR Doc. 85-7005 Filed 3-25-85; 8:45 am]

BILLING CODE 6820-61-C

DEPARTMENT OF TRANSPORTATION

Research and Special Programs
Administration

49 CFR Parts 192 and 195

[Docket No. PS-83, Notice 1]

Transportation of Gas or Hazardous
Liquids by Pipeline; Nondestructive
TestingAGENCY: Materials Transportation
Bureau (MTB).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to allow some exception to the requirements to nondestructively test 100 percent of the girth welds in certain onshore locations. In cases where testing 100 percent is impracticable, testing less than 100 percent would be allowed so long as at least 90 percent is tested. An operator who wishes to avail itself of the "90 percent testing" rule must determine that, under the circumstances, nondestructive testing is impracticable for each girth weld not tested. The existing requirements are too burdensome and without a commensurate safety benefit.

DATE: Interested persons are invited to submit written comments on this proposal. All comments must be filed by May 10, 1985. Late filed comments will be considered so far as practicable.

ADDRESS: Comments should be sent to the Dockets Branch, Room 8426, Materials Transportation Bureau, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 and identify docket and notice numbers. All comments will be available in Room 8426 for inspection and copying between 8:30 a.m. and 5:00 p.m. each work day.

FOR FURTHER INFORMATION CONTACT: Frank Robinson, (202) 426-2392.

SUPPLEMENTARY INFORMATION: Under the requirements of § 195.234(e) for hazardous liquid pipelines, 100 percent of the girth welds in the following onshore locations must be nondestructively tested, while offshore, only 90 percent of each day's welds need be tested when testing 100 percent is impracticable:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area unless impracticable, in which case only 90 percent of each day's welds need be tested.

(2) Within railroad or public road rights-of-way.

(3) At overhead road crossings and within tunnels.

(4) At pipeline tie-ins.

(5) Within the limits of any incorporated subdivision of a State government.

(6) Within populated areas, including but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

For gas pipeline welds that are required to be nondestructively tested,

§ 192.243(d)(4) prescribes 100 percent testing within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, and at pipeline tie-ins. In Class 3 and Class 4 locations (populated areas), at crossings of major or navigable rivers, and offshore, § 192.243(d)(3) requires testing 100 percent if practicable, but not less than 90 percent of each day's welds.

By letter dated May 21, 1982, the American Petroleum Institute (API) petitioned MTB (Petition No. P-19) to extend the flexibility provided by § 195.234(e)(1) for offshore areas, testing only 90 percent of each day's welds when 100 percent testing is impracticable ("90 percent testing"), to the onshore locations listed in § 195.234(e), except tie-ins. The more flexible "90 percent testing" rule was adopted for offshore pipelines because nondestructively testing 100 percent of each day's welds offshore was considered too stringent in view of the changing working conditions and unforeseeable circumstances. (41 FR 34035, August 12, 1976). In arguing that the same flexibility should apply onshore, API said that the rigors and high marginal costs of 100 percent testing combined with the low failure rate of girth welds indicate that the 100 percent nondestructive testing requirement is not cost-effective. Further, API pointed out that the hydrostatic testing requirements of Part 195 (Subpart E) provide a proof test for girth welds other than those located at tie-ins. In deciding whether to grant the API petition, MTB considered the difficulties associated with 100 percent testing. When 100 percent testing is required, every girth weld, without fail, must be tested over its entire circumference. In some cases, radiographs for welds can be lost, a weld can be overlooked and inadvertently not tested, a radiograph might not be legible, or bad weather may cause a radiograph to be skipped. In such cases and similar instances where a valid radiograph is unavailable, to require that the affected weld be

uncovered and that an inspection crew return to the site and radiograph it may be very time consuming and costly. Furthermore, as indicated by the "90 percent testing" rule in § 192.243(d)(3), the difficulties of 100 percent testing are not limited to hazardous liquid pipelines, but exist in the construction of gas pipelines as well. Therefore, MTB is considering amending both § 195.234(e) and § 192.243(d)(4) to extend the "90 percent testing" rule to all hazardous liquid and gas pipeline locations where 100 percent testing is now required, except tie-ins. It should be noted that the "90 percent testing" rule does not routinely allow an operator not to radiograph 100 percent of the girth welds. Rather an operator who wishes to avail itself of the "90 percent testing" rule must determine that under the circumstances, nondestructive testing is impracticable for each girth weld not tested.

MTB also has examined the safety impact of relaxing the 100 percent testing requirements. From the commencement of the Part 195 accident reporting requirements in 1968 for the roughly 170,000 miles of interstate hazardous liquid pipelines, involving about 22 million girth welds, a total of only 56 reportable accidents have been caused by girth weld failures. The resulting failure rate is about one for every 3,000 miles. Similarly, between 1970 and 1982, 569 leaks were reported in girth welds on the nation's 1.25 million miles of steel gas pipelines, comprising about 165 million welds, resulting in a failure rate of about one for every 2,200 miles. Thus, the failure rate of girth welds is very low for both hazardous liquid and gas pipelines.

The safety of girth welds becomes more apparent when considering that most of the pipeline on which the failure data were constructed before nondestructive testing of girth welds became mandatory under Parts 192 and 195. Also, while data do not permit a comparison of failure rates at locations where 100 percent testing is required with rates at other locations, it is significant that the low overall rates derive, in part, from onshore locations where as few as 10 percent of the daily welds are nondestructively tested (§§ 192.243(d)(1) and 195.234(d)). Given this record, MTB believes that slightly relaxing §§ 192.243(d)(4) and 195.234(e) for onshore welds other than tie-ins to provide that at least 90 percent of each day's welds be tested when testing 100 percent is impracticable should not reduce safety. Moreover, the integrity of welds that would be subject to the "90 percent testing" rule would be covered

by other requirements governing visual inspection (§§ 192.241 and 195.228), procedures for welding (§§ 192.225 and 195.214) and qualifying welders (§§ 192.227 and 195.222), and pressure tests for flaws (Part 192, Subpart J, and Part 195, Subpart E).

The proposed "90 percent testing" rules would not provide any flexibility when fewer than 10 welds are installed in one day. With such few welds, operators should not have difficulty in providing 100 percent testing as now required. Also, to reach a total of 10, an operator may aggregate all the welds installed daily at all the locations listed in the rule.

API also argued that in § 195.234(e)(6), the phrase "populated areas" too broadly defines the areas where nondestructive testing is required. API recommended that "populated areas" be limited to those specifically listed in § 195.234(e)(6). MTB believes, however, that changing the current rule as API suggested would be too restrictive, and that the list of places serves to limit an overly broad interpretation of "populated areas." For this reason, MTB is not proposing to change the current wording of this section.

Intrastate Pipelines

Part 195 now applies to interstate pipelines. In Docket PS-80 (49 FR 11226, March 26, 1984), MTB proposed to extend Part 195 to those "intrastate pipeline facilities," as defined in section 202 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 2001), that transport petroleum, petroleum products, or anhydrous ammonia. If Part 195 becomes applicable to those intrastate pipelines, MTB proposes that the proposed amendments to § 195.234 set forth below also be adopted for these pipelines.

Classification

Since this proposed rule will have a positive effect on the economy of less than \$100 million a year, will result in cost savings to consumers, industry, and government agencies, and no adverse impacts are anticipated, the proposed rule is not "major" under Executive Order 12291. Also, it is not, "significant" under Department of Transportation procedures (44 FR 11034). MTB believes that the proposed rule will reduce the costs of nondestructive testing. However, these savings are not expected to be large enough to justify the preparation of a Draft Regulatory Evaluation.

Based on the facts available concerning the impact of this rulemaking action, I certify pursuant to section 605 of the Regulatory Flexibility Act that the action will not, if adopted as final, have a significant economic impact on a substantial number of small entities.

List of Subjects in 49 CFR Parts 192 and 195

Pipeline safety, nondestructive testing, girth welds, welding.

In view of the above, MTB proposes to amend Parts 192 and 195 as follows:

PART 192—[AMENDED]

1. In § 192.243, paragraphs (d) (3) and (4) would be revised to read as follows:

§ 192.243 Nondestructive testing.

• • • • •
(d) • • •

(3) In Class 3 and Class 4 locations, at crossings of major or navigable rivers, offshore, and within railroad or public highway rights-of-way, including tunnels, bridges, and overhead road crossings, 100 percent unless impracticable, in which case at least 90 percent must be tested.

(4) At pipeline tie-ins, 100 percent.

• • • • •

PART 195—[AMENDED]

2. In § 195.234, paragraph (e) would be revised and a new paragraph (g) added to read as follows:

§ 195.234 Welds: Nondestructive testing and retention of testing records.

• • • • •

(e) Each day's girth welds installed in the following locations must be nondestructively tested 100 percent unless impracticable, in which case at least 90 percent must be tested:

(1) At any onshore location where a loss of hazardous liquid could reasonably be expected to pollute any stream, river, lake, reservoir, or other body of water, and any offshore area;

(2) Within railroad or public road rights-of-way;

(3) At overhead road crossings and within tunnels;

(4) Within the limits of any incorporated subdivision of a State government; and

(5) Within populated areas, including, but not limited to, residential subdivisions, shopping centers, schools, designated commercial areas, industrial facilities, public institutions, and places of public assembly.

• • • • •

(g) At pipeline tie-ins, 100 percent of the girth welds must be nondestructively tested.

Part 192 authority:

(49 USC 1672; 49 CFR 1.53, App. A to Part 1, and App. A to Part 106)

Part 195 authority:

(49 U.S.C. 2002; 49 CFR 1.53, App. A to Part 1, and App. A to Part 106)

Issued in Washington, D.C. on March 21, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.
[FR Doc. 85-7109 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-60-M

Notices

Federal Register

Vol. 50, No. 58

Tuesday, March 26, 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.

ARCTIC RESEARCH COMMISSION

Meeting

Notice is hereby given that the Arctic Research Commission established by the Arctic Research and Policy Act of 1984 (Title I of Pub. L. 98-373) will meet on 5 April 1985.

Date and Time: April 5, 1985, 9 a.m., open session.

Place: Office of President, University of Southern California, University Park, Los Angeles, California.

Status: Most of this meeting will be open to the public. Parts of the meeting will be closed to the public.

Matters to be Considered at the Open Session: Friday, April 5, 1985, 9:00 a.m.:

1. Chairman's Items.
2. Status of Implementation of the Arctic Research and Policy Act of 1984.
3. Future Activities of Commission.
4. Other Business.
5. Next Meetings.

Matters to be Considered at the Closed Session: Friday, April 5, 1985, 3:00 p.m.

1. Commission staff nominees.
- Contact Person for More Information: Dr. James H. Zumberge, Chairman, Arctic Research Commission, (213) 743-2111.

James H. Zumberge,
Chairman, Arctic Research Commission.

[FR Doc. 85-7078 Filed 3-25-85; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

North Hyco Creek Critical Area Treatment, RC&D Measure, NC; Environmental Impact

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Council on

Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the North Hyco Creek Critical Area Treatment RC&D Measure, Caswell County, North Carolina.

FOR FURTHER INFORMATION CONTACT:

Mr. Coy A. Garrett, State Conservationist, Soil Conservation Service, Room 544, Federal Building, 310 New Bern Avenue, Raleigh, North Carolina 27611, Telephone (919) 755-4210.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Coy A. Garrett, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

This measure concerns treating critical eroding areas in a 30,000 acre region in southeast Caswell County. Implementation of this measure will maintain the resource productivity of the agricultural land and will improve water quality of receiving streams.

The Notice of Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interest parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. Coy A. Garrett.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the Federal Register.

(Catalog of Federal Domestic Assistance Program No. 10.901, Resource Conservation and Development Program, Executive Order 12372 "Intergovernmental Review of Federal Programs" is applicable)

Dated: March 4, 1985.

Coy A. Garrett,

State Conservationist.

[FR Doc. 85-7103 Filed 3-25-85; 8:45 am]

BILLING CODE 3410-16-M

COMMISSION ON CIVIL RIGHTS

Arizona Advisory Committee; Agenda and Public Meeting

Notice is hereby given; pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Arizona Advisory Committee to the Commission will convene at 1:00 p.m. and will end at 6:00 p.m., on April 19, 1985, at San Luis Town Hall, 23222 First Street, San Luis, Arizona. The purpose of the meeting is to receive and review information regarding the state of civil rights in San Luis, Arizona.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Richard Zazueta or Philip Montez of the Western Regional Office at (213) 868-3437.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1985.
Bert Silver,

Assistant Staff Director for Regional Program.
[FR Doc. 85-7163 Filed 3-25-85; 8:45 am]

BILLING CODE 6335-01-M

Missouri Advisory Committee; Agenda for Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Missouri Advisory Committee to the Commission will convene at 9:00 a.m. and will end at 1:00 p.m., on April 26, 1985, at the Breckenridge Concourse, 9801 Natural Bridge Road, Room 232, St. Louis, Missouri. The purpose of the meeting is to provide an orientation for new members of the Advisory Committee and to develop programs and plans for the remainder of FY 85, including the conduct of community forums.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Morrie Zimring or Melvin Jenkins of the Central State Regional Office at (816) 374-5253.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1985.
Bert Silver,
Assistant Staff Director for Regional Programs.
 [FR Doc. 85-7178 Filed 3-25-85; 8:45 am]
 BILLING CODE 6335-01-M

South Carolina Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will convene at 10:00 a.m. and will end at 12:00 a.m. on April 30, 1985, at the Gressette Senate Office Building, State Capitol Complex, Room 507, Columbia, South Carolina. The purpose of the meeting is to select jurisdictions in which to hold a community forum, develop plans for collection of preliminary data and review recent Commission meetings.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson Elizabeth Patterson or Bobby Doctor in the Southern Regional Office (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 20, 1985.
Bert Silver,
Assistant Staff Director for Regional Programs.
 [FR Doc. 85-7164 Filed 3-25-85; 8:45 am]
 BILLING CODE 6335-01-M

Tennessee Advisory Committee; Agency and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Tennessee Advisory Committee to the Commission will convene at 3:30 p.m. and will end at 7:00 p.m. on April 9, 1985, at the Marriott Hotel-Nashville, 1 Marriott Drive, the Knoxville room, Nashville, Tennessee. The purpose of the meeting is for an orientation of the newly rechartered Committee and formulation of program plans for FY 1985.

Persons desiring additional information, or planning a presentation to the Committee, should contact Advisory Committee Chairperson James Blumstein or Bobby Doctor in the Southern Regional Office (404) 221-4391.

The meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., March 18, 1985.
Bert Silver,
Assistant Staff Director for Regional Programs.
 [FR Doc. 85-7162 Filed 3-25-85; 8:45 am]
 BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review; Issuance

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of an Export Trade Certificate of Review.

SUMMARY: The Department of Commerce has issued an amended export trade certificate of review to U.S. Export & Trading Company (USEX). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on the certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to the certificate as "Export Trade Certificate of Review, application number 83-A0024".

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202-377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97-290) authorizes the Secretary of Commerce to issue trade certificates of review. The regulations implementing the Act are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Secretary of Commerce to publish in the *Federal Register* a summary of each certificate issued. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct Export Trade

(a) Ultraviolet-resistant polyvinyl chloride (UVR-PVC) irrigation pipes, fittings, and related products ("Products").

(b) Ultraviolet-resistant polyvinyl chloride (UVR-PVC) resin compounds ("Resins").

(c) Export Trade Services (consulting, international market research, product research and design exclusively for export, transportation including trade documentation and freight forwarding, communication and processing of foreign orders, foreign exchange, financing and collection, and taking title to goods) in connection with the foregoing Resins and Products.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation

To engage in the Export Trade in the Export Markets, USEX may:

(a) Enter into an agreement with Brownline Pipe Company, Inc. ("Brownline") of Laguna Hills, California, to serve as Brownline's sales representative in the Export Markets by providing Export Trade Services. In this agreement:

(1) Brownline may agree not to sell, directly or through any intermediary other than USEX, into the Export Markets, nor to any purchaser in the United States for resale in the Export Markets; and

(2) Brownline may authorize USEX to appoint, after consultation with an approval by Brownline, exclusive agents and distributors ("distributors") in the Export Markets.

(b) Enter into agreements with distributors in the Export Markets that USEX will not sell into a territory in the Export Markets assigned to a distributor except through that distributor nor to any purchaser in the United States for resale in the distributor's assigned territory.

(c) Independently or with Brownline and/or with distributors in the Export Markets.

(1) Establish prices at which Products will be sold in the Export Markets,

(2) Establish quantities of Products to be sold in the Export Markets, and

(3) Allocate territories or customers among the distributors in the Export Markets.

(d) Enter into agreements with foreign buyers in the Export Markets by which USEX will be the buyer's exclusive or non-exclusive supplier of Resins. Such agreements may include price, quantity, territory and/or customer restrictions for the Export Markets on the sale in the Export Markets of Resins or of Products made from the Resins.

A copy of each certificate is available for inspection and copying in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230.

Dated: March 20, 1985.

Richard H. Shay,
Acting General Counsel.

[FR Doc. 85-7033 Filed 3-25-85; 8:45 am]

BILLING CODE 3510-DR-M

(C-565-401)

Termination of Countervailing Duty Investigations Under Section 303 and Preliminary Affirmative Countervailing Duty Determinations Under Title VII; Certain Textile Mill Products and Apparel From the Philippines

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: The Philippines has become a "country under the Agreement." Accordingly, we are terminating the pending countervailing duty investigations under section 303 of the Tariff Act of 1930, as amended ("the Act"), and the investigations shall be subject to the provisions of Title VII of the Act as if preliminary determinations under section 703 were made on March 15, 1985, the effective date of the application of Title VII to the Philippines.

EFFECTIVE DATE: March 15, 1985.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner or Rick Herring, Office of Policy or Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-4412 or 377-0187.

SUPPLEMENTARY INFORMATION:
Initiation of Investigations and Preliminary Determinations

On August 2, 1984, we received a

petition from the American Textile Manufacturers Institute, the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, on behalf of the U.S. industries producing certain textile mill products and apparel. In compliance with the filing requirements of § 355.26 of our regulations (19 CFR 355.26) the petition alleges that manufacturers, producers, or exporters in the Philippines of textile mill products and apparel receive, directly or indirectly, benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate countervailing duty investigations, and on August 30, 1984, we initiated such investigations (49 FR 34381). We stated that we expected to issue preliminary determinations by October 25, 1984. On September 21, 1984, we determined these investigations to be "extraordinarily complicated," as defined in section 703(c)(1)(B) of the Act. Therefore, we extended the period for making our preliminary determinations by 65 days until December 31, 1984 (49 FR 40198).

On December 31, 1984, we issued our preliminary determinations that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in the Philippines of certain textile mill products and apparel (50 FR 1607).

On December 3, 1984, the petitioners amended their petitions to include the following ATMI member firms as individual petitioners with respect to textile mill products:

- Belton Industries, Inc., of Belton, S.C.
- Burlington Industries, Inc., of Greensboro, N.C.
- Chatham Manufacturing Company of Elkin, N.C.
- Milliken & Company of Spartanburg, S.C.
- Mount Vernon Mills, Inc., of Greenville, S.C.
- Shuford Mills, Inc., of Hickory, N.C.
- J.P. Stevens & Co., Inc., of New York, N.Y. and
- West Point-Pepperell, Inc., of West Point, Ga.

On December 17, 1984, the Department determined that ATMI is not an "interested party" under section 771(9)(E) of the Act, and has no standing as a petitioner in these investigations. The Department accepted the

amendment to add the eight firms listed above as petitioners with respect to textile mill products.

On March 15, 1985, the Office of the

United States Trade Representative announced that the Philippines was a "country under the Agreement," as set out in section 701(b) of the Act (50 FR 11471, March 21, 1985). As a result, Title VII of the Act became applicable to the then pending countervailing duty investigations. According to section 102 of the Act, once Title VII becomes applicable, any pending investigation under section 303 of the Act must terminate. Where a preliminary determination, but not a final determination has been made under section 303, the case is to be treated as if the preliminary determination under section 703 was made the day Title VII first applied to that country. Therefore, we are terminating the investigations we initiated on August 30, 1984, under section 303 of the Act. The investigations shall be subject to the provisions of Title VII of the Act as if the affirmative preliminary determinations made on December 31, 1984, under section 303 (50 FR 1607) were affirmative preliminary determinations under section 703 of the Act made on March 15, 1985. The final determinations in these investigations now are due by May 29, 1985.

Scope of the Investigations

The products covered by these investigations are certain textile mill products and apparel which are described in the Appendix to this notice.

ITC Notification

Pursuant to section 703(f) of the Act, we are notifying the U.S. International Trade Commission (ITC) and making available to it information relating to the matter under investigation. We will make available to the ITC all nonprivileged and nonconfidential information. We will also allow the ITC access to all privileged and confidential information in our files, provided it confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

After our final determinations, the ITC will determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports of certain textile mill products and apparel from the Philippines.

Dated: March 15, 1985.

C. Christopher Parlin,
Acting Deputy Assistant Secretary for Import Administration.

Appendix.—Imports of Certain Textile Mill Products and Apparel From the Philippines in 1983

[Tariff Schedule Numbers Subject to Investigations]

A. Textile Mill Products

Yarns

303.1000 303.2040 307.6810 307.6820 307.6830 310.5049

Cordage

315.3500 315.4500 316.3000 316.5800

Fabrics

328.1062 328.1063 328.4021 328.4022 328.4024 328.4031 328.4038
328.4042 328.4049 328.4054 328.4057 328.4065 328.4072 328.4074
328.4080 328.4098 335.7500

Special Constructional Fabrics

347.8040 348.0082 348.0085 348.0095 348.0575 349.1060 351.0500
351.3000 351.4010 351.4610 351.4660 351.8060 352.8060 353.5052
355.2500 355.4530 357.1500 357.7060 357.8060 358.0210

Textile Furnishings

360.1515 360.1520 360.4225 360.4825 360.7000 360.7800 360.8300
361.4500 361.4800 361.5420 361.5426 361.5820 361.5660 363.0120
363.0515 363.0525 363.2562 363.2564 363.2575 363.2580 363.3020
363.5115 363.8506 363.8509 363.8555 365.5060 365.7825 365.7855
365.7865 365.8100 365.8300 365.8640 365.8660 365.8670 365.8680
366.1540 366.1840 366.1855 366.4000 366.4700 366.4820 366.4840
366.5100 366.5400 366.5740 366.7200 366.7700 366.7925 366.7930
367.5500 367.6025 367.6040 367.6080 367.6500
727.8200

Miscellaneous

365.5000 365.6120 365.6140 365.6300 365.7040 366.0430 366.2000
366.5050 367.3700 369.3000 369.4000 369.5000 369.6270 369.7000

B. Apparel

Wearing Apparel

370.0800 370.1200 370.1600 370.8420 372.1010 372.1020 372.1030
372.1036 372.1040 372.1060 372.1540 372.1560 372.3500 372.6020
372.7000 372.7520 372.7540 373.2200 374.1000 374.2500 374.3530
374.3550 374.4000 374.6020 376.1600 376.2425 376.2430 376.2470
376.2825 376.2830 376.2846 376.2886 376.3408 376.5609 376.5612
376.5618 376.0545 378.0550 378.0553 378.0560 378.0571 378.0576
378.1035 378.1535 378.1540 378.6030 378.6530 379.0211 378.0212
379.0220 379.0230 379.0240 379.0490 379.0607 379.0609 379.0615
379.0620 379.0624 379.0640 379.0646 379.0840 379.2020 379.2320
379.2360 379.2610 379.2630 379.2830 379.2840 379.3120 379.3130
379.3140 379.3180 379.3334 379.3336 379.3540 379.3905 379.3915
379.3925 379.3930 379.4020 379.4030 379.4040 379.4050 379.4060
379.4140 379.4330 379.4815 379.4820 379.4840 379.4650 379.4660
379.4670 379.5220 379.5520 379.5530 379.5535 379.5540 379.5545
379.5550 379.5560 379.5565 379.5700 379.5800 379.6210 379.6217
379.6219 379.6220 379.6230 379.6240 379.6250 379.6260 379.6270
379.6280 379.6430 379.6470 379.7259 379.7540 379.7547 379.7550
379.7555 379.7580 379.7610 379.7620 379.7630 379.7650 379.8311
379.8318 379.8356 379.8357 379.8358 379.8359 379.8360 379.8420
379.8906 379.8911 379.8915 379.8930 379.8935 379.8940 379.9010
379.9020 379.9030 379.9035 379.9040 379.9100 379.9510 379.9525
379.9530 379.9535 379.9540 379.9550 379.9555 379.9562 379.9564
379.9566 379.9568 379.9575 379.9580 379.9585 379.9650 383.0207
383.0208 383.0212 383.0213 383.0214 383.0216 383.0217 383.0218
383.0219 383.0222 383.0226 383.0228 383.0232 383.0234 383.0236
383.0238 383.0242 383.0246 383.0248 383.0272 383.0305 383.0306
383.0320 383.0330 383.0335 383.0335 383.0340 383.0350 383.0361

Appendix.—Imports of Certain Textile Mill Products and Apparel From the Philippines in 1983—Continued

[Tariff Schedule Numbers Subject to Investigations]

383.0390	383.0505	383.0506	383.0507	383.0509	383.0570	383.0606
383.0608	383.0612	383.0614	383.0616	383.0618	383.0622	383.0630
383.0631	383.0638	383.0640	383.0657	383.0665	383.0680	383.0615
383.0620	383.0625	383.0630	383.0635	383.0638	383.0641	383.0644
383.0655	383.0656	383.0659	383.0660	383.1802	383.1804	383.1805
383.1806	383.1807	383.1809	383.1811	383.1812	383.1822	383.1924
383.1841	383.1843	383.1846	383.1848	383.1852	383.1854	383.1880
383.1910	383.1920	383.1922	383.1924	383.1926	383.1928	383.1935
383.1940	383.2005	383.2013	383.2014	383.2016	383.2020	383.2025
383.2035	383.2040	383.2050	383.2052	383.2054	383.2058	383.2060
383.2205	383.2210	383.2212	383.2214	383.2216	383.2225	383.2227
383.2228	383.2229	383.2231	383.2232	383.2233	383.2234	383.2236
383.2237	383.2241	383.2243	383.2245	383.2248	383.2251	383.2255
383.2305	383.2310	383.2315	383.2320	383.2325	383.2330	383.2335
383.2340	383.2350	383.2351	383.2352	383.2354	383.2356	383.2360
383.2365	383.2550	383.2580	383.2590	383.2706	383.2710	383.2712
383.2714	383.2715	383.2716	383.2718	383.2721	383.2722	383.2724
383.2726	383.2728	383.2730	383.2732	383.2736	383.2738	383.2750
383.2814	383.2816	383.2818	383.2820	383.2821	383.2826	383.2828
383.2835	383.2910	383.3010	383.3020	383.3030	383.3037	383.3038
383.3040	383.3060	383.3069	383.3080	383.3085	383.3090	383.3200
383.3405	383.3415	383.3420	383.3430	383.3435	383.3445	383.3448
383.3450	383.3452	383.3460	383.3465	383.3466	383.3600	383.4015
383.4200	383.4300	383.4702	383.4704	383.4705	383.4707	383.4709
383.4711	383.4716	383.4717	383.4718	383.4720	383.4721	383.4724
383.4726	383.4747	383.4748	383.4750	383.4753	383.4754	383.4756
383.4758	383.4760	383.4761	383.4762	383.4764	383.4765	383.4816
383.4818	383.4820	383.4821	383.4823	383.4825	383.5026	383.5028
383.5029	383.5031	383.5032	383.5033	383.5034	383.5037	383.5040
383.5041	383.5042	383.5043	383.5044	383.5051	383.5054	383.5057
383.5080	383.5082	383.5086	383.5088	383.5090	383.5295	383.5304
383.5305	383.5316	383.5369	383.5365	383.5395	383.5825	383.5845
383.6330	383.6340	383.6371	383.6395	383.7205	383.7210	383.7510
383.7520	383.7522	383.7532	383.7534	383.7536	383.7538	383.7542
383.7544	383.7546	383.7548	383.7552	383.7554	383.7556	383.7681
383.7883	383.7886	383.7887	383.7888	383.7889	383.8002	383.8007
383.8009	383.8011	383.8012	383.8014	383.8017	383.8019	383.8024
383.8026	383.8028	383.8030	383.8045	383.8048	383.8050	383.8052
383.8069	383.8071	383.8073	383.8108	383.8110	383.8114	383.8115
383.8116	383.8117	383.8137	383.8139	383.8141	383.8143	383.8147
383.8156	383.8158	383.8162	383.8164	383.8300	383.8605	383.8620
383.8621	383.8622	383.8630	383.8635	383.8645	383.8650	383.8660
383.8661	383.8663	383.8665	383.8669	383.8670	383.9010	383.9015
383.9020	383.9025	383.9027	383.9029	383.9032	383.9035	383.9040
383.9042	383.9050	383.9051	383.9058	383.9057	383.9058	383.9059
383.9061	383.9062	383.9063	383.9064	383.9066	383.9068	383.9069
383.9070	383.9072	383.9074	383.9076	383.9205	383.9210	383.9211
383.9215	383.9225	383.9230	383.9235	383.9240	383.9245	383.9246
383.9265	383.9270	383.9273	383.9276	383.9291	383.9562	383.9564
383.9566	383.9568	383.9570	383.9572	383.9574	383.9576	383.9578
383.9579						

Headwear

702.5600	703.0510	703.0520	703.0530	703.0540	703.0550	703.0560
703.1000	703.1610	703.1620	703.1630	703.1640	703.1650	

Gloves

704.1020	704.2000	704.2500	704.3210	704.3215	704.3240	704.4010
704.4504	704.4506	704.4508	704.5015	704.6500	704.8515	704.8525
704.8550	704.9000	705.8520				

Luggage and Handbags

706.3410	706.3420	706.3430	706.3200	706.3640	706.3680	706.3840
706.3850	706.4106	706.4121	706.4140	706.4144	706.4152	

[C-351-056]

Certain Scissors and Shears From Brazil; Preliminary Results of Administrative Review of Countervailing Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Preliminary Results of Administrative Review of Countervailing Duty Order.

SUMMARY: The Department of Commerce has conducted an administrative review of the countervailing duty order on certain scissors and shears from Brazil. The review covers the period March 1, 1981, through February 28, 1982.

As a result of the review, the Department has preliminarily determined the aggregate net subsidy for the period to be 13.60 percent *ad valorem*. Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT: Peggy Clarke or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On April 26, 1983, the Department of Commerce ("the Department") published in the Federal Register (48 FR 18863) the final results of its last administrative review of the countervailing duty order on certain scissors and shears from Brazil (42 FR 8634, February 11, 1977) and announced its intent to conduct the next administrative review. As required by section 751(a)(1) of the Tariff Act of 1930 ("The Tariff Act"), the Department has now conducted that administrative review.

On December 14, 1983, the International Trade Commission ("the ITC") published its determination that an industry in the United States would not be materially injured, or threatened with material injury, by reason of imports of Brazilian scissors and shears if the order were revoked (48 FR 55644). Consequently, the Department published in the Federal Register (49 FR 7638, March 1, 1984) a revocation of the order with respect to all merchandise

entered, or withdrawn from warehouse, for consumption on or after July 17, 1981.

Scope of the Review

Imports covered by the review are shipments of Brazilian scissors and shears valued over \$1.75 per dozen. Such merchandise is currently classifiable under items 650.9000 and 650.9200 of the Tariff Schedules of the United States Annotated ("TSUSA").

The review covers the period March 1, 1981, through February 28, 1982, and eleven programs: (1) Preferential financing for exports through CACEX; (2) an income tax exemption for export earnings; (3) the export credit premium for the Industrial Products Tax ("IPI"); (4) fiscal benefits for special export programs ("BEFLEX"); (5) preferential financing under CIC-CREGE 14-11; (6) tax reductions on equipment used in export production ("CIEEX"); (7) Fundo de Democratizacao do Capital das Empresas ("FUNDECE"); (8) preferential financing for the storage of merchandise destined for export (Resolution 330); (9) preferential export financing under Resolution 68 ("FINEX"); (10) incentives for trading companies (Resolution 643); and (11) partially-indexed long-term loans.

Analysis of Programs

(1) Preferential Financing for Exports

Under this program, the Department of Foreign Commerce of the Banco do Brasil ("CACEX") declares companies eligible to receive working capital loans at preferential rates. These loans have a duration of up to one year. During the period of review, each firm producing scissors and shears could obtain preferential financing for up to 30 percent of the value of its previous year's exports.

During the review period, ZIVI S/A-Cutelaria, a producer of scissors and shears, had loans outstanding under Resolutions 602 (effective March 5, 1980) and 674 (effective January 22, 1981) of the Banco Central do Brasil. Resolution 602 required that the loans be discounted. Resolution 674 required two interest payments, one 180 days after the loan was granted and one when the principal was repaid.

In past reviews, we calculated the benefit from a loan by prorating the loan amount over the portion of the review period during which the loan was outstanding irrespective of the timing of interest payments. We now believe that the benefit occurs when the cash flow effect occurs. For these loans, that effect occurred when the borrower made the preferential interest payments.

Although we have changed our methodology, in this review we continued to straddle those loans (Resolution 602) that we had straddled in the last review. For new loans (Resolution 674), not included in the last review, we calculated the benefit based on the date of payment. For each new loan with interest payments during the period of review, we divided the number of days each portion of the loan was outstanding (the date of the drawdown to the date of the initial interest payment and the date of the initial interest payment to the date of the final interest payment) by 365 days. We applied the resulting ratio to the interest differential (the difference between the annual commercial benchmark and the relevant Resolution 674 interest rate) and multiplied the result by the affected loan principal.

To find the interest differential for our calculations, we compared two effective rates. For our benchmark, we took the national average effective rate for thirty-day discounts of accounts receivable as found in *Analise/Business Trends*. We then compounded this rate to find the annual commercial benchmark. The effective preferential rates on the straddled loans varied between 26.39 percent and 31.75 percent. The commercial benchmark for these loans ranged from 44.08 percent to 47.96 percent. Therefore, the interest differential ranged, for the straddled loans, from 16.21 to 21.57 percent. The unstraddled loans had an effective preferential rate of 44 percent. The commercial benchmark at the time the borrowers contracted for these loans was 92.23 percent. Thus, the interest differential for the new loans was 48.23 percent. We preliminarily determine the total net subsidy from this program to be 7.01 percent *ad valorem*.

(2) Income Tax Exemptions for Export Earnings

Exporters of scissors and shears are eligible under this program for an exemption from income tax of the percentage of profit attributable to export revenue. The Brazilian government calculates the tax-exempt fraction of profit as the ratio of export revenue to total revenue. The benefit equals the product of the amount of tax-exempt profit times the prevailing 35 percent corporate income tax rate. We preliminarily determine the benefit from this program to be 1.58 percent *ad valorem* for the review period.

(3) IPI Export Credit Premium

Exports of certain scissors and shears are eligible for the maximum IPI export credit premium. The Brazilian

government reimburses in cash a percentage of the f.o.b. invoice price of the exported merchandise to exporters through the bank involved in the export transaction.

The Brazilian government eliminated the IPI export credit premium on December 7, 1979, but reinstated it on April 1, 1981. On June 28, 1981, the Brazilian government imposed an export tax to offset the benefit on exports to the U.S. Therefore, scissors and shears exporters received a benefit under this program for three months (April, May, and June 1981) during the period of review. We divided the value of IPI credits received during that period by exports during the period of review and found an *ad valorem* benefit of 2.33 percent.

During verification in other countervailing duty orders, we found that the government did not begin to collect the tax until December 1982, at which time the back taxes were paid without monetary correction, interest, or penalties. We consider the lag in collection to be a benefit to the exporters equal to an interest free loan in the amount of the tax owed, rolled over monthly, until they actually paid the tax. Under current practice, exporters are to pay the offset tax 45 days after the end of the month in which the shipment earning the premium occurred. To calculate the benefit, we considered the interest free loan to begin on the date the tax was due (i.e. 45 days after the end of the month of shipment).

As a commercial benchmark, we used the monthly discount rate (described for the Resolution 674 program), compounding for the number of months the hypothetical loan was outstanding during the review period. Adding the benefit from this to the benefit received from the IPI premium itself, we preliminarily find the *ad valorem* benefit to be 2.66 percent.

(4) Fiscal Benefits for Special Export Programs

Under Decree Law 1219 of May 15, 1972, any firm that produces manufactured products is eligible to receive benefits from the Commission for the Granting of Fiscal Benefits for Special Export Programs ("BEFLEX"), as long as the company makes an appropriate export commitment. Under Decree No. 77,065, a company can receive a reduction of 70 to 90 percent of the import duties and the IPI tax on the import of machinery and equipment necessary to meet the approved export commitment. Scissors and shears exporters are eligible for benefits under

this program, and one exporter for which we have data received benefits during the period of review. We divided the amount of benefits received by exports and find an *ad valorem* benefit under this program of 1.98 percent during the review period.

(5) Preferential Export Financing Under CIC-CREGE 14-11

CIC-CREGE 14-11 is a program operated by the Banco do Brasil that provides preferential financing to exporters, who are then required to maintain a minimum fixed level of foreign exchange with the Banco do Brasil. Exporters of certain scissors and shears participated in this program during the review period.

We calculated the benefit in a manner similar to that used for Resolution 674 financing. There is no maximum interest rate for this program, and interest payments are normally made quarterly with the full principal repaid at the end of the loan term. Only one loan was outstanding during the review period. Since it had not been countervailed previously and three payments fell due during the review period, we calculated the benefit based on the interest payment dates as we did for new loans under Resolution 674. We preliminarily determine the benefit conferred by this program to be 0.37 percent *ad valorem*.

(6) Other Programs

We also examined the following programs and preliminarily find that exporters of certain scissors and shears did not use them during the review period.

- A. Tax reductions on equipment used in export production ("CIEEX");
- B. Fundo de Democratizacao do Capital das Empresas ("FUNDECE");
- C. Preferential financing for the storage of merchandise destined for export (Resolution 330);
- D. Preferential export financing under Resolution 68 ("FINEX");
- E. Incentives for trading companies (Resolution 643); and
- F. Partially-indexed long-term loans.

Preliminary Results of the Review

As a result of our review, we preliminarily determine the aggregate net subsidy to be 13.60 percent *ad valorem* for the period of review. Accordingly, the Department intends to instruct the Customs Service to assess countervailing duties of 13.60 percent of the f.o.b. invoice price on any shipments (except as noted below) exported on or after March 1, 1981, and entered, or withdrawn from warehouse, for consumption before July 17, 1981 (the day the Department received

notification of the request for an injury determination).

Further, as a result of the ITC's negative injury determination, the Department has revoked this order (49 FR 7638, March 1, 1984) with respect to all merchandise entered, or withdrawn from warehouse, for consumption on or after July 17, 1981.

Because Brazil is a signatory to the General Agreement on Tariffs and Trade, section 303 of the Tariff Act provides that countervailing duties may not be imposed on its merchandise entering free of customs duties, unless the ITC has determined that a U.S. industry is materially injured by reason of imports of such merchandise. Entries of pink shears classifiable under TSUSA number 650.9000 are afforded duty free status under the Generalized System of Preferences. Therefore, the Department intends to instruct the Customs Service to liquidate without regard to countervailing duties all duty-free shipments of pink shears entered, or withdrawn from warehouse, for consumption on or before July 16, 1981.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than five days after the date of publication. The Department will publish the final results of this administrative review including the results of its analysis of issues raised in such written comments or at a hearing.

This administrative review and notice are in accordance with § 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: March 20, 1985.
Alan F. Holmer,
Deputy Assistant Secretary Import Administration.
[FR Doc. 85-7158 Filed 3-25-85; 8:45 am]
BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Evaluation of State/Territorial Coastal Management Programs, Coastal Energy Impact Programs and National Estuarine Sanctuaries

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and

Coastal Resource Management, Commerce.

ACTION: Notice of Availability of Evaluation Findings.

SUMMARY: Notice is hereby given of the availability of the evaluation findings for the Michigan and Puerto Rico Coastal Management Programs, and the Puerto Rico National Estuarine Sanctuary (Jobos Bay). Section 312 of the Coastal Zone Management Act of 1972, as amended, requires a continuing review of the performance of each coastal state with respect to the implementation of its federally approved Coastal Management Program. The states evaluated were found to be adhering both to the programmatic terms of the their financial assistance awards and/or to their approved coastal management programs; and to be making progress on award tasks, special award conditions, and significant improvement tasks aimed at program implementation and enforcement, as appropriate. Accomplishments in implementing coastal zone management programs were occurring with respect to the national coastal management objectives identified in Section 303(2)(A)-(I) of the Coastal Zone Management Act.

A copy of the assessment and detailed findings for these programs may be obtained on request from: John H. McLeod, Acting Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235 (telephone: 202/634-4245).

(Federal Domestic Assistance Catalog 11.419, Coastal Zone Management Program Administration)

Dated: March 18, 1985.

Peter L. Tweedt,
Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85-7075 Filed 3-25-85; 8:45 am]

BILLING CODE 3510-08-M

Coastal Management Programs; Intent to Evaluate

AGENCY: National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management, Commerce.

ACTION: Notice of intent to evaluate.

SUMMARY: The National Oceanic and Atmospheric Administration, National Ocean Service, Office of Ocean and Coastal Resource Management (OCRM), announces its intent to evaluate the

performance of the Washington Coastal Management Program (CMP); the Rhode Island CMP; the Virgin Islands CMP; the Massachusetts CMP; and the Mississippi CMP through June 1985. These reviews will be conducted pursuant to section 312 of the Coastal Zone Management Act (CZMA) which requires a continuing review of the performance of the states with respect to coastal management, and their adherence to the terms of financial assistance awards funded under the CZMA. Coastal zone management is funded under section 306, and the National Estuarine Sanctuary Program is authorized by section 315, CZMA. The reviews involve consideration of written submissions, a site visit to the state, and consultations with interested Federal, state and local agencies and members of the public. Public meetings will be held as part of the site visits. The state will issue notice of these meetings. A subsequent notice will be placed in the *Federal Register* announcing the availability of the Final Findings based on each evaluation once these are completed.

FOR FURTHER INFORMATION CONTACT: John H. McLeod, Acting Evaluation Officer, Policy Coordination Division, Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 3300 Whitehaven Street NW., Washington, D.C. 20235 (telephone: 202/634-4245).

(Federal Domestic Assistance Catalog 11.419 Coastal Zone Management Program Administration)

Dated: March 18, 1985.

Peter L. Tweedt,

Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 85-7076 Filed 3-25-85; 8:45 am]

BILLING CODE 3510-08-M

Foreign Fishing; Receipt of Permit Applications

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235;

or, send comments to the Fishery Management Council(s) which review the application(s), as specified below: Douglas G. Marshall, Executive Director, New England Fishery Management

Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302/674-2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-1366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753-6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 411 W. Fourth Avenue, Suite 2D, Anchorage, AK 99510, 907/271-4060

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368

For further information contact John D. Kelly (Fees, Permits, and Regulations Division, 202-634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the *Federal Register*. The National Marine Fisheries Service, under the authority granted in a memorandum of understanding with the Department of State effective November 29, 1983, issued the notice on behalf of the Secretary of State.

Individual vessel applications for fishing in 1985 have been received between February 1, 1985 and March 20, 1985 from the Government(s), shown below.

Dated: March 22, 1985.

William G. Gordon,

Assistant Administrator of Fisheries, National Marine Fisheries Service.

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic billfishes and sharks.	New England, Mid-Atlantic, South Atlantic, Gulf of Mexico, Caribbean.
BSA	Bering Sea and Aleutian Island groundfish.	North Pacific.
GOA	Gulf of Alaska	North Pacific.
NWA	Northwest Atlantic Ocean	New England, Mid-Atlantic.
SMT	Seamount groundfish	Western Pacific.
SNA	Snails (Bering Sea)	North Pacific.
WOC	Pacific groundfish (Washington, Oregon, and California).	Pacific.
PBS	Pacific billfishes and sharks.	Western Pacific.

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support.
2	Processing and other support only.
3	Other support only.
4	"Joint venture" in support of U.S. vessels.

Nation, vessel name, and vessel type	Application No.	Fishery	Activity
The Government of Japan			
Tomi Maru No. 85, medium stern trawler.	JA-85-0282	BSA, GOA	1(4)
Tomi Maru No. 83, medium stern trawler.	JA-85-1170	BSA	1(4)
Tenyo Maru, large stern trawler.	JA-85-0352	BSA, GOA	1(4)
Tenyo Maru No. 2, large stern trawler.	JA-85-0332	BSA, GOA	1(4)
Tenyo Maru No. 3, large stern trawler.	JA-85-0333	BSA, GOA	1(4)
Tenyo Maru No. 5, large stern trawler.	JA-85-0334	BSA, GOA	1(4)
Zuiyo Maru No. 2, large stern trawler.	JA-85-0351	BSA, GOA	1(4)
Zuiyo Maru No. 3, large stern trawler.	JA-85-0331	BSA, GOA	1(4)
Zuhoo Maru No. 28, medium stern trawler.	JA-85-0565	BSA	1(4)
Shunyo Maru No. 118, medium stern trawler.	JA-85-0564	BSA	1(4)
Dian Maru No. 188, medium stern trawler.	JA-85-0553	BSA	1(4)
Akebono Maru No. 1, medium stern trawler.	JA-85-1153	BSA	1(4)
Akebono Maru No. 2, medium stern trawler.	JA-85-1154	BSA	1(4)
Akebono Maru No. 15, medium stern trawler.	JA-85-0312	BSA	1(4)
Akebono Maru No. 18, medium stern trawler.	JA-85-0315	BSA	1(4)

Nation, vessel name, and vessel type	Application No.	Fishery	Activity
Akabono Maru No. 27, medium stern trawler	JA-85-0300	BSA, GOA, SMT	1(4)
Takachiho Maru, large stern trawler	JA-85-0291	BSA	1(4)
Scho Maru No. 22, Danish seiner	JA-85-2007	BSA	1
Shinyo Maru, cargo transport	JA-85-0074	BSA	3
Hyosui Maru, cargo transport	JA-85-0075	BSA	3
Yohsei Maru, cargo transport	JA-85-0076	BSA	3

Government of Japan

joint venture.—The Government of Japan has applied for fishing permits to engage in joint venture activities in the BSA fishery for a total of 19,730 metric tons of joint venture transfers with six (6) American partners. The target species applied for are as follows: yellowfin sole, Pacific cod, Alaska pollock, and other groundfish. Two (2) American partners have not been identified pending the conclusion of contract negotiations. The identified American partners are: Alaska Contact Ltd., Anchorage Alaska; Westward Trawlers Inc., Seattle, Washington; Peter Pan Seafoods, Inc., Seattle, Washington, and Universal Seafoods Ltd., Redmond, Washington.

[FR Doc. 85-7285 Filed 3-25-85; 9:31 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing an Import Limit for Certain Wool Textile Products Produced or Manufactured in the People's Republic of China

March 21, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on March 28, 1985. For further information contact Diana Solkoff, International Trade Specialist (202) 377-4212.

Background

On January 25, 1985, a notice was published in the *Federal Register* (50 FR 3586) which established an import restraint limit for men's and boys other wool coats in Category 435, produced or manufactured in the People's Republic of China and exported during the ninety-day period which began on December 28, 1984 and extends through March 27, 1985. The notice also stated that the Government of the People's Republic of China is obligated under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, if no mutually satisfactory solution is

reached on a level for this category during consultations, to limit its exports during the twelve-month period following the ninety-day consultation period to 5,841 dozen.

No solution has been reached in consultations on mutually satisfactory limits. The United States Government has decided, therefore, to control imports of wool textile products in Category 434, exported during the twelve-month period at the level described above. The United States remains committed to finding a solution concerning this category. Should such a solution be reached in consultations with the Government of the People's Republic of China, further notice will be published in the *Federal Register*.

In the event the limit established for the ninety-day period has been exceeded, such excess amount, if allowed to enter, will be charged to the level established for the designated twelve-month period.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

Ronald I. Levin,

Acting Director, Committee for the Implementation of Textile Agreements.

March 21, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,

Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of August 19, 1983, between the Governments of the United States and the People's Republic of China; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on March 28, 1985, entry for consumption and withdrawal from warehouse for consumption of wool textile products in Category 434, produced or manufactured in China and exported during the twelve-month period beginning on March 28, 1985 and extending

through March 27, 1986 in excess of 5,841 dozen.¹

Textile products in Category 434 which are in excess of the 90-day limit previously established shall be subject to this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the *Federal Register* on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-7038 Filed 3-25-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Conflict Environment; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Conflict Environment will meet in closed session on 2-3 May, 4-5 June and 1-2 July 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings the Task Force will receive classified briefings on Conflict Environment and discuss preparation of their report.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1)

¹ The restraint limit has not been adjusted to account for any imports exported March 28, 1985.

(1982), and that accordingly this meeting will be closed to the public.

Linda M. Lawson,

Alternate OSD Federal Register Liaison
Officer, Department of Defense.

March 21, 1985.

[FR Doc. 85-7160 Filed 3-25-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID-2160-000]

Eileen M. Beck; Application

March 21, 1985.

Take notice that on March 12, 1985, Eileen M. Beck (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions.

Assistant Treasurer—Monongahela
Power Company
Secretary—Allegheny Generating
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 April 12, 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. 85-7146 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-21-000]

**Belco Development Corporation,
NGPA 102(d) Determination, Bureau of
Land Management, Rock Springs, WY,
Figure Four #2-12 and Figure Four
Canyon #3-12, J.D. Nos. 85-13189 and
85-13190; Protest to Negative Well
Determinations**

Issued: March 20, 1985.

On February 26, 1985, Belco Development Corporation (Belco) filed with the Federal Energy Regulatory Commission (Commission) a protest

against two negative determinations under section 102(d) Natural Gas Policy Act of 1978 (NGPA) ¹ issued by the Bureau of Land Management (BLM), Rock Springs, Wyoming, the jurisdictional agency, for the Figure Four #2-12 and the Figure Four Canyon #3-12 wells. The negative determinations were made by the BLM on November 15, 1984, and received by the Commission on January 16, 1985.²

Belco states that there is not substantial evidence to support the BLM's negative determinations that the subject wells do not penetrate a new, onshore production reservoir. Belco contends that the material submitted to the BLM shows that these wells penetrate a new reservoir, the Bear River Formation, and are not part of an existing reservoir in the Frontier Formation.

The impact on Belco of the present negative determinations are significant. If the negative determinations are allowed to stand Belco would suffer a loss of revenues equal to the difference in price of Section 102 gas and Section 103 gas times the volumes produced, which could exceed one million dollars annually Belco claims.

Any person who desires to be heard or to make any response to this protest should file, within 30 days after this notice is published in the Federal Register, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered, but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-7144 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP84-113-002, et al.]

Consolidated Gas Supply Corp. et al.; Filing of Pipeline Refund Reports and Refund Plans

March 20, 1985.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning

¹ 15 U.S.C. 3301-3432 (1982).

² Notice of receipt of the negative determination was issued by the Commission on February 6, 1985.

the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington D.C. 20426, on or before March 29, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

Appendix

Filing date	Company	Docket No.	Type filing
2/14/85	Consolidated Gas Supply Corporation.	RP84-113-002	Report.
2/15/85	Tennessee Gas Pipeline Company.	RP83-8-002	Do.
2/26/85	West Texas Gathering Company.	RP85-106-000	Blu.*
2/28/85	Caprock Pipeline Co.	RP85-109-000	Blu.*
3/1/85	East Tennessee Natural Gas Company.	RP71-15-018	Report.
3/8/85	Northern Natural Gas Company.	RP85-113-000	Blu.*
3/11/85	Gas Gathering Corporation.	RP85-115-000	Blu.*
3/12/85	Louisiana-Nevada Transit Company.	RP85-116-000	Blu.*
3/13/85	Alabama-Tennessee Natural Gas Company.	RP85-117-000	Blu.*

*Refunds resulting from Btu Measurement Adjustments. Each company will retain its basic Docket No. and Sub-Docket Nos. assigned to any future Btu refund reports.

[FR Doc. 85-7145 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 5531-000 and 5901-000]

Hydro Resources Co.; Public Utility District No. 1 of Mason County, Washington; Opportunity To Reinstatement Previously Denied Applications Filed in Competition With Invalidated Natural Water Feature Exemptions

March 20, 1985.

Pursuant to the order of the Commission issued on July 18, 1984, in *Eagle Power Co.*, 28 FERC ¶ 61,061 (1984), the Commission declared void a number of natural water feature exemptions issued by the Commission but subsequently invalidated by the ruling in *Tulalip Tribes of Washington v. FERC*, 732 F.2d 1451 (9th Cir. 1984). The Commission granted these exemptions and any of their defeated competing exemption applicants whose proposals would be invalid under *Tulalip* the right to convert their exemption applications to license applications ¹ or to file revised

¹ The Commission waived the filing requirements for license set forth in 18 CFR Subpart G that are

Continued

exemption applications within 120 days. The Commission also granted any former applicant with an accepted application for preliminary permit, license or exemption that competed with any one of the now voided exemptions the right to have its application reinstated. The right to file a converted license application or revised exemption application, or to have a previously denied competing application reinstated, was conditioned upon such applicant notifying the Commission in writing of its intention to exercise this option within 30 days of the date of that order.

On August 17, 1984, the Commission issued an "Order Correcting *Eagle Power Co.*", 28 FERC ¶ 61,281 (1984), in which it, *inter alia*, declared void, by placing under ordering paragraph (B) of *Eagle Power Co.*, a natural water feature exemption issued to Western Hydro Electric, Inc. for Project No. 6367-000. Notice is hereby given to the applicants identified in the caption above that, as previous competitors to the now voided exemption for Project No. 6367, they may have their previously filed applications reinstated pursuant to the procedures set forth in *Eagle Power Co.* Such applicants must, however, notify the Commission in writing of their intention to do so no later than 30 days from the date this notice is issued.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-7147 Filed 3-25-85; 8:45 am]
BILLING CODE 6710-01-M

[Docket No. ID-2161-000]

Thomas J. Kloc; Application

March 21, 1985.

Take notice that on March 12, 1985, Thomas J. Kloc (applicant) filed an application pursuant to section 305(b) of the Federal Power Act to hold the following positions:

Assistant Treasurer, Assistant Secretary—The Potomac Edison Company
Treasurer, Assistant Secretary—Allegheny Generating 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

essentially redundant to the exemption application. The specific requirements for the content and timing of filing such applications are set forth in detail in *Eagle Power Co.*

should be filed on or before April 12, 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. 85-7148 Filed 3-25-85; 8:45 am]
BILLING CODE 6710-01-M

[Docket No. SA85-18-000]

Koch Industries, Inc.; Petition for Adjustment

Issued: March 21, 1985.

On January 3, 1985, Koch Industries, Inc. (Koch) filed a petition with the Federal Energy Regulatory Commission seeking an extension of the December 31, 1984, deadline provided in Order No. 399-A (Docket No. RM84-6-003, *et al.*) for large first sellers to make refunds of overcharges resulting from Btu measurement adjustments.

Koch asserts that it is currently in litigation with its pipeline-purchaser, Colorado Interstate Gas Company (CIG), concerning the terms of its gas sales contract and that the resolution of the disputed issue in litigation will affect the ultimate amount of refunds due and owing, if any, by reason of Order Nos. 399 and 399-A. The pending litigation will also affect the amount of gathering charges owed to Koch by CIG under section 110 of the Natural Gas Policy Act and the Commission's regulations relating thereto, according to Koch's petition.

Koch further asserts that CIG has already unilaterally deducted a certain amount as the Btu refund, and that it would be inequitable to require Koch to make further payments of such refunds pending a resolution of the pending litigation.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure, 18 CFR 385.1101-385.1117 (1984). Any person desiring to participate in this adjustment proceeding shall file a petition to intervene in accordance with Rule 1105. All petitions to intervene must be filed

within fifteen days after the publication of this notice in the Federal Register.
Kenneth F. Plumb,
Secretary.

[FR Doc. 85-7149 Filed 3-25-85; 8:45 am]
BILLING CODE 6710-01-M

[Docket No. EL84-25-000]

Snow Mountain Pine Co. v. CP National Corp. & Idaho Power Co.; Order Dismissing Complaint and Denying Request for Declaratory Order

Issued: March 19, 1985.

On July 12, 1984, Snow Mountain Pine Company (Snow Mountain) filed a complaint seeking declaratory relief against CP National Corporation (CPN) and Idaho Power Company (IPC). Snow Mountain's complaint states that it proposes to construct a 29 MW cogeneration facility which will be a qualifying cogeneration facility (QF) pursuant to section 210 of the Public Utilities Regulatory Policies Act of 1978 (PURPA) and the Commission's regulations thereunder. Snow Mountain alleges that CPN has refused to wheel energy or capacity from the proposed facility and refused to purchase energy and capacity to any other utility. Snow Mountain also alleges that CPN has ignored an order of the Oregon Public Utilities Commissioner (OPUC or Oregon Commissioner) to purchase 20 MW of energy and capacity from Snow Mountain. In addition, Snow Mountain states that CPN currently has a full requirements contract with IPC which expires June 30, 1985. Snow Mountain contends that IPC has stated it will not enter into a new power sales contract with CPN when the existing contract terminates, but that CPN contends this Commission will require such an agreement to be executed. Snow Mountain alleges that CPN bases its refusal to purchase power on CPN's having no current or future need for power because CPN's requirements for power are being and will be met beyond 1985 by IPC. Finally, the petition states that IPC has filed with the Oregon Commissioner new avoided costs, to be effective in July 1984, which are based upon a hypothetical all-requirements contract between IPC and CPN, which contract CPN believes will be approved by this Commission. The avoided costs are based on IPC's system average cost, which Snow Mountain alleges is inconsistent with PURPA, this Commission's regulations, and the Oregon regulations.

Snow Mountain seeks various forms of declaratory relief. First, it requests

that the current IPC/CPN contract be declared unlawful to the extent (a) it expressly discourages or penalizes purchases from QFs, (b) it is used by CPN as a justification for not purchasing power from Snow Mountain, and (c) that CPN may rely upon it in the future to offer Snow Mountain an avoided cost rate based on IPC's average system costs. Second, Snow Mountain seeks a declaration from the Commission that no future IPC/CPN requirements contract will be approved by the Commission unless CPN purchases Snow Mountain's power. Third, Snow Mountain seeks a declaration that it is entitled to receive the avoided cost applicable at the time CPN's purchase obligation arose, such time to be no later than June 1984. Finally, Snow Mountain requests a declaration that use of a hypothetical requirements contract as the basis for avoided costs is unlawful because the contract is hypothetical and because use of such a contract will not encourage cogeneration and small power production.

Notice of the complaint was published in the *Federal Register*, with responses due by September 4, 1984. On August 27, 1984, CPN filed an answer and motion to dismiss in which it admitted that it had not agreed to purchase Snow Mountain's power, but argued that the petition was premature and in the wrong forum because the Oregon Commissioner was considering issues raised by Snow Mountain here in two OPUC proceedings.¹ On the same day IPC also filed a motion to dismiss, which pointed out that avoided cost proceedings were then pending before the Oregon Commissioner. In addition, the Oregon Commissioner filed a timely notice of intervention, stating that the Commissioner supports CPN's motion for dismissal and requests that if CPN's motion is not granted, the Commissioner be permitted to participate as a party in any further proceedings. On September 6, 1984, Snow Mountain filed an answer to the motions to dismiss in which it provided additional information regarding CPN's alleged refusal to purchase and questioned the authority of the Oregon Commissioner to consider some of the requested relief.

On November 13, 1984 Snow Mountain filed a motion to supplement the record in the form of an order of the

Oregon Commissioner in Docket No. UM 21, issued September 12, 1984.² That order approves, *inter alia*, CPN's use of its cost of power purchased from IPC as CPN's avoided cost. Snow Mountain contends that because the Oregon Commissioner did not rule on whether the IPC/CPN contract or an extension thereof would violate PURPA, its complaint has not been rendered moot by the Oregon Commissioner's orders.

On November 28, 1984, CPN filed an answer to Snow Mountain's motion, in which it disputes Snow Mountain's contention that there are issues left for resolution by this Commission and again requests dismissal. CPN's argument is based primarily on another order issued by the Oregon Commissioner on November 13, 1984, in Docket No. UM 11, in which the Oregon Commissioner confirmed the use of CPN's projected cost of purchased power from IPC as its avoided cost, established an effective date for the purchase obligation, and ordered CPN to purchase Snow Mountain's power.

Discussion

Under Rule 214(a)(2) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the Oregon Commissioner's timely notice of intervention serves to make him a party to this proceeding.

Snow Mountain's complaint will be dismissed. As the Commission has previously noted, complaints regarding an alleged refusal to purchase power from a qualifying facility and the rates for such purchases are matters properly brought in a State forum.³ Also, as noted above, the Oregon Commissioner has concluded his proceedings considering these issues by establishing avoided cost rates for CPN and requiring it to purchase from Snow Mountain. If Snow Mountain is dissatisfied with the Oregon Commissioner's determinations, or if CPN should fail to abide by them, then Snow Mountain should pursue that matter in a State forum of competent jurisdiction. Snow Mountain's other requests for declaratory relief have no basis.

Contrary to Snow Mountain's assertions, there are no issues remaining which this Commission might consider.

¹ "In the matter of the Investigation of Avoided Costs and of Cost Effective Fuel Use and Resource Development," OPUC Order No. 84-720 (September 12, 1984). The Commission need not rule on this motion, as it is taking official notice of the Oregon Commissioner's order.

² *Southern Co. Services, Inc.* 27 FERC ¶ 61,444 (1984), *reh. denied*, 28 FERC ¶ 61,346 (1984); *Roche Products, Inc., et al.*, 29 FERC ¶ 61,098 (1984); "Policy Statement Regarding the Commission's Enforcement Role Under Section 210 of [PURPA]," 23 FERC ¶ 61,304 at 61,645 (1983).

There is no need to consider whether or not the CPN/IPC all requirements contract "expressly discourages or penalizes" purchases from QFs. Snow Mountain has not stated how the contract discourages or penalizes these purchases apart from pointing out that it is an all-requirements contract. Such contracts do not, of course, relieve a utility of its obligation to purchase electricity from qualifying facilities.⁴ A declaration that the Commission will not approve any future CPN/IPC requirements contract unless CPN purchases power from Snow Mountain would clearly be inappropriate. Sound regulatory policy does not permit before-the-fact disapproval of an as yet unfiled contract as a means of enforcing statutory provisions or regulations which have not been shown to be violated. If Snow Mountain believes that any future CPN/IPC requirements contract contains provisions which violate PURPA or our regulations, it should raise those concerns when such contract is filed.

For the reasons discussed above, CPN and IPC's motions to dismiss Snow Mountain's complaint shall be granted.

The Commission orders:

(A) CPN and IPC's motions to dismiss Snow Mountain's complaint and request for declaratory relief are hereby granted.

(B) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-7150 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP84-441-002]

Tennessee Gas Pipeline Co., a Division of Tenneco, Inc.; Intent To Prepare an Environmental Assessment for the AVL Pipeline Project and To Adopt Portions of Tennessee/Boundary Looping Project: Final Environmental Impact Statement

March 22, 1985.

Notice is hereby given that the staff of the Federal Energy Regulatory Commission (FERC) intends to prepare an environmental assessment (EA), and to adopt, as part of the EA, those portions of the *Tennessee/Boundary Looping Project: Final Environmental Impact Statement* (FEIS), issued

¹ The two proceedings are a complaint by Snow Mountain against CPN and IPC in Docket No. UM 11 and an avoided costs proceeding applicable to Oregon Utilities generally in Docket No. UM 21. In Docket No. UM 11, the Oregon Commissioner issued an order on April 6, 1984, finding that CPN was required to purchase 20 MW of Snow Mountain's power, but reserved judgment on the appropriate rate.

⁴ "Small Power Production and Cogeneration Facilities: Regulations Implementing section 210 of the Public Utility Regulatory Policies Act of 1978," Docket No. RM79-55, Order No. 69, 45 FR 12214, 12219 (Feb. 25, 1980).

February 7, 1983, in Docket No. CP81-296-000, pertaining to the natural gas pipeline facilities proposed by Tennessee Gas Pipeline Company (Tennessee). On February 1, 1985, Tennessee filed in Docket No. CP84-441-002, a further amendment to its original application in Docket No. CP84-441-000, pursuant to Sections 7(c) and 7(b) of the Natural Gas Act. Tennessee requests authorization to (1) reduce or relinquish sales service to certain customers, (2) provide transportation of natural gas on a firm basis for certain customers, (3) abandon certain interruptible transportation services, and (4) construct and operate the facilities necessary to render the firm transportation services. Referred to as the AVL Pipeline Project, the construction of the proposed facilities would be completed by November 1, 1985.

The facilities proposed include 73.7 miles of 8- through 30-inch diameter pipeline looping in 12 segments adjacent to Tennessee's existing pipelines in New York, Pennsylvania, Massachusetts, New Hampshire, New Jersey, and Connecticut; 1.7 miles of 10-inch diameter replacement pipeline in Norwalk, Connecticut; and 17,300 horsepower of compression in Massachusetts, Pennsylvania, and New Jersey. (See table 1 for details for facilities locations.) Of the total compression proposed, 10,300 horsepower would be additions to or upgrades of compression at four existing compressor stations near Coudersport, Wellsboro and Wyalusing, Pennsylvania, and near Hopkinton,

Massachusetts. A new 7,000-horsepower compressor station is proposed to be installed near Libertyville, Sussex County, New Jersey. In addition, a new meter station is proposed to be constructed in Acton, Middlesex County, Massachusetts.

Most of the proposed facilities have previously been analyzed in the Tennessee/Boundary FEIS. The staff intends to adopt the relevant portions of that FEIS to avoid delay and duplication of effort. The staff must decide which of the FEIS recommendations are still valid, require change, or should be deleted. The FEIS included studies of 67.44 miles of the pipeline facilities and 10,300-horsepower of compression proposed in this amendment. Of particular note are loops formerly designated Nos. 9, 12, 18, 19, and 20 in the Tennessee/Boundary FEIS. Not only were these loops studied in the FEIS, the staff had recommended at least one route alternative for each loop. In the AVL proposal, Tennessee has not adopted the alternative recommendations the staff made in the prior FEIS. Instead, Tennessee proposed more restrictive construction procedures to minimize impact. Factors affecting the reasonableness of the alternatives may also have changed, such as recent information from state and local officials. Based on the new construction procedures and other information, the EA now under preparation will evaluate whether the staff's former FEIS recommendations should be modified or not adopted.

An analysis of the proposed facilities not previously analyzed will also be

included in the EA. These facilities consist of 3.56 miles of 30-inch diameter loop (M-5/6) in Hampden County, Massachusetts; 4.4 miles of 8-inch diameter loop (L-2) in Hartford and Litchfield Counties, Connecticut; the 7,000-hp Compressor Station 325 in Sussex County, New Jersey; and the Acton Meter Station in Middlesex County, Massachusetts.

The EA, along with the relevant information from the Tennessee/Boundary FEIS, will be transmitted to the Commission for purposes of evaluating the proposed settlement filed by Tennessee in this docket on February 5, 1985.

A copy of this notice, a general map showing the location of the facilities, and additional technical information concerning construction procedures has been distributed to Federal, state, and local environmental agencies, parties to the proceeding, and the public. Any comments should be addressed to the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426.

Written comments should be submitted by April 22, 1985, and *should reference Docket No. CP84-441-002*. Additional information about the proposals, including detailed maps of the individual facility locations, is available from Mr. James P. Daniel, Project Manager, Environmental Evaluation Branch, Office of Pipeline and Producer Regulation, telephone (202) 357-5364.

Kenneth F. Plumb,
Secretary.

TABLE 1
PROPOSED AVL PIPELINE PROJECT FACILITIES

Facility	Designation	Analyzed in FEIS	County/State	Specifications	
				Size	Mileage
Pipeline Loops	M-1	Yes (loop 2)	Cayuga, NY	30"	2.0
	M-2	Yes (loop 3)	Madison, NY	30"	5.74
	M-3	Yes (loop 4)	Herkimer and Otsego, NY	30"	2.0
	M-4	Yes (loop 5)	Albany, NY	30"	3.5
	M-5/6	Yes (loop 8) No-3.56 miles	Hampden and Worcester, MA	30"	18.77
	M-7	Yes (loop 9)	Tioga, PA	30"	11.5
	M-8	Yes (loop 11)	Susquehanna, PA	30"	4.0
	M-9	Yes (loop 12)	Sussex, NJ	30"	3.2
	L-2	No	Hartford and Litchfield, CT	8"	4.4
	L-3	Yes (loop 18)	Rockingham and Hillborough, NH	12"	12.2
	L-4	Yes (loop 19)	Essex, MA; Rockingham, NH	12"	6.4
Pipeline Replacement	L-1	Yes (loop 20)	Fairfield, CT	10"	1.7
Compressor Facilities	267	Yes (2,000hp)	Middlesex, MA	Horsepower	
	313	Yes (4,000hp)	Potter, PA	2,000-hp addition	
	315	Yes (1,800hp)	Tioga, PA	1,800-hp upgrade	
	319	Yes (4,500hp)	Bradford, PA	4,500-hp addition	
	325	No	Sussex, NJ	7,000-hp addition	
Measurement Facility	Acton	No	Middlesex, MA	_____	

[FR Doc. 85-7152 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER85-251-000 and ER85-81-000]

West Texas Utilities Co.; Order Accepting for Filing and Suspending Rates, Denying Motion To Reject, Noting Interventions, Granting Waiver, Establishing Hearing and Price Squeeze Procedures, and Consolidating Dockets

Issued: March 19, 1985.

On January 24, 1985, West Texas Utilities Company (WTU) submitted for filing a proposed two-step increase in its rates for service to Texas-New Mexico Power Company (TNP) and two partial requirements customers, the Cities of Brady and Coleman, Texas.¹ The proposed Level A rates would increase revenues by approximately \$234,000 (2.0%), based on the calendar year 1985 test period. The Level B rates would

¹ See Attachment for rate schedule designations.

further increase revenues by approximately \$166,000 (1.5%), representing a total increase of \$400,000 (3.5%). WTU states that the only difference between the Level A and B rates is the rate of return on common equity. WTU's rates reflect the inclusion in rate base of an increase in the amount for construction work in progress (CWIP), other than CWIP associated with pollution control and fuel conversion facilities. This increase is identical to the amount rejected by the Commission in a prior docket, as

modified by the summary disposition in that docket.²

Pursuant to § 35.17 of the Commission's regulations, WTU requests permission to file the proposed Level B rates within the period of suspension for the rates which the Level B rates are intended to supersede. WTU requests effective dates of March 26, 1985 and March 27, 1985 for the Level A and Level B rates, respectively. WTU further requests that, in the event that the Commission determines that a maximum suspension of the Level B rates is justified, the Commission allow the Level B rates to become effective as of June 1, 1985, the effective date of WTU's Level B rates filed in Docket No. ER85-81-000. WTU asserts that a June 1 effective date would place all of its wholesale customers on an equal footing as of that date. Finally WTU requests that the instant docket be consolidated with Docket No. ER85-81-000.

Notice of WTU's filing was published in the *Federal Register* (50 Fed. Reg. 5663 (1985)), with comments due on or before February 19, 1985. TNP and Brady filed timely motions to intervene. In addition, TNP protests the instant filing and requests that it be rejected on the grounds that it was submitted during the suspension period of WTU's filing in Docket No. ER85-81-000 in violation of section 35.17 of the Commission's regulations and that WTU has not shown good cause for waiver of the regulations. Alternatively, TNP requests that the Commission deny WTU's request regarding suspension of the proposed Level B rates. In support of its position, TNP contends that allowing the CWIP-related rates to become effective as of the date on which they would have become effective, had they not been rejected in the prior docket, would nullify the rejection ordered by the

Commission in Docket No. ER85-81-000. TNP further contends that WTU has not shown good cause for allowing its requested suspension treatment.

Brady also protests WTU's proposed rate increase³ and opposes WTU's requested suspension treatment. Brady requests that the proposed Level A and B rates be suspended for five months and that the instant docket be consolidated with Docket No. ER85-81-000. Finally, Brady requests that price squeeze procedures be established.

On February 28, 1985, WTU filed a timely answer to the pleadings of TNP and Brady. While not opposing TNP's and Brady's interventions, WTU denies the allegations supporting both TNP's request for rejection of the filing and TNP's and Brady's requests for suspension of the filing.

Discussion

Pursuant to Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make TNP and Brady parties to this proceeding.

WTU requests waiver of § 35.17 of the Commission's regulations to permit the filing of its proposed rates during the suspension period for the rates filed in Docket No. ER85-81-000. TNP has moved to reject WTU's filing on this basis. Thus, the threshold question presented here is whether WTU has shown good cause to be granted waiver of § 35.17. As discussed below, we believe that good cause exists.

Section 35.17(b) of the Commission's regulations states that "[a] public utility may not within the period of suspension, file any change in a rate schedule or part thereof which has been suspended by order of the Commission except by special permission of the Commission granted upon application therefor and for good cause shown." The Commission has stated that the purpose behind § 35.17 is to limit instances in which the Commission and the utility's customers must confront and evaluate a "moving target" of rate levels designed to avoid the consequences of a maximum suspension period. *West Texas Utilities Company*, 18 FERC ¶ 61,189 at 61,376 (1982). It does not appear that WTU's filing here presents such a situation. Indeed, the proposed Level A and B rates were originally proposed as components of the earlier rate filing. The

inclusion of the Level A and B rates would only have served to increase rather than decrease the likelihood of maximum suspension of the rates filed in the prior docket. Further, WTU seeks to have the instant docket consolidated with Docket No. ER85-81-000, so that all of the rates can be considered in one proceeding. Thus, we do not believe that WTU is presenting a "moving target" of the kind cited in *West Texas* with respect to the filing in Docket No. ER85-81-000.⁴ Accordingly, we shall grant WTU's request for permission to file its proposed rates, pursuant to § 35.17, and we shall deny TNP's motion to reject.

Our preliminary review of WTU's filing and the pleadings indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept WTU's rates for filing and suspend them as ordered below.

In *West Texas*, we explained that where our preliminary review indicates that proposed rates may be unjust and unreasonable, but may not be substantially excessive, as defined in *West Texas*, we would generally impose a nominal suspension. In the instant proceeding, our examination suggests that WTU's Level A rates may not produce substantially excessive revenues. Therefore, we shall suspend those rates for one day, to become effective, subject to refund, on March 27, 1985. In contrast, our review suggests that WTU's proposed Level B rates may produce substantially excessive revenues. Further, we find that WTU has not shown good cause to justify a shortened suspension period. Accordingly, we shall suspend the proposed Level B rates for five months, to become effective, subject to refund, on August 27, 1985.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by Brady.

We find that common questions of law and fact may be presented in Docket Nos. ER85-251-000 and ER85-81-000. As a result, we shall consolidate those dockets for purposes of hearing and decision.

⁴ See *Virginia Electric and Power Company* (VEPCO), 24 FERC ¶ 61,265 (1983), in which, under similar circumstances, the Commission granted VEPCO permission to refile CWIP-based rates during the suspension period of its previously filed general rate increase.

² WTU states that the proposed rates are virtually identical to the phased rates applicable to TNP, Brady, and Coleman that WTU filed in Docket No. ER85-81-000. By order of December 28, 1984, in that docket, the Commission, among other things, summarily rejected WTU's rates and cost support with respect to TNP, Brady, and Coleman to the extent that they were based on increased CWIP levels in violation of the 10-month filing limitation set forth in section 35.26(d) of the Commission's regulations. The Commission also ordered summary disposition and suspended the proposed Level A and Level B rates, as modified by summary disposition, to become effective, subject to refund, on January 1, 1985 and June 1, 1985, respectively. 29 FERC ¶ 61,351. WTU states that its filing in this docket is now timely with respect to inclusion of additional amounts for CWIP and that this filing reflects the other summary dispositions directed in Docket No. ER85-81-000.

³ Brady incorporates by reference the protest that it filed in Docket No. ER85-81-000.

The Commission orders:

(A) TNP's motion to reject WTU's filing is hereby denied.

(B) WTU's request for waiver of § 35.17 is hereby granted for good cause shown.

(C) WTU's proposed rates are hereby accepted for filing; the Level A rates are suspended for one day, to become effective, subject to refund, on March 27, 1985; and the Level B rates are suspended for five months, to become effective, subject to refund, on August 27, 1985.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of WTU's rates.

(E) The Commission staff shall serve top sheets in this proceeding within ten (10) days of the date of this order.

(F) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(G) Docket No. ER85-251-000 is hereby consolidated with Docket No. ER85-81-000 for purposes of hearing and decision.

(H) The administrative law judge designated to preside in Docket No. ER85-81-000 shall determine procedures best suited to accommodate consolidation of this docket with the pending proceeding.

(I) The Secretary shall promptly publish this order in the *Federal Register*.

By the Commission.
Kenneth F. Plumb,
Secretary.

West Texas Utilities Company, Docket
No. ER85-251-000

Rate Schedule Designations

Designation	Description
(1) Supplement No. 20 to Rate Schedule FPC No. 39 (Supersedes Supplement No. 18).	Texas-New Mexico Power Company (Level A-2, TNP-4).
(2) Supplement No. 21 to Rate Schedule FPC No. 39 (Supersedes Supplement No. 19).	Texas-New Mexico Power Company (Level B-2, TNP-4).
(3) Supplement No. 13 to Rate Schedule FPC No. 40 (Supersedes Supplement No. 11).	City of Coleman, Texas (Level A-2, COC-4).
(4) Supplement No. 14 to Rate Schedule FPC No. 40 (Supersedes Supplement No. 12).	City of Coleman, Texas (Level B-2, COC-4).
(5) Supplement No. 13 to Rate Schedule FPC No. 42 (Supersedes Supplement No. 11).	City of Brady, Texas (Level A-2, COB-4).
(6) Supplement No. 14 to Rate Schedule FPC No. 42 (Supersedes Supplement No. 12).	City of Brady, Texas (Level B-2, COB-4).

[FR Doc. 85-7151 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01M

[Docket Nos. QF85-271-000, et al.]

**Babcock & Wilcox Company, et al.;
Small Power Production and
Cogeneration Facilities; Qualifying
Status; Certificate Applications, Etc.**

Comment date: Thirty days from publication in the *Federal Register*, in accordance with Standard Paragraph E at the end of this notice.

March 20, 1985.

Take notice that the following filings have been made with the Commission:

1. Babcock & Wilcox Company

[Docket No. QF85-271-000]

On March 1, 1985, Babcock & Wilcox Company, (Applicant) of 20 South Van Buren Avenue, Barberton, Ohio 44203, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 29.9 MW small power production facility will be located in Somerset County, Pennsylvania. Applicant states that the primary energy source of the facility will be "waste" in the form of bituminous coal rejected from a coal preparation plant. The facility will consist of a fluidized bed boiler with a conventional steam turbine condensing cycle.

2. Cogeneration Technology and Development Company

[Docket No. QF85-284-000]

On March 4, 1985, Cogeneration Technology and Development Company, (Applicant) of 971 Arapahoe Avenue, Boulder, Colorado 80302, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 76 MW topping-cycle cogeneration facility will be located at Rifle, Colorado. It will consist mainly of three combustion turbine-generating units and one condensing steam turbine-generating unit. Exhaust from the combustion turbines will be passed through three waste heat recovery boilers to generate high-pressure steam for the condensing steam turbine, whereas exhaust from the waste heat recovery boilers will be used to produce hot water for the year-round heating of a six-acre greenhouse complex. The primary energy source of the cogeneration facility will be natural gas. Installation of the facility is scheduled to begin on June 1, 1985.

3. A.E. Staley Manufacturing Company

[Docket No. Q85-266-000]

On February 28, 1985, A.E. Staley Manufacturing Company of 2200 East Eldorado Street, Decatur, Illinois 62525 (Applicant) submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility will be located at the applicant's existing corn processing plant in Morrisville, Pennsylvania. The facility will consist of a coal-fired boiler used to produce steam to drive an extraction back-pressure steam turbine generator to produce electricity. Extracted and exhaust steam from the turbine will be directed to process use. The primary energy source will be coal. Some natural gas will be required for ignitor operation and flame safety considerations. The electric power production capacity will be approximately 6 megawatts. Construction of the facility began on September 23, 1983.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. 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. 85-7153 Filed 3-25-85; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51561; FRL-27922]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 85-5578 beginning on page 9504 in the issue of Friday, March 8, 1985, make the following corrections:

1. On page 9506, in the second column, in paragraph P 85-578, in the fourteenth line, ".5" Should read ".05".
2. On page 9507, in the third column, in paragraph P 85-599, in the tenth line, "50.0g" Should read "5.0g".
3. In paragraph P 85-600, in the tenth line, "50.0g" Should read "5.0g".

BILLING CODE 1505-01-M

[OPTS-59706; FRL-2791-8]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 85-5575 beginning on page 9503 in the issue of Friday, March 8, 1985, make the following correction: On page 9504, in the first column, in paragraph Y 85-25, in the second line, "Polyester" should read "Polymer".

BILLING CODE 1505-01-M

[WH-FRL-2796-6]

Reallotment of Funds Under Wastewater Treatment Works Construction Grants Program

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of reallotment of funds under Wastewater Treatment Works

Construction Grants Program (40 CFR Part 35, Subpart I).

SUMMARY: This notice announces the distribution of unobligated fiscal year (FY) 1983 construction grant funds subject to reallotment after September 30, 1984, under section 205 of the Clean Water Act, 33 U.S.C. 1285; and explains the procedure by which the reallotment distribution was determined.

Section 205(d) of the Clean Water Act (the Act) requires that funds allotted for FY 1978 and beyond which are not obligated by the end of the initial allotment availability period "... shall be immediately reallotted by the Administrator ...". This notice advises the public of the amounts available to the eligible States to be added to their allotments for grants for the construction of municipal wastewater treatment facilities. Under section 205(d), these funds are available for obligation until September 30, 1986.

DATE: March 26, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Arnold Speiser, Delegation Management Branch, Municipal Construction Division (WH-547), Office of Municipal Pollution Control, (202) 382-7377.

SUPPLEMENTARY INFORMATION: Sums allotted to a State under section 205 of the Act remain available for obligation during the fiscal year in which appropriated and the following 12 months (40 CFR 35.2010(b)). Funds not obligated at the end of the period of availability are reallotted to the States which fully obligated their allotments. \$2,400,000,000 was appropriated by Pub. L. 97-272 for FY 1983. At the close of the availability period for the FY 1983 allotment (September 30, 1984), 21 States and territories had not obligated \$15,865,838 of the \$2.4 billion available in FY 1983 allotments.

As explained below, not all of the unobligated funds remaining after the period of availability are subject to reallotment at this time. Due to the following exceptions, the total amount reallotted is \$15,066,617.

1. *Northern Mariana Islands:* Section 3(b)(2) of Pub. L. 95-348 (1978) provides that any funds made available to the Northern Mariana Islands (NMI) by the Congress after March 24, 1976 "... are hereby authorized to remain available until expended." Accordingly, construction grant funds allotted to the NMI which remain unobligated at the close of the period of availability prescribed by section 205(d) of the Act are not subject to reallotment. The amount remaining is \$748,135 in FY 1983 funds. Because the NMI would have lost

these funds to reallotment without this statutory provision, section 205(d) prevents the NMI from receiving any funds of other States being reallotted.

2. *EPA Region VI:* FY 1983 funds in the amount of \$859,343 in Louisiana were unobligated after September 30, 1984. Because \$51,086 of the balance resulted from a grant transaction error in the EPA Regional Office, the amount being reallotted is \$808,257.

Reallotment Procedure

To distribute the \$15,066,617 balance subject to reallotment in accordance with the requirements of section 205(d) of the Act, the following procedure was used:

1. The percentages listed in section 205(c)(2) of the Act (as amended by Pub. L. 97-117) were adjusted to reflect the absence of States which had not fully obligated their funds (§ 35.2010(b)).

2. The resulting percentages were applied to the \$15,066,617 to arrive at the individual State allotments.

3. The resulting figures (rounded to the nearest \$100) are listed in the table which follows. The table also identifies the States which did not fully obligate their funds and the amounts subject to reallotment.

These reallotted funds are available for obligation until September 30, 1986. After that date, unobligated balances will be reallotted under section 205(d) of the Act (§ 35.2010). Grants from these funds may be awarded as of the date of issuance of advices of allowance to the EPA Regional Administrators by the Comptroller of EPA.

Dated: March 19, 1985.

Lee M. Thomas,
Administrator.

State	Subject to reallotment	Reallotment
Alabama		225,700
Alaska		120,800
Arizona		136,300
Arkansas		132,000
California		1,443,300
Colorado	241,600	
Connecticut	1,055,796	
Delaware	260,736	
Dist. of Columbia		98,300
Florida		681,200
Georgia		341,200
Hawaii	723,286	
Idaho		98,300
Illinois		912,700
Indiana	1,358,078	
Iowa	646,279	
Kansas		182,200
Kentucky	531,593	
Louisiana	808,257	
Maine		154,200
Maryland		488,100
Massachusetts		685,200
Michigan	3,099,107	
Minnesota		370,900
Mississippi		181,800
Missouri	1,527,582	
Montana		98,300
Nebraska		103,200
Nevada		98,300

State	Subject to reallocation	Reallocation
New Hampshire	387,312	
New Jersey		824,700
New Mexico		96,300
New York		2,239,117
North Carolina		364,200
North Dakota	59,580	
Ohio		1,136,100
Oklahoma		163,000
Oregon		228,000
Pennsylvania		799,400
Rhode Island		133,700
South Carolina		206,700
South Dakota		96,300
Tennessee		293,200
Texas		766,700
Utah		106,300
Vermont	59,580	
Virginia		413,000
Washington	1,413,910	
West Virginia	39,380	
Wisconsin		545,600
Wyoming		96,300
Guam	7,940	
Puerto Rico	2,552,641	
Virgin Islands	101,920	
American Samoa	87,840	
Trust Territory of Pacific Islands	103,200	
North Mariana Islands		
Total	15,086,617	15,086,617

¹ Individual reallocations rounded to \$100 except for New York which received the \$17 difference between the true total (\$15,086,617) and the rounded total (\$15,086,600).

[FR Doc. 85-7090 Filed 3-25-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

National Industry Advisory Committee, Emergency Broadcast Subcommittee, Meeting

Pursuant to the provisions of Pub. L. 92-463, announcement is made of a public meeting of the Emergency Broadcast Subcommittee of the National Industry Advisory Committee (NIAC) to be held Tuesday, April 9, 1985. The Subcommittee will meet at 9:30 A.M. at the first floor conference room of the National Association of Broadcasters, 1771 N Street NW., Washington, D.C.

Agenda

1. Welcome and remarks.
2. Presentation by Federal Communications Commission (FCC) and Federal Emergency Management Agency (FEMA) officials concerning proposed transfer of emergency communications planning functions.
3. Discussion, questions and answers.
4. Adjournment.

Any member of the public may attend or file a written statement with the Subcommittee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the Subcommittee prior to the meeting. Those desiring more specific information about the meeting may telephone the NIAC Executive Secretary in the FCC Emergency

Communications Division at (202) 634-1549.

William J. Tricarico,
Secretary, Federal Communications
Commission.

[FR Doc. 85-7044 Filed 3-25-85; 8:45 am]

BILLING CODE 6712-13-M

[Report No. 1503]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

March 20, 1985.

The following listings of petitions for reconsideration filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration must be filed within 15 days after publication of this Public Notice in the Federal Register. Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Elimination of Unnecessary Broadcast Regulation. (MM Docket No. 83-8420)

Filed by: Andres Jay Schwartzman, Attorney for Telecommunications Research and Action Center on 3-7-85.

Subject: Implementation of BC Docket No. 80-90 to Increase the Availability of FM Broadcast Assignments.

Filed By:

Cyrus V. Edwards for Edwards Investment Company on 12-28-84. (Shawnee, Oklahoma)

A. Thomas Bowes, Vice President for Ansun Broadcasting Company on 1-4-85. (Semora, North Carolina)

Hector M. Rivera Rios, President for the Grupo Pro Estacion de Radio en Naguabo on 1-7-85. (Naguabo, Puerto Rico)

Vera F. Burk for Community Broadcasters on 1-17-85. (Kirksville, Missouri)

Randolph L. Johnson on 1-17-85. (Madera, California)

Michael B. Hostert on 1-21-85. (Pinkneyville, Illinois)

Lauren A. Colby, Attorney for John Garber and Associates on 1-22-85. (Lancaster, Ohio)

Vincent A. Pepper & John F. Garziglia, Attorneys for Community Services Broadcasters, Inc., on 1-23-85. (Shafter, California)

C. Michael Norton, Attorney for Cochran-Smith Broadcasting, Inc., on 1-28-85. (Mt. Vernon, Kentucky)

Lauren A. Colby, Attorney for Radio Everett, Inc., on 2-1-85. (Everett, Pennsylvania)

Samuel J. Buffone, Attorney for Ford FM, Inc., on 2-6-85. (Casey &

Marshall, Illinois)

Timothy K. Brady, Attorney for Butler County Broadcasting Company on 2-7-85. (Beaver Dam, Kentucky)

Samuel J. Buffone, Attorney for Jeff Hancock on 2-11-85. (Royal Center, Indiana)

Victor S. Lopez and Antoinette S. Lopez on 2-11-85. (Los Lunas, New Mexico)

John J. Farina, President for Mechanicville Broadcasting Company on 2-12-85. (Mechanicville, New York)

Harry F. Cole, Attorney for Radio Station WKEU, Inc., on 2-13-85. (Hogansville, Georgia)

Robert S. Stone, Attorney for John W. Abbott & Terry Adams, d/b/a Safe Broadcasting on 2-14-85. (Ft. Oglethorpe, Georgia)

Harry G. Sells, Attorney for Big Bend Broadcasting on 2-14-85. (Quincy, Florida)

John G. Weitzel & Chuck Ingle on 2-19-85. (Delavan, Wisconsin)

Barney L. Webster, Partner for Usher Broadcasting Company on 2-19-85. (East Prairie, Missouri)

Nancy L. Wolf, Attorney for Ceja Corporation on 2-21-85. (Torrey, Utah)

Martin E. Firestone, Attorney for Keeneland Broadcasting Company, Inc., on 2-25-85. (Louisville, Kentucky)

Gary S. Smithwick, Attorney for Action Publishing Company on 2-25-85. (Banner Elk, North Carolina)

M. Scott Johnson & Ronald J. Jarvis, Attorneys for Radio Musical, Inc., on 2-25-85. (Cidra, Puerto Rico)

M. Scott Johnson & Ronald J. Jarvis, Attorneys for Stewart Broadcasting Company, Inc., on 2-25-85. (Bay Minette & Foley, Alabama)

M. Scott Johnson & Ronald J. Jarvis, Attorneys for MetroSouth Broadcasting, Inc., on 2-25-85. (Homewood & Alabaster, Alabama)

William S. Green & Barbara L. Waite, Attorneys for Richter Broadcasting Company, Inc., on 2-25-85. (Sierra Vista, Arizona)

Roy R. Russo & Jill Johnson, Attorneys for Brown Broadcasting Company (KYNO-FM), on 2-25-85. (Visalia, California)

Gary S. Smithwick, Attorney for Andrews-Intermart Broadcasting Company on 2-25-85. (Andrews, South Carolina)

Gary S. Smithwick, Attorney for Winfias of South Carolina, Inc., on 2-25-85. (Marion, South Carolina)

Zave M. Unger, Attorney for Capitol Broadcasting on 2-25-85. (Gulf Breeze, Florida)

William H. Crispin, Attorney for Bedros D. Daghlion on 2-25-85. (Ft. Oglethorpe, Georgia)
 Donald E. Martin, Attorney for Terry A. Posey on 2-25-85. (Omega Georgia & Tallahassee, Florida)
 William J. Taylor, Jr. & Ann Marie Baker for McDougald Broadcasting Corporation on 2-25-85. (Mableton, Georgia)
 William S. Green, Attorney for RKO General, Inc., on 2-25-85. (East Lyme, Connecticut)
 William S. Green & Barbara L. Waite, Attorneys for Group Six Communications, Inc., on 2-25-85. (North Cape May, New Jersey & Wildwood Crest, New Jersey)
 Dean George Hill & Riley M. Murphy, Attorneys for Jo Anne Yates on 2-25-85. (Bay St. Louis, Mississippi & Long Beach, Mississippi)
 Erwin G. Krasnow & William E. Kennard, Attorneys for Cameron Radio, Inc., on 2-25-85. (Cameron, Missouri & Richmond, Missouri)
 John M. Pelkey and John P. Crigler, Attorneys for Fresh Air, Inc., on 2-25-85. (Minneapolis, Minnesota & Eden Prairie, Minnesota)
 Linda K. Smith & David H. Solomon, Attorneys for Olivet College on 2-25-85. (Spring Arbor, Michigan)
 William S. Green & Barbara L. Waite, Attorneys for RKO General, Inc., on 2-25-85. (Somersworth, New Hampshire)
 Dwight D. Johnson, Attorney for CAV Corp., on 2-26-85. (Charlottesville, Virginia).

William J. Tricarico,
 Secretary, Federal Communications
 Commission.

[FR Doc. 85-7045 Filed 3-25-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review by OMB

March 20, 1985.

Background

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act of 1980, as per 5 CFR 1320.9, "to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320.9." Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A

copy of the SF 83 and supporting statement and the approved collection of information instrument(s) will be placed into OMB's public docket files. The following forms, which are being handled under this delegated authority, have received initial Board approval and are hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received within fifteen working days of the date of publication in the *Federal Register*.

ADDRESS: Comments, which should refer to the OMB Docket number (or Agency form number in the case of a new information collection that has not yet been assigned an OMB number), should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments received may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Judith McIntosh, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT:

A copy of the proposed form, the request for clearance (SF 83), supporting statement, instructions, transmittal letter, and other documents that will be placed into OM's public docket files once approved may be requested from the agency clearance officer, whose name appears below: Federal Reserve Board Clearance Officer—Cynthia Glassman—Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

Proposal to approve under OMB delegated authority the extension with revision of the following group of reports:

1. Report title: Report of Transaction Accounts, Other Deposits and Vault Cash; Reports of Certain Eurocurrency Transactions; and Advance Report of Deposits.

Agency form number: FR 2900; FR 2950/51; and FR 2000/2001

OMB Docket number: 7100-0087

Frequency: Weekly, Quarterly, Daily dependent upon report.

Reporters: Depository institutions.

Small businesses are affected.

General description of report.

This information collection is mandatory [12 U.S.C. 248(a), 461, 3105] and is given confidential treatment [5 U.S.C. 552b(4) and b(8)].

Package of reports collects information on deposit data from depository institutions that have transactions accounts or nonpersonal time deposits and are not fully exempt from reserve requirements (FR 2900); Eurocurrency deposits from depository institutions that obtain funds from foreign (non-U.S.) sources or that maintain foreign branches (FR 2950, 2951); and selected item on the FR 2900 in advance from large commercial banks (FR 2000) and a sample of small commercial banks (FR 2001). An increase from \$15 to \$25 million in the deposit cutoff level used to differentiate between weekly and quarterly reporting is proposed for the FR 2900 report.

2. Report title: Quarterly Report of Selected Deposits, Vault Cash and Reservable Liabilities and Annual Report of Total Deposits and Reservable Liabilities.

Agency form number: FR 2910q; FR 2910a

OMB Docket number: 7100-0175

Frequency: Quarterly; annually

Reporters: Depository institutions

Small businesses are affected.

General description of report. This information collection is mandatory [12 U.S.C. 248(a) and 461] and is given confidential treatment [5 U.S.C. 552b(4) and b(8)].

These reports collect information from depository institutions (other than U.S. branches and agencies of foreign banks and Edge and Agreement Corporations) that are exempt from reserve requirements under the Garn-St Germain Depository Institutions Act of 1982. Information provided by these reports is used to construct and analyze the monetary aggregates and to ensure compliance with Regulation D—Reserve Requirements of Depository Institutions. An increase from \$2 million to the equivalent of the reservable liabilities exemption amount (\$2.4 million in 1985) in the lower total deposit cutoff level used to determine nonreporter status versus FR 2910a reporting is proposed. An increase from \$15 to \$25 million is proposed for the upper total deposit cutoff level to determine quarterly versus annual reporting is also proposed.

Board of Governors of the Federal Reserve System, March 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-7053 Filed 3-25-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0525]

Federal Reserve Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Termination of the fractional availability crediting option for interterritory check float recovery.

SUMMARY: The Board has approved the proposal to discontinue the fractional availability crediting procedures as an option for the recovery of Federal Reserve interterritory check float.

EFFECTIVE DATE: September 1, 1986.

FOR FURTHER INFORMATION CONTACT: Elliott C. McEntee, Associate Director (200/452-2231), or William Brown, Manager (202/452-3760), Division of Federal Reserve Bank Operations; Daniel L. Rhoads, Attorney (202/452-3711), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

Background

In February 1983 the Board approved a program to reduce and price Federal Reserve interterritory check float. 48 FR 10753 (March 14, 1983). Under that program, depository institutions that send checks directly to the Federal Reserve office serving the paying institution were offered two credit options to recover Federal Reserve check float. With the first option, called fixed availability, a depository institution is given 100 percent credit for its check deposits. The amount of float is later determined by actual collection performance and recovered through "as-of" adjustments, clearing balance earnings credits, or explicit charges to the institution's account. Under the second option, called fractional availability, a depositing institution receives partial credit for each deposit, that is, a fraction of each deposit is deferred an additional day. Under this option, a separate fraction for each receiving Federal Reserve office is applied to all institutions that use the Federal Reserve transportation network to send checks directly to that Reserve office. Another set of fractions are computed when institutions use their own transportation to send deposits to other Federal Reserve offices. In all cases, the fractions are based on the

average collection experience over the prior four month period. Consequently, the fractional availability credit option results in an over or underrecovery at any given period that in theory should be offset by under or overrecoveries at other times.

Approximately 500 institutions currently are using the fixed availability option and 85 institutions currently are using the fractional availability option. These institutions are generally large commercial banks, including correspondents. The remaining 4,400 institutions using Federal Reserve check services deposit checks directly with their local Reserve Banks and do not have the option of choosing between the fixed and fractional availability float recovery options.

Experience with the fractional availability credit option indicates that it has the potential for not fully recovering the costs of float from the institutions generating this float because the fractions reflect historical, rather than current, collection experience. This means that in certain months the fractions must be less than actual collection experience in order to recover float incurred in prior months. For example, collection experience for the month of May is generally very good because of favorable weather conditions. However, the fractions applied to deposits during this month will be lower than actual collection experience because they reflect collection experience for December through March. Accordingly, a depository institution may improve its funds availability and thus avoid paying for float previously incurred by using alternate collection channels that reflect actual collection experience during May. An institution's average dollar sendings to a given point must remain relatively stable over time in order for float to be fully recovered by fractional availability. Accordingly, the cost of float will not be recovered from the institutions generating and benefiting from the float if the institution changes its collection patterns over time.

The Board published for public comment in July 1984 a proposal to eliminate the fractional availability credit option. 49 FR 29461 (July 20, 1984). The Board also placed a moratorium on permitting additional institutions to select the fractional program pending final Board action.

Discussion

The Board received 28 comments in response to its proposal to eliminate the fractional availability credit option. Seven of these commenters currently use the fractional availability credit

option. Thirteen commenters favored the elimination of fractional availability while 13 commenters preferred its retention. Of those in favor, three commenters stated that their support of the proposal to eliminate fractional availability was conditioned on the Federal Reserve changing the way it recovers float from depository institutions that deposit their checks directly with their local Federal Reserve office.

Those supporting the proposal regarded the elimination of the fractional option as appropriate in light of the Federal Reserve's concern with the potential for the underrecovery of float from the depository institutions generating and benefiting from the float. These commenters believed that eliminating the fractional option would remove the potential subsidization of depositors using the fractional availability option by the remaining Federal Reserve depositors. The concern was expressed that some of the institutions using fractional availability on a selective basis managed the option to their own advantage, but to the disadvantage of the industry at large.

Institutions opposing the elimination of fractional availability stated that this option provides institutions with predictability with regard to credit availability, a method for evaluating Federal Reserve check clearing performance. Several of these institutions also indicated that significant programming costs were incurred in order to participate in the fractional availability program and that they would incur additional programming costs if the this option were eliminated.

Comments was also requested on whether the fractional availability option could be modified to preserve its benefits while eliminating its potential to result in underrecovery of float from those institutions using it. Some commenters suggested modifying fractional availability to establish a periodic settlement period, at which time the cost of the underrecovered float would be charged directly to the institution that generated the float and would benefit from its underrecovery. However, if the fractional option were modified in this manner, institutions would not know in advance what their total float costs would be until the settlement period, thus losing the benefit of predictability. Further, this modification would make the fractional option very similar to the fixed availability option; if fractional availability were modified to incorporate a regular settlement period,

there would be no difference between the fractional and fixed availability options except for the timing of the settlement period. In addition, the Reserve Banks have indicated that they would incur significant one time implementation and ongoing costs if fractional availability were modified in this manner. Since this proposed modification would not retain the desired benefits of fractional availability and would increase costs, the Board believes that this modification should not be adopted.

Another modification suggested by the commenters was to change the method of calculating the fractions. Commenters suggested that instead of using a four month moving average for computing the applicable fraction, Reserve Banks use a monthly fraction based on the most recent month's collection experience or use a fraction that takes into account seasonal collection performance. Use of a one or two month moving average would, however, introduce further volatility into the fractions and would thus increase the incentives for institutions to use other collection channels when the fractions were low relative to actual collection experience. Further, it is not possible to establish fractions that will in most cases equal actual collection experience, regardless of the method of calculating the fractions. It will always be necessary to establish fractions in certain periods below actual collection experience to take account of previously unrecovered float. Accordingly, the Board believes it is not possible to eliminate the potential for float underrecovery from the institutions generating the float through modification of the methodology for calculating the fractions.

In view of the inability to modify fractional availability to preserve its benefits and eliminate the potential for underrecovery of float, the Board believes that the fractional availability option should be eliminated. The elimination of fractional availability will ensure that float is recovered from the institutions that benefited from the float, rather than from all depositors through per-item fees. Moreover, given the relatively few institutions that use fractional availability (85 of the approximately 800 that sent checks to the Reserve Bank office serving the paying institutions) and the numerous other adjustments that occur in Reserve and clearing accounts, elimination of the fractional option would not, as suggested by a few commenters, unduly complicate an institution's management of its reserve position.

The Board has approved the following steps to reduce the impact that elimination of the fractional availability option may have on depository institutions using the option. First, the Reserve Banks will continue, if requested, to provide fractions to depository institutions to enable them to continue using the fractions to allocate float to their customers. Provision of these fractions will also enable institutions to evaluate Reserve Bank check collection performance. Second, depository institutions currently using the fractional availability option will continue to be allowed to use the option until September 1, 1986. The delayed implementation date will provide institutions with sufficient lead time to make any necessary modification to their computer systems.

Six commenters indicated that if the fractional availability option is eliminated, the Federal Reserve should not allow depositors depositing checks with their local Federal Reserve office for collection to use the fractional availability option. The Federal Reserve currently sorts such checks by endpoint and provides the depositing institutions availability based upon the anticipated collection of the checks. While the Federal Reserve provides a form of fractional availability to recover float from these depositors, it is administered differently and does not provide the benefits of the fractional availability option that is the subject of this action. Because the institutions depositing checks with their local Federal Reserve office are typically small institutions that do not sort their checks before depositing them with the Federal Reserve, they generally do not know the mix of checks they have deposited. Accordingly, unlike the fractional availability option, the depository institution typically does not know with certainty in advance the availability it will receive from the Federal Reserve.

Moreover, it is unlikely that this procedure will result in an underrecovery of float from the institutions that benefit from the float because such institutions, given their smaller size, generally do not shift their collection patterns in response to short term changes in availability.

Finally, it is simply not operationally feasible to extend fixed availability to depository institutions depositing checks with their local Federal Reserve office. When an institution deposits its checks with its local Federal Reserve office, the checks are sorted by receiving Federal Reserve office and commingled with items from other depositors destined for that same Reserve office.

Unlike the checks deposited by institutions that send checks directly to other Federal Reserve offices, the float associated with the deposits made by the individual depositor depositing checks with its local Federal Reserve office cannot be determined. For these reasons, the Board does not believe that it is appropriate to change the manner in which float is recovered from institutions depositing checks with their local Federal Reserve office.

In view of the inability to modify the fractional availability credit option to preserve its benefits and eliminate the potential for underrecovery of float, the Board has determined to discontinue this crediting option effective September 1, 1986. The Board has also decided to continue the moratorium on permitting additional depository institutions to select the fractional availability option. To reduce the impact of its decision to eliminate the fractional availability option, the Board has instructed Reserve Banks to continue providing the fractions, on request.

The Board has also approved several modifications to the procedures for accounting for Federal Reserve check float. Three of the commenters responding to the proposal to eliminate the fractional availability credit option commented that the remaining fixed availability crediting procedures do not take into consideration the effect of float recovery on required reserves, resulting in overcharging for float.

Depository institutions are permitted to deduct the amount of their cash items in the process of collection ("CIPC") from the amount of gross transaction accounts in computing required reserves. 12 CFR 204.3(f)(1). When a depository institution deposits a check with the Federal Reserve for collection, the amount of the check is included in the institution's gross transaction accounts subject to reserve requirements, and is offset by a corresponding CIPC deduction. The CIPC deduction is provided in recognition of the fact that the depository institution has not yet been given credit by the Federal Reserve for the check. When credit for the check is given, the institution loses the CIPC deduction and its reserve requirements increase. If credit is given before the check is collected by the Federal Reserve, float is generated. When the institution is later charged by the Federal Reserve for the float, no adjustment is made for the cost of the increased reserve requirement, with the result that the float charge exceeds the benefit to the institution of the float.

In response to the concerns expressed by depository institutions, the Board has determined to modify the System's accounting procedures to take into account the effect of float on the reserve requirements to which Reserve Banks would be subject if they were required to hold reserves. Net check float will be deducted from the amount of clearing balances maintained with the Federal Reserve before the imputed required reserves are determined.

This procedure will result in the Federal Reserve accounting for float in a manner conforming more closely to the accounting practices of correspondent banks. The effect of this modification will be to reduce the Reserve Bank's imputed reserve requirement and increase their earning assets.¹ The interest on these additional earning assets will then offset part of the cost of float that is to be charged back to depository institutions.

The Board wishes to emphasize that the Federal Reserve's accounting procedures as modified will continue to recognize as a cost to the Federal Reserve the full value of float at the federal funds rates, as required by the MCA. The accounting change approved by the Board will reduce explicit float charges to direct and consolidated sending institutions by 12 percent. Further, the float component of per-item fees will also be lowered by 12 percent. The modifications are expected to have a minimal impact on the Federal Reserve's per-item fees since the float component of the base used to calculate per-item fees is less than 3 percent of the total. A 12 percent reduction in this component will reduce the total to be recovered by only 0.25 percent. Federal Reserve income statements will be amended to reflect these accounting changes.

By order of the Board of Governors of the Federal Reserve System, March 20, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-7052 Filed 3-25-85; 8:45 am]

BILLING CODE 6210-01-M

Jesup Bancshares, Inc.; Application To Engage de Novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1)

¹ In March 1984 the Board approved an adjustment to the balance on which earnings credits are paid on clearing balances to reflect the reserve requirements that would apply if the balances had been held with a correspondent bank. An imputed reserve burden was also imposed upon the Federal Reserve's revenues from clearing balances. 49 FR 11251 (March 26, 1984).

of the Board's Regulation Y (12 CFR 225.23(a)(1) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than April 15, 1985.

A. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Jesup Bancshares, Inc.*, Jesup, Iowa; to engage *de novo* in nonbanking activities of making, acquiring or servicing loan or other extensions of credit such as would be made by consumer, finance, mortgage, commercial finance and factoring companies, and leasing property or real property.

Board of Governors of the Federal Reserve System, March 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-7049 Filed 3-25-85; 8:45 am]

BILLING CODE 6210-01-M

Shelby Bancshares, Inc., 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. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than April 17, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *Shelby Bancshares, Inc.*, Pelham, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Shelby State Bank, Pelham, Alabama.

2. *The South First National Corporation*, Ocean Springs, Mississippi; to merge with First State Financial Corporation, Gulfport, Mississippi, thereby indirectly acquiring First State Bank, Gulfport, Mississippi and Metropolitan National Bank, Biloxi, Mississippi.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Calumet Bancorporation, Inc.*, Chilton, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of State Bank of Chilton, Chilton, Wisconsin.

2. *First Dubuque Corp.*, Dubuque, Iowa; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank of Dubuque, Dubuque, Iowa.

3. *Trivoli Bancorp, Inc.*, Trivoli, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Trivoli State Bank, Trivoli, Illinois.

4. *Windsor BancShares, Inc.*, Windsor, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Windsor State Bank, Windsor, Illinois.

C. Federal Reserve Bank of Minneapolis (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Malta Banquo, Inc.*, Malta, Montana; to become a bank holding company by acquiring 60.06 percent of the voting shares of First Security Bank of Malta, Malta, Montana.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Chapman Bancshares, Inc.*, Chapman, Kansas; to acquire 24 percent of the voting shares of Valley Insurance Company, Inc., Junction City, Kansas thereby indirectly acquiring First State Bank, Junction City, Kansas.

E. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First Crockett Bancshares, Inc.*, Crockett, Texas; to become a bank holding company by acquiring 100 percent of the voting shares of Allied First National Bank of Crockett, Crockett, Texas.

Board of Governors of the Federal Reserve System, March 20, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-7050 Filed 3-25-85; 8:45 am]

BILLING CODE 6210-01-M

Decision Not To Adopt a Substantially Similar Rule for Banks on the Sale of Used Motor Vehicles

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice of the Board's decision not to adopt a rule for banks that is substantially similar to the Federal Trade Commission's trade regulation rule on the sale of used motor vehicles.

SUMMARY: On November 19, 1984, the Federal Trade Commission published a final trade regulation rule on the sale of used motor vehicles. The rule, commonly referred to as the "Used Car Rule," will take effect on May 9, 1985. Generally, the Board is required by the Federal Trade Commission Act to issue

a substantially similar rule for banks whenever the Commission adopts a final trade regulation rule under its authority to prohibit unfair or deceptive acts or practices. The Board has concluded, however, that since banks do not engage in the activity being regulated by the Commission—the sale of used motor vehicles in a retail sales environment—adoption of a rule substantially similar to the Commission's Used Car Rule that would be applicable to banks is unnecessary.

FOR FURTHER INFORMATION CONTACT:

Gerald P. Hurst, Senior Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3667.

On November 19, 1984 (49 FR 45692), the Federal Trade Commission (the "Commission") published a final trade regulation rule on the sale of used motor vehicles, with an effective date of May 9, 1985. The rule, referred to as the Used Car Rule, includes a list of acts or practices that the Commission views as unfair or deceptive (16 CFR 455.1 (a) and (b)) and requires dealers to prepare and display a window sticker, referred to as the "Buyers Guide," on the side window of a used motor vehicle before offering the vehicle for sale to a consumer (16 CFR 455.1(c), 455.2, and 455.3). The Buyers Guide would include information about the warranty coverage offered, the meaning of an "as is" sale, and other related information.

The rule also prohibits the making of any statements, oral or written, or taking any actions which alter or contradict the Buyers Guide; requires a dealer conducting sales in Spanish to make the required disclosures in that language; and contains standards that will be used by the Commission in determining whether a state may obtain an exemption from the rule.

Section 18(f)(1) of the Federal Trade Commission Act (15 U.S.C. 57a(f)(1)) provides that when the Commission issues a rule under its authority to prescribe unfair or deceptive acts or practices, the Board is required to issue a substantially similar rule, within 60 days of the rule's effective date, prohibiting acts or practices of banks that are substantially similar to those prohibited by the Commission. The Board is not required to issue a similar rule if it finds that such acts or practices of banks are not unfair or deceptive, or that implementing similar regulations for banks would seriously conflict with essential monetary and payments systems policies of the Board, and publishes the findings and reasons for

them in the *Federal Register*. In addition to these two exceptions, the Board is not required to consider adoption of a substantially similar rule if banks do not engage in the activity being regulated by the Commission. Generally, if banks do not engage in the activity being regulated, there will not be any acts or practices of banks that are substantially similar to those prohibited by the Commission. The Board believes that this is the case with the Used Car Rule.

Banks do engage in the sale of used motor vehicles—for example, vehicles that have been repossessed. However, it appears that banks do not engage in the activity the Commission sought to regulate in adopting the Used Car Rule, that is, selling in a retail sales environment. The Commission narrowed the scope of the Used Car Rule by defining a "dealer" so as "to remove from the scope of the Rule used car sales where the absence of a retail sales environment substantially diminishes the risk of the deceptive practices . . . found to be characteristic of used car sales presentations." (49 FR 45708, November 19, 1984). The Commission concluded that banks and other financial institutions do not engage in the sale of used motor vehicles in a retail sales environment and specifically excluded banks from the rule's "dealer" definition. The Board contacted Reserve Bank examiners and bankers about the methods used by banks to dispose of used motor vehicles. These inquiries support the Commission's conclusion that banks do not engage in the sale of used motor vehicles in a retail sales environment. In addition, the Board agrees with the Commission's conclusion that, in the absence of a retail sales environment, the risk of deceptive practices, such as misrepresentations concerning vehicle warranties or the condition of the vehicles, is substantially diminished.

Since generally banks do not engage in the activity being regulated by the Commission in the Used Car Rule—the sale of used motor vehicles in a retail sales environment—the Board has concluded that it is not required to issue a substantially similar rule for banks on the sale of used motor vehicles.

By order of the Board of Governors of the Federal Reserve System, March 20, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-7051 Filed 3-23-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Agency Information Collection Under Review by the Office of Management and Budget; Multiple Award Schedule (MAS) Policy Statement

AGENCY: Office of Policy and
Management Systems, GSA.

SUMMARY: Under the provisions of the
Paperwork Reduction Act of 1980 (44
U.S.C. Chapter 35), the General Services
Administration (GSA) requests the
Office of Management and Budget
(OMB) to approve an existing
information collection in use without a
control number.

ADDRESSES: Send comments to Franklin
S. Reeder, GSA Desk Officer, Room
3235, NEOB, Washington, DC 20503, and
to William W. Hiebert, GSA Clearance
Officer, General Services
Administration (ATRAI), Washington,
DC 20405.

FOR FURTHER INFORMATION CONTACT:
Edward McAndrew, Office of
Acquisition Policy (202-566-1224).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This collection requires
the submission of sales, discount and
marketing data by prospective offerors
responding to Multiple Award
Schedules solicitations and provides the
Government with information to support
the pricing judgements required in the
negotiation of the contracts.

b. *Annual reporting burden.* Estimated
as follows: Respondents and responses
4,500 each; hours 18,000.

c. *Copies of proposals.* Copies of these
proposals may be obtained from the
Directives and Reports Management
Branch (ATRAI), Room 3007, GS
Building, Washington, DC 20405 (202-
566-0666).

Dated: March 8, 1985.

Johnny T. Young,

Acting Director, Information Management
Division.

[FR Doc. 85-7154 Filed 3-25-85; 8:45 am]

BILLING CODE 6820-01-M

Agency Information Collection Under Review by the Office of Management and Budget; Contractor's Qualifications and Financial Information

AGENCY: Office of Policy and
Management Systems, GSA.

SUMMARY: Under the provisions of the
Paperwork Reduction Act of 1980 (44
U.S.C. Chapter 35), the General Services
Administration (GSA) requests the
Office of Management and Budget
(OMB) to approve the extension of an

expiration date of a currently approved
collection.

ADDRESSES: Send comments to Franklin
S. Reeder, GSA Desk Officer, Room
3235, NEOB, Washington, DC 20503, and
to William W. Hiebert, GSA Clearance
Officer, General Services
Administration (ATRAI), Washington,
DC 20405.

FOR FURTHER INFORMATION CONTACT:
Edgar Davis, Office of Finance (202-566-
1093).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* The information collection
is used to evaluate financial
responsibility of prospective contractors
at the request of contracting officers for
their use in determining contract
awards.

b. *Annual reporting burden.* Estimated
as follows: Respondents 3,200;
responses 4,800; hours 7,200.

c. *Copies of proposals.* Copies of these
proposals may be obtained from the
Directives and Reports Management
Branch (ATRAI), Room 3007, GS
Building, Washington, DC 20405 (202-
566-0666).

Dated: March 8, 1985.

Johnny T. Young,

Acting Director, Information Management
Division.

[FR Doc. 85-7155 Filed 3-25-85; 8:45 am]

BILLING CODE 6820-AM-M

Office of Information Resources Management

Federal Telecommunication Standards

AGENCY: Office of Information
Resources Management, General
Services Administration.

ACTION: Notice for comment on
proposed standard.

March 4, 1985.

SUMMARY: The purpose of this notice is
to solicit the views of Federal agencies,
industry, the public, and State and local
governments on a Federal
Telecommunication Standard (FED-
STD) proposed for adoption: FED-STD
1037A, "Telecommunications: Glossary of
Telecommunication Terms". This
proposed standard is a revision of FED-
STD 1037 of the same title adopted July,
1980. If adopted, FED-STD 1037A will
supersede FED-STD 1037.

DATE: Comments are due within 90 days
of the date of this notice.

ADDRESS: Send comments to National
Communications System, Office of
Technology and Standards, Washington,
DC 20305-2010.

FOR FURTHER INFORMATION CONTACT:
Mr. Edward P. Green, National
Communications System, telephone
(202) 692-2124.

SUPPLEMENTARY INFORMATION:

1. The General Services
Administration (GSA) is responsible
under the provisions of the Federal
Property and Administrative Services
Act of 1949, as amended, for the Federal
Standardization Program. On August 14,
1972, the Administrator of General
Services designated the National
Communications System (NCS) as the
responsible agent for the development of
Federal telecommunications standards
for NCS interoperability and the
computer-communication interface.

2. Prior to the adoption of proposed
Federal standards, it is important that
proper consideration be given to the
needs and views of Federal agencies,
industry, the public, and State and local
governments.

3. Copies of Proposed FED-STD 1037A
will be available March 1, 1985.

4. Requests for copies of the Proposed
Federal Standard should be directed to
the National Communications System,
Office of Technology and Standards,
Washington, DC 20305-2010.

Dated: March 4, 1985.

Frank J. Carr,

Assistant Administrator, Office of
Information Resources Management.

[FR Doc. 85-7156 Filed 3-25-85; 8:45 am]

BILLING CODE 6820-25-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 77F-0161]

Monsanto Co.; Amended Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug
Administration (FDA) is amending the
filing notice for a food additive petition
filed by the Monsanto Co. to restrict the
use of acrylonitrile/butadiene/styrene
copolymers to repeated use food-contact
applications only. The previous filing
notice would have permitted single
service as well as repeated use food-
contact applications. This amendment is
based upon a request from the
petitioner.

FOR FURTHER INFORMATION CONTACT:
Rudolph Harris, Center for Food Safety
and Applied Nutrition (HFF-334), Food
and Drug Administration, 200 C Street

SW., Washington, DC 20204, 202-472-5890.

SUPPLEMENTARY INFORMATION: In the Federal Register of July 26, 1977 (42 FR 38017), FDA published a notice that a petition (FAP 7B3273) had been filed by the Monsanto Co., c/o Jerome H. Heckman, Keller & Heckman, 1150 17th Street NW., Washington, DC 20036, proposing that the food additive regulations be amended by providing for safe use of acrylonitrile/butadiene/styrene copolymers containing not more than 50 parts of polymerized acrylonitrile for use in food-contact surfaces where: (1) The same come in contact with all foods except alcoholic foods containing more than 8 percent alcohol, and (2) the same are employed under conditions of use D, E, F, and G as set forth in table 2 of § 176.170(c).

The notice is amended to provide for the safe use of acrylonitrile/butadiene/styrene copolymers for repeated use food-contact applications only.

The agency is reexamining its conclusion that the proposed use of the additive will not have a significant environmental impact. If this petition results in a regulation, the agency's finding in this matter will be published with the regulation in the Federal Register in accordance with 21 CFR 25.40(c) (proposed December 11, 1979; 44 FR 71742).

Dated: March 18, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-7048 Filed 3-25-85; 8:45 am]

BILLING CODE 4160-01-M

Health Professional Organizations' Participation; Open Meeting

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a forthcoming meeting of health professional organizations to be chaired by Frank E. Young, Commissioner of Food and Drugs. The topics to be discussed are Principles of the FDA Action Plan, Emergency Use of Investigational Drugs and Devices, and An Update on Acquired Immunodeficiency Syndrome (AIDS).

DATE: The meeting will be held from 2 to 4 p.m., Wednesday, March 27, 1985.

ADDRESS: The Meeting will be held in Conference Room 503A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Robert Veiga, Office of Health Affairs

(HFY-40), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5470.

Dated: March 21, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-7176 Filed 3-22-85; 8:45 am]

BILLING CODE 4160-01-M

National Institutes of Health

Meeting of the Dental Research Programs Advisory Committee

Pursuant to Pub. L. 92-463 notice is hereby given of the meeting of the Dental Research Programs Advisory Committee from 9:00 a.m. to recess on May 9 and from 9:00 a.m. to adjournments on May 10, 1985 in Conference Room 7, Building 31C, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public to discuss research progress and ongoing plans and programs. Attendance by the public will be limited to space available.

Dr. Anthony Rizzo, Deputy Associate Director for Extramural Programs, NIDR, NIH, Westwood Building, Room 504, Bethesda, Maryland 20205 (telephone 301 496-7748) will furnish rosters of committee members, a summary of the meeting, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program Nos. 13.121-Diseases of the Teeth and Supporting Tissues; Caries and Restorative Materials; Periodontal and Soft Tissue Diseases; 13.122-Disorders of Structure, Function, and Behavior, Craniofacial Anomalies, Pain Control, and Behavioral Studies; 13.845-Dental Research Institutes, National Institutes of Health)

Dated: March 15, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-7059 Filed 3-25-85; 8:45 am]

BILLING CODE 4140-01-M

President's Cancer Panel; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the President's Cancer Panel, April 22, 1985, at the Johns Hopkins Oncology Center, Hurd Hall, 600 North Wolfe Street, Baltimore, Maryland 21205.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and discussions to obtain information regarding center programs supported by the National Cancer Institute.

Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496-5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496-1148) will furnish substantive program information.

Dated: March 19, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85-7061 Filed 3-25-85; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Pulmonary Diseases Advisory Committee; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, on May 3, 1985 at the National Institutes of Health, 9000 Rockville Pike, Building 31, Conference Room 10, Bethesda, Maryland 20205.

The entire meeting, from 8:30 a.m. to 5:00 p.m. will be open to the public. The Committee will discuss implementation of the Division of Lung Diseases fiscal 1986 initiatives. Attendance by the public will be limited to the space available.

Ms. Terry Bellicha, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A-21, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-4263, will provide a summary of the meeting and a roster of the Committee members.

Dr. Suzanne S. Hurd, Ph.D., Executive Secretary of the Committee, Westwood Building, Room 6A16, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7208, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, Lung Diseases Research, National Institutes of Health)

Dated: March 15, 1985.

Betty J. Beveridge,

Committee Management Officer.

[FR Doc. 85-7060 Filed 3-25-85; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

National Toxicology Program;
Availability of Technical Report on
Toxicology and Carcinogenesis
Studies of Propylene Oxide

The HHS' National Toxicology Program today announces the availability of the technical report describing toxicology and carcinogenesis studies of propylene oxide, a volatile, colorless liquid used in the production of polyether polyols, polyurethane foams, and unsaturated polyester resins and also as a fumigant for sterilizing a variety of materials ranging from plastic medical instruments to foodstuffs.

The two-year carcinogenesis studies of propylene oxide (greater than 99.9% pure) were conducted by exposing groups of 50 F344/N rats and 50 B6C3F1 mice of each sex to air containing propylene oxide at concentrations of 0 (chamber control), 200, or 400 ppm for 6 hours per day, 5 days per week, for 103 weeks.

Under the conditions of these studies, there was *some evidence of carcinogenicity* for F344/N rats, as indicated by increased incidences of papillary adenomas of the nasal turbinates in male and female rats exposed to propylene oxide at 400 ppm. For male and female B6C3F1 mice, there was *clear evidence of carcinogenicity*, as indicated by increased incidences of hemangiomas or hemangiosarcomas of the nasal turbinates at 400 ppm. In the respiratory epithelium of the nasal turbinates, propylene oxide also caused suppurative inflammation, hyperplasia, and squamous metaplasia in rats and inflammation in mice.

Copies of *Toxicology and Carcinogenesis Studies of Propylene Oxide in F344/N Rats and B6C3F1 Mice (Inhalation Studies)* (T.R. 267) are available without charge from the NTP Public Information Office, M.D. B2-04, P.O. Box 12233, Research Triangle Park, NC, 27709. Telephone: (919) 541-3991. FTS: 629-3991.

Dated: March 15, 1985.
David P. Rall, M.D., Ph.D.,
Director.

[FR Doc. 85-7062 Filed 3-25-85; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M-59787]

Realty Action; Sale of Public Lands in
Blaine County, MT

AGENCY: Bureau of Land Management, Lewistown District Office, Interior.

ACTION: Notice of Realty Action, Direct Sale of Public Land in Blaine County, Montana.

SUMMARY: The following described land has been examined and identified as suitable for disposal by sale under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2750, 43 U.S.C. 1713), at no less than the appraised fair market value (\$12,500.00).

Principal Meridian, Montana

T. 32 N., R. 17 E.,

Sec. 1, Lot 1.

Aggregating 29.52 acres.

The lands described are hereby segregated from appropriation under the public land laws, including the mining laws, pending disposition of this action. This land is being offered at direct sale to the Unified Disposal Board of North Central Montana at the appraised fair market value.

The sale of this land to the Unified Disposal Board of North Central Montana will allow for developing long range plans associated with the existing landfill. This tract is located along Highway 200 approximately half way between Chinook and Havre, Montana. The use of this tract has traditionally been tied to activities associated with the adjacent tri-county managed landfill.

The proposed sale is consistent with the Bureau's planning system and the general public as well as county officials have been notified of the sale. Since the tract has traditionally been tied to activities associated with the landfill it is in the public interest and will provide for better land management to let the Unified Disposal Board manage this tract.

Terms and Conditions: The terms and conditions applicable to this sale are as follows:

1. All leasable minerals shall be reserved to the United States, together with the right to prospect for, mine and remove the minerals. A more detailed description of this reservation, which will be incorporated in the patent document, is available for review at this BLM office;

2. A right-of-way for ditches or canals will be reserved to the United States in accordance with 43 U.S.C. 945;

3. The following rights-of-way will be reserved to the United States: State of Montana—MTGF-085459, Western Area Power Administration—MTGF-079895;

4. The sale of these lands will be subject to all valid existing rights and reservations of record including the following rights-of-way: Burlington Northern MTM-041313, Montana Power MTM-058704, and Unified Disposal Board of North Central Montana MTM-58535.

DATES: For a period of 45 days from publication of this notice, interested parties may submit comments to the District Manager, Bureau of Land Management, at the address shown below. Any adverse comments will be evaluated by the BLM Montana State Director, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the State Director, this realty action will become a final determination of the Department of Interior.

FOR FURTHER INFORMATION CONTACT: Detailed information concerning the sale, including planning documents, environmental assessment, and the record of public discussions is available for review at the Lewistown District Office, Airport Road, Lewistown, Montana 59457 and at the Havre Resource Area Office, Havre, Montana.

Dated: March 18, 1985.

Glenn W. Freeman,

District Manager.

[FR Doc. 85-7101 Filed 3-25-85; 8:45 am]

BILLING CODE 4310-0N-M

National Park Service

National Register of Historic Places;
Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before March 16, 1985. 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 April 10, 1985.

Carol D. Shull,

Chief of Registration, National Register.

ALABAMA**Cullman County**

Cullman, *Cullman Downtown Commercial Historic District*, Roughly bounded by 4th and 1st Aves., 2nd and 5th Sts. SE

Montgomery County

Montgomery, *Smith/Joseph/Stratton House*, 302 Alabama St.

Tuscaloosa County

Northport, *Wilson-Clements House*, 1302 20th Ave.

ARIZONA**Pinal County**

Casa Grande, *Bayless, Earl, House (Casa Grande MRA)*, 211 N. Cameron

Casa Grande, *Baylis, Wilbur O./Grasty House (Casa Grande MRA)*, 221 N. Cameron

Casa Grande, *Bien/McNatt House (Casa Grande MRA)*, 208A W. 1st St.

Casa Grande, *Casa Grande Hotel (Casa Grande MRA)*, 201 W. Main Ave.

Casa Grande, *Central Creditors Association Building (Casa Grande MRA)*, 118 N. Sacaton

Casa Grande, *Cruz Trading Post (Casa Grande MRA)*, 200 W. Main St.

Casa Grande, *Fisher Memorial Home (Casa Grande MRA)*, 300 E. 8th St.

Casa Grande, *Johnson's Grocery Store (Casa Grande MRA)*, 301 N. Picacho

Casa Grande, *Kratzka, Gus, House (Casa Grande MRA)*, N. Maricopa and 3rd St.

Casa Grande, *Laundry Building (Casa Grande MRA)*, Rear of 309 W. 8th

Casa Grande, *Lehmberg, Dr. H. B., House (Casa Grande MRA)*, 929 N. Lehmberg

Casa Grande, *Loss, John C., House (Casa Grande MRA)*, 107 W. Main Ave.

Casa Grande, *Meehan/Gaar House (Casa Grande MRA)*, 202 W. 1st St.

Casa Grande, *Paramount Theatre (Casa Grande MRA)*, 418 N. Florence

Casa Grande, *Period Revival House (Casa Grande MRA)*, 905 N. Lehmberg

Casa Grande, *Pioneer Market (Casa Grande MRA)*, 119 Florence St.

Casa Grande, *Prettyman's Meat Market and Grocery/Brigg's Jeweler (Casa Grande MRA)*, 114 W. Main St.

Casa Grande, *Saint Anthony's Church and Rectory (Casa Grande MRA)*, 215 M. Picacho

Casa Grande, *Shonessy Building/Dan Chun Wo Store (Casa Grande MRA)*, 121 W. Main Ave.

Casa Grande, *Shonessy House (Casa Grande MRA)*, 115 W. Main Ave.

Casa Grande, *Stone Bungalow (Casa Grande MRA)*, 515 E. 3rd St.

Casa Grande, *Stone Church (Casa Grande MRA)*, Florence Blvd. and N. Park Ave.

Casa Grande, *Stone Warehouse (Casa Grande MRA)*, 119 Florence St. in rear

Casa Grande, *Vasquez House (Casa Grande MRA)*, 114 E. Florence Blvd.

Casa Grande, *Ward's Variety Store (Casa Grande MRA)*, 112 N. Sacaton

Casa Grande, *White House (Casa Grande MRA)*, 901 N. Morrison

Casa Grande, *Wilson, C. J. (Blinky) House (Casa Grande MRA)*, 223 W. 10th

Casa Grande, *Woman's Club Building (Casa Grande MRA)*, 407 N. Sacaton

CALIFORNIA**Orange County**

Anaheim, *Kroeger-Melrose District*, Roughly bounded by Lincoln Ave., S. Kroeger, W. Broadway and S. Philadelphia

San Francisco County

San Francisco, *Scott, Irving Murray, School*, 1060 Tennessee St.

Santa Clara County

Palo Alto, *Kee House*, 2310 Yale St.

CONNECTICUT**Hartford County**

Hartford and West Hartford, *West End South Historic District*, Roughly bounded by Farmington Ave., Whitney and S. Whitney Sts., West Blvd. and Prospect Ave.

DISTRICT OF COLUMBIA

Washington, *Tivoli Theater*, 3301-3325 14th St. NW

FLORIDA**Okeechobee County**

Okeechobee, *Friedman-Raulerson House*, 600 S. Parrott Ave.

Palm Beach County

West Palm Beach, *Mickens House*, 801 4th St.

St. Lucie County

Ft. Pierce, *Cresthaven*, 239 S. Indian River Dr.

ILLINOIS**Cook County**

Chicago, *Sheffield Historic District (Boundary Increase II)*, Roughly bounded by W. Altgeld and W. Montana Sts., N. Lakewood and N. Southport Aves.

INDIANA**Huntington County**

Huntington, *German Reformed Church*, 202 Etna Ave.

IOWA**Dubuque County**

Dubuque, *Andrew-Ryan House*, 1375 Locust

Henry County

Mt. Pleasant, *Allen, G. W. S., House*, 207 E. Henry St.

Jones County

Scotch Grove vicinity, *Corbett's/Eby's Mill Bridge*, Spans Maquoketa River, Scotch Grove Township

Mahaska County

Oskaloosa, *McMullin, Major James W., House*, 403 First Ave. East

Pottawattamie County

Council Bluffs, *Haymarket Commercial Historic District*, S. Main St.

Poweshiek County

Malcom, *Raymond, P. P., House*, 4th St.

Shelby County

Harlan, *Floral Hall*, 314 4th St. on Shelby County Fairgrounds

LOUISIANA**East Baton Rouge Parish**

Baton Rouge, *Roumain Building*, 343 Riverside Mall

MAINE**Androscoggin County**

Lewiston, *Lower Lisbon Street Historic District*, Lisbon St. between Cedar and Chestnut

Cumberland County

South Portland, *State Reform School Historic District*, Westbrook St.

Standish, *Paine Neighborhood Historic District*, ME 113

Kennebec County

Augusta, *Coney, Gov. Samuel, House*, 71 Stone St.

Lincoln County

Westport, *Squire Tarbox House*, ME 144

Waldo County

Islesboro, *Philler Cottage*, Main Rd., Dark Harbor

MICHIGAN**Sanilac County**

Lexington, *Nims, William Reuben, House*, 7156 Huron Ave.

MISSOURI**Harrison County**

Bethany, *Hamilton House*, 1228 W. Main

Jackson County

Kansas City, *Howe, Frank M., Residence*, 1707 Jefferson St.

NEW JERSEY**Morris County**

Morris Township, *Alnwick Hall*, 355 Madison Ave.

Union County

Plainfield, *Saint Mary's Catholic Church Complex*, Liberty and W. 6th Sts.

NEW MEXICO**Dona Ana County**

Las Cruces, *Alameda-Depot Historic District*, Includes properties centered around Pioneer Park and extending up Alameda Blvd.

Las Cruces, *Mesquite Street Original Township Historic District*, Roughly bounded by E. Texas, Campo, Tornillo and E. Court

NEW YORK**Schenectady County**

Schenectady, *Central Fire Station*, Erie Blvd.

Warren County

Warrensburg, *McGee, Merrill, House*, 2 Hudson St.

NORTH DAKOTA**Slope County**

Amidon vicinity, *H-T Ranch*, 10 miles W. of Amidon

Williams County

Williston, *Old Armory*, 320 1st Ave. East

RHODE ISLAND**Washington County**

North Kingstown, *Scrabbletown Historic and Archeological District*, Scrabbletown Rd., Stony Lane and S. County Trail

TEXAS**Bexar County**

San Antonio, *Barr Building*, 213—219 Broadway

VIRGINIA**Fairfax County**

Herndon vicinity, *Hutchison, John, House*, Off US 50 on Pleasant Valley Rd.

WISCONSIN**Barron County**

Haugen, *ZCBJ Hall*, 320 W. 3rd St.

La Crosse County

La Crosse, *Physical Education Building/La Crosse State Normal School*, UW La Crosse Campus off US 16

Sheboygan County

Franklin, *Franklin Feed Mill (19th Century Grist and Flour Mills of Sheboygan County TR)*, Franklin Rd.

[FR Doc. 85-7161 Filed 3-25-85; 8:45 am]

BILLING CODE 4310-70-M

INTERSTATE COMMERCE COMMISSION**Forms under review by Office of Management and Budget**

The following proposal for collection of information under the provisions of the paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Ray Houser (202) 275-6723. Comments regarding this information collection should be addressed to Ray Houser, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3228 NEOB, Washington, DC 20503, (202) 395-7340.

Type of Clearance: Extension
Bureau/Office: Bureau of Accounts
Title of Form: Service Life Study
OMB Form No.: 3120-0037
Agency Form No.: ACV 159

Frequency: Annually
Respondents: Class I Railroads
No. of Respondents: 32
Total Burden Hrs.: 1,280.

James H. Bayne,

Secretary.

[FR Doc. 85-7098 Filed 3-25-85; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 30628]

Lackawanna County Railroad Authority, Inc.; Exemption From Regulation

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Lackawanna County Railroad Authority, Inc., (LCRA) from 49 U.S.C. Subtitle IV, and exempts LCRA's acquisition from Delaware and Hudson Railway Corporation (D&H) of (a) the portion of line known as the Carbondale Branch extending between MP 196.8 in the Borough of Moosic and MP 174.59 in the Township of Fell; (b) the 1.2 mile Vine Street Branch; and (c) trackage rights over about 4 miles of D&H line between MP 130.4 at Minooka Junction and MP 133.8 at Bloom Junction, all such acquisitions being in Lackawanna County, PA. Operation of the line by Lackawanna Valley Railroad Corporation is exempt from 49 U.S.C. 10901. Issuance of \$50,000 of common stock by the Lackawanna Valley Railroad Corporation is exempt from the requirements of 49 U.S.C. 11301.

DATES: This exemption is effective on March 22, 1985. Petitions to reopen must be filed by April 15, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30628 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423 and

(2) Petitioner's representative: John D. Heffner, 1250 Eye Street, NW., Washington, DC 20005.

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.

Decided: March 15, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett,

Andre, Simmons, Lamboley and Strenio. Commissioner Lamboley concurred and dissented in part with a separate expression. James H. Bayne,

Secretary.

[FR Doc. 85-7098 Filed 3-25-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-3 (Sub-47)]

Missouri Pacific Railroad Co.; Abandonment in Barton County, KS; Findings

The Commission has issued a certificate authorizing the Missouri Pacific Railroad Company to abandon its 2.7-mile rail line between Hoisington (milepost 558.9) and Kanbrick (milepost 561.6) in Barton County, KS. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85-7097 Filed 3-25-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF LABOR**Office of the Secretary****Agency Forms Under Review by the Office of Management and Budget (OMB)****Background**

The Department of Labor, in carrying out its responsibility under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the proposed forms and recordkeeping requirements that will affect the public.

List of Forms Under Review

On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency forms under

review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Department Clearance Office will, upon request, be able to advise members of the public of the nature of any particular revision they are interested in.

Each entry will contain the following information:

The Agency of the Department issuing this form.

The title of the form.

The OMB and Agency form numbers, if applicable.

How often the form must be filled out.

Who will be required to or asked to report.

Whether small businesses or organizations are affected.

An estimate of the number of responses.

An estimate of the total number of hours needed to fill out the form.

The number of forms in the request for approval.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the proposed forms and supporting documents may be obtained by calling the Department Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room S-5526, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Arnold Strasser, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, NEOB, Washington, D.C. 20503.

Any member of the public who wants to comment on a form which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Employment Standards Administration
Application for Authority to Employ

Full-Time Students at Subminimum
Wages in Retail or Service

Establishments or Agriculture
1215-0032; WH-200-MIS, WH-202

Annually

Farms; Businesses or other for-profits;

Small businesses or organizations

24,000 responses; 5,367 hours; 2 forms

Information is needed to determine

whether a retail or service, or

agriculture employer should be

authorized to pay subminimum wages to

full-time students under the provisions of section 14(b)(1) and 14(b)(2) of the Fair Labor Standards Act. The Wage and Hour Division of the Department of Labor uses this information to approve such authority for the respondents.

Signed at Washington, D.C., this 21st day of March, 1985.

Paul E. Larson,

Department Clearance Officer.

[FR Doc. 85-7134 Filed 3-25-85; 8:45 am]

BILLING CODE 4510-22-M

Employment and Training Administration

Facet Enterprises, Inc.; Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period March 11, 1985-March 15, 1985.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number of proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated.

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-15,560; Facet Enterprises, Inc.,
Filter Products Div., Madison
Heights, MI

In the following cases the investigation revealed that criterion (3) has not been met for the reasons specified.

TA-W-15,649; Center for Nuclear
Studies, Memphis, TN

The workers' firm does not produce an article as required for certification

under section 222 of the Trade Act of 1974.

TA-W-15,600; MSL Stamping Group,
Ellwood City, PA

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,602; J.S.C. Shoe Corp.,
Johnstown, PA

Separations from the subject firm resulted from a transfer of production to another domestic facility.

TA-W-15,607; Craddock-Terry Retail,
Lynchburg, VA

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

Affirmative Determinations

TA-W-15,616; Belmont Manufacturing
Co., Division Modern Juniors,
Barnesville, OH

A certification was issued covering all workers separated on or after November 30, 1983 and before May 6, 1984.

TA-W-15,617; E.I. Du Pont de Nemours
& Co., Inc., Chemicals & Pigments
Dept., Chicago, IL

A certification was issued covering all workers engaged in employment related to the production of sulfuric or sulfamic acid separated on or after March 1, 1984 and before February 1, 1985.

TA-W-15,598; The Bilrite Corp.,
Chelsea, MA

A certification was issued covering all workers separated on or after November 8, 1984.

TA-W-15,629; Imperial Reading Corp.,
LaFollette, TN

A certification was issued covering all workers separated on or after December 3, 1983.

TA-W-15,624; West Virginia Garment
Co., Wheeling, WV

A certification was issued covering all workers separated on or after November 28, 1983 and before July 1, 1984.

TA-W-15,648; Boot-Ster Manufacturing
Co., Clarksville, TN

A certification was issued covering all workers separated on or after August 1, 1984.

TA-W-15,655; Qume Corp., San Jose,
CA

A certification was issued covering all workers producing memory products separated on or after December 7, 1984 and before July 1, 1985.

TA-W-15,554; Chippewa Shoe Co.,
Chippewa Falls, WI

A certification was issued covering all workers separated on or after December 31 1983 and before January 31, 1985.

TA-W-15,592; Houdaille Industries, Inc., Hydraulics Div., Buffalo, NY

A certification was issued covering all workers separated on or after March 1, 1984.

TA-W-15,639; Bomag (U.S.A.), A Unit of AMCA International, Springfield, OH

A certification was issued covering all workers separated on or after February 1, 1984 and before January 31, 1985.

TA-W-15,643; Ovation Instruments, Inc., Marion, NC

A certification was issued covering all workers separated on or after November 1, 1984 and before February 15, 1985.

TA-W-15,636; Saginaw Shingle Co., Aberdeen, WA

A certification was issued covering all workers separated on or after November 1, 1983 and before January 31, 1985.

TA-W-15,542; Mayer China Co., Beaver Falls, PA

A certification was issued covering all workers separated on or after October 23, 1983.

I hereby certify that the aforementioned determinations were issued during the period March 11, 1985-March 15, 1985. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street, N.W., Washington, D.C. during normal business hours or will be mailed to persons who write to the above address.

Dated: March 19, 1985.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 85-7111 Filed 3-25-85; 8:45 am]

BILLING CODE 4510-30-M

National Advisory Committee on Occupational Safety and Health; Request for Nomination of Members

Nominations are requested for membership on the National Advisory Committee on Occupational Safety and Health. The Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, and Human Services on matters relating to the administration of the Act.

The terms of 6 members of the 12 member committee will expire on June 30, 1985. Nominations will be accepted for the vacancies occurring in the following categories: one public

representative, one management representative, one labor representative, one safety representative, and two health representatives.

Any interested person or organization may nominate one or more qualified persons for membership. Nominees should be identified by name, occupation or position, address, and telephone number. The category which the candidate would represent should be specified and a resume of the nominee's background, experience, and qualifications included. In addition, the nomination should state that the nominee is aware of the nomination and is willing to serve as a committee member.

Nominations should be submitted to Clarence M. Page, Division of Consumer Affairs, Occupational Safety and Health Administration, Room N-3662, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210, no later than April 15, 1985.

Signed at Washington, D.C., this 15th day of March 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-7291 Filed 3-25-85; 9:58 am]

BILLING CODE 4510-26-M

Office of Pension and Welfare Benefit Programs

[Prohibited Transaction Exemption 85-61; Exemption Application No. D-5571 et al.]

Grant of Individual Exemptions; Shorr Paper Products Inc., 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 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.

Amended and Restated Profit Sharing Plan and Trust of Shorr Paper Products, Inc. (the Plan) Located in Aurora, Illinois

[Prohibited Transaction Exemption 85-61; Exemption Application No. D-5571]

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 (1) the continuation after June 30, 1984, of a ground lease (the Ground Lease) by the Plan to Trust No. 1535, whose beneficiaries are parties in interest with respect to the Plan, and (2) the possible future sale by the Plan to Trust No. 1535 of the land subject to the Ground Lease pursuant to certain options granted to both the Plan and Trust No. 1535 by the Plan trustees when the Ground Lease was executed; provided the terms of all these transactions are at least as favorable to the Plan as those the Plan could obtain in similar transactions with unrelated parties, and provided further that in the event of any such sale the sales price is not less than the fair

market value of such land on the date of the sale, disregarding any reduction in value attributable to Trust No. 1535's repurchase option.

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 January 15, 1985, at 50 FR 2105.

Effective Date: This exemption is effective July 1, 1984.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (This is not a toll-free number.)

Harry Meyersohn & Associates, Inc. D.B. Pension Plan (the Plan) Located in Miami, Florida

[Prohibited Transaction Exemption 85-62; Exemption Application No. D-5789]

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 cash sale by the Plan to the Plan trustees of a certain condominium unit (the Property) for a price equal to the greater of the Property's fair market value or adjusted basis (as defined in the notice of proposed exemption) 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 January 15, 1985, at 50 FR 2110.

Written Comments and Hearing Requests

The Department has received one comment from the applicant advising that the name of the Plan is Harry Meyersohn & Associates, Inc. D. B. Pension Plan (not Henry Meyersohn & Associates, Inc. D. B. Pension Plan, as stated in the notice of proposed exemption). No other comments or hearing requests were received.

For Further Information Contact: Mrs. Miriam Freund of the Department, telephone (202) 523-8971. (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 fiduciary responsibility 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 or 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 22nd day of March 1985.

Robert J. Doyle,

Deputy Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-7167 Filed 3-25-85; 8:45 am]

BILLING CODE 4510-29-M

[Application No. D-5681, et al.]

Proposed Exemptions; Lincoln National Life Insurance Co., et al.

AGENCY: Pension and Welfare Benefit Programs, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions 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).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for

a hearing on the pending exemptions, unless otherwise stated in the Notice of Pendency, within 45 days from the date of publication of this Federal Register Notice. Comments and requests for a hearing should state the reasons for the writer's interest in the pending exemption.

ADDRESS: All written comments and requests for a hearing (at least three copies) should be sent to the Office of Fiduciary Standards, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216. Attention: Application No. stated in each Notice of Pendency. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of pendency of the exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). Effective December 31, 1978, section 102 of 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 requested to the Secretary of Labor. Therefore, these notices of pendency are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Lincoln National Life Insurance Company (LNL); Lincoln National Pension Insurance Company (LNP); and Lincoln National Investment Management Company (LNIMC) Located in Fort Wayne, Indiana

[Application No. D-5681]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted, the restrictions of section 406(b)(2) of the Act shall not apply to the transfer of assets from certain pooled separate accounts maintained by LNL to corresponding pooled separate accounts maintained by LNP, provided that the fair market value of the interests of each plan participating in such accounts shall, upon completion of the transfer, be equal to the fair market value of such plan's interest in the pooled separate accounts maintained by LNL immediately preceding the transfer.

Effective Date: If granted, the proposed exemption will be effective August 18, 1984.

Summary of Facts and Representations

1. LNL is a stock life insurance company organized in 1905 under the laws of the State of Indiana, with its headquarters in Fort Wayne, Indiana. As of December 31, 1982, LNL had total assets of more than \$4.914 billion. LNL and LNIMC are subsidiaries of Lincoln National Corporation, an Indiana insurance holding company and one of the largest providers of insurance and related services in the United States. LNIMC is a registered investment advisor under the Investment Advisors Act of 1940 and serves an investment advisor for all the pooled separate accounts involved in the inter-account transfers.

LNP, a subsidiary of LNL, is an Indiana stock life insurance company which was reorganized in 1978 to be the principal company within the Lincoln National group involved in providing services to qualified plans. As of December 31, 1982, LNP had total assets of more than \$1.012 billion. LNP and LNL are licensed to conduct insurance business in 48 states and the District of Columbia.

Both LNL and LNP have issued group annuity contracts funded by pooled separate accounts to qualified plans. Under the terms of both companies' contracts, plans are permitted to allocate contributions among specified

separate accounts maintained by the issuing company. The inter-account transfer for which this exemption is requested would permit the transfers of assets from LNL Separate Investment Fund Nos. 1 and 2 (SIF-1 and SIF-2, respectively) to LNP Separate Account Nos. 11 and 12 (SA-11 and SA-12, respectively). Assets transferred to LNP separate accounts could not be transferred back to LNL.

2. LNL has established eight pooled separate accounts, six of which, including SIF-1 and SIF-2, are maintained solely for qualified plans and are not registered under the Investment Company Act of 1940. As of June 29, 1984, 138 qualified plans held contracts invested in LNL separate accounts.

SIF-1 is a common stock separate account which has a policy of investing in common stocks of companies showing the potential for above average returns. As of June 29, 1984, SIF-1 had assets of approximately \$18,779,169, about half of which were attributable to a contract held by the Lincoln National Corporation Employees' Retirement Plan (the Lincoln Plan).¹ SIF-1 typically holds shares of less than fifty different stocks.

SIF-2 is a bond separate account which invests in publicly-traded taxable bonds rated Baa, BBB or higher. As of June 29, 1984, SIF-2 had assets of approximately \$5,418,821. The Lincoln Plan has no contract with respect to SIF-2.

3. LNP has established eight pooled separate accounts, seven of which, including SA-11 and SA-12, are maintained solely for qualified plans and are not registered under the Investment Company Act of 1940. As of June 29, 1984, 131 plans held contracts invested in LNP separate accounts.

SA-11, like SIF-1, has a policy of investing in common stocks of companies showing the potential for above average returns. A majority of the stocks held by SIF-1 are also held by SA-11. As of June 29, 1984, SA-11 had assets of approximately \$33,842,951.

SA-12, like SIF-2, is a bond separate account with a policy of investing in publicly-traded bonds with ratings of Baa, BBB or higher. As of June 29, 1984, SA-12 had assets of approximately \$10,676,754.

¹The applicants represent that the sales to and holding of contracts in the LNL and/or LNP separate accounts by the Lincoln Plan were made in accordance with the exemption provided in section 408(b)(5) of the Act or Prohibited Transaction Exemption 79-41 (44 FR 46365). The Department expresses no opinion as to the applicability of either of these exemptions to the interests of the Lincoln Plan in the separate accounts.

4. As a consequence of LNP's assumption of principal responsibility within the Lincoln National group for providing services to qualified plans, LNL has not regularly issued separate account annuity contracts to qualified plans since 1981. The outstanding LNL contracts reserve for LNL the right to terminate the use of its separate accounts as a funding mechanism on two year's written notice to the contractholders. LNL determined that this right should be exercised and the requisite notice was provided in August, 1984. Accordingly, the LNL separate accounts will cease to be available to fund annuity contracts in August, 1986, and will be terminated at that time.

5. At any time prior to expiration of the two-year termination period, each plan has the option of: (a) reallocating any interest in LNL separate accounts to the LNL general account portion of the same contract; (b) withdrawing the amounts allocated to the LNL separate accounts and reallocating the amounts to an LNP contract, e.g., through an inter-account transfer; or (c) terminating its LNL contract, and receiving cash proceeds in accordance with the terms of the contract. During the two-year period, the plan may also retain its existing LNL contract with continuing allocation of amounts to the LNL separate accounts.

6. As of January 23, 1985, no inter-account transfers from SIF-2 to SA-12 had been made. Inter-account transfers from SIF-1 to SA-11 had been made, but only with respect to the Lincoln Plan. The Lincoln Plan has no assets remaining in SIF-1. The decision on behalf of the Lincoln Plan to exchange its contract in SIF-1 for a contract in SA-11 was made by the fiduciaries of the Lincoln Plan on August 18, 1984. A number of other LNL contractholders have either withdrawn their contract value or exchanged LNL contracts for LNP contracts, but in each of those instances, there was adequate liquidity from normal operations in the LNL account to effect the withdrawal or exchange without an inter-account transfer.

The transfer of assets with respect to the Lincoln Plan was made on two separate dates so as to facilitate the orderly administration of SIF-1. On September 4, 1984, a total of \$5,000,000 (approximately half of the Lincoln Plan's interest in SIF-1) was transferred to SA-11, of which approximately \$3,328,000

²Under both the LNL and LNP contracts, the plan may allocate amounts to specified separate accounts or to the contracting company's general account.

was in stock and \$1,672,000 in cash. On October 1, 1984, the Lincoln Plan's entire remaining interest in SIF-1 was transferred to SA-11, in the form of approximately \$3,656,000 in stock and \$2,069,000 in cash. The applicants state that the inter-account transfers saved substantial brokerage costs for all plans with interests in SIF-1 and SA-11. LNIMC, as the investment advisor to both LNL and LNP, made all decisions as to which stocks to transfer. In general, each of these transfers was accomplished by determining the total value to be transferred in kind and then transferring from SIF-1 to SA-11 a pro rata number of the issues held in common by both accounts, subject to small deviations of less than 2% of the SIF-1 holding to avoid odd lots. Except as noted below, the September and October transfers included approximately 33% and 41%, respectively, of each stock issue held by SIF-1 that was also held by SA-11. (The proportion of the holdings transferred was higher in October than in September because the total value of SIF-1 was smaller as a result of the September transfer.) The only deviations from a pro rata approach occurred in the cases of three stocks, where a transfer or failure to transfer would have resulted in too low or too high a percentage of SIF-1's portfolio being invested in a particular stock. SIF-1 is a "balanced stock account" for which the investment strategy is to maintain a "full position" in each stock selected for investment, of 2 1/2% to 3 1/2% of SIF-1's entire portfolio.

7. For each LNL separate account contractholder other than the Lincoln Plan, plan fiduciaries unrelated to the Lincoln National group will determine which of the options to exercise. Because of the substantial similarities between LNL and LNP separate accounts, it is anticipated that a significant number of the plans currently holding LNL separate account contracts will request the exchange of those contracts for LNP separate account contracts.

8. The exchanges of contracts necessitate the transfer of the amounts credited under the LNL contract to LNP. One approach to effecting such transfers is to liquidate investments or otherwise accumulate liquid amounts equal to the exchanging plan's interest in the pertinent LNL separate accounts and to distribute those amounts from the LNL contract to the plan for retribution and reallocation under the LNP contract. The applicants state that anticipated exchanges may be effected in this manner, to a certain extent. However,

the applicants anticipate that many plans will designate that amounts held under the new LNP contracts are to be allocated among LNP separate accounts in a manner corresponding to the current allocation among LNL separate accounts.

9. The applicants have determined that it would be in the best interest of the exchanging plans, the other plans which hold LNL and LNP separate account contracts, and the participants and beneficiaries of such plans, if the assets of LNL separate accounts SIF-1 and SIF-2 are not liquidated but instead are transferred in kind to LNP separate accounts SA-11 and SA-12, which have similar investment objectives.

Contractholders eligible to elect contract exchanges from LNL to LNP will be provided quarterly with disclosures stating, as of the end of each calendar quarter, the following: (1) For contractholders with interest in SIF-1, all stocks held by SIF-1 and SA-11, and the proportionate percentage of each account's total portfolio invested in such stocks; and (2) for contractholders with interests in SIF-2, the overall characteristics of the bonds held by SIF-2 and SA-12, including a breakdown by issuer, maturity and quality rating, and the aggregate financial characteristics of the account. These notices will be provided to contractholders as soon as possible, but at a maximum within 30 days after the close of each calendar quarter and will be provided so long as plans continue to hold LNL contracts eligible for inter-account transfers.

The inter-account transfers will be implemented only on the first business day of a month, based on account valuations determined as of the close of business on the last business day of the preceding month. All written requests for transfer from an LNL to an LNP contract given at least ten days before a transfer date will be completed on such date.

10. Generally, to transfer an exchanging plan's interest between the SIF-1 and SA-11 separate accounts, a proportionate number of shares of each SIF-1 stock would be transferred to SA-11. Shares would be transferred proportionately, however, only to the extent that LNIMC concluded that disposing of the shares was desirable for SIF-1 and that the acquisition of the shares by SA-11 was desirable from the standpoint of that account. Absent such a conclusion, LNIMC would in the normal course of operation decide what portion of the SIF-1 portfolio to sell on the market in order to provide liquidity to meet LNL's obligations to a withdrawing SIF-1 contractholder, and

would direct that this cash amount be paid to LNP for investment in SA-11.

11. To transfer a plan's interest between the SIF-2 and SA-12 separate accounts, LNIMC will select the bonds to be transferred, applying the following criteria: (a) the bonds must be an attractive investment consistent with the current investment needs of SA-12 and must be appropriate for purchase on the open market for SA-12, e.g., bonds of an issue already held by SA-12, and (b) the transfer must not be disadvantageous to SIF-2. The price at which the bonds would be transferred would be the average of the bid and ask quotations of at least three independent dealers on the date agreed upon in advance for the exchange. The assets would be transferred as of the day agreed upon in advance by each plan and the applicants for the contract exchange.

12. The value of the assets transferred from SIF-1 or SIF-2 in connection with each contract exchange will not exceed the lesser of: (a) The exchanging plan's interest in the LNL separate account, or (b) the amount allocated by the plan for investment in the corresponding LNP separate account. Neither the applicants nor any other affiliated entity will receive a commission or fee for the inter-account transfers, nor will the regular investment management fees for the respective accounts be adjusted. While LNIMC's advisory fee, as a percentage of the assets in a separate account, is slightly higher for LNP separate accounts than for LNL separate accounts, other fees under LNP contracts issued to plans in exchange for LNL contracts will be adjusted so that the total charges under the contract to the plan will not increase, as a percentage of assets, as a result of the exchange.

13. By employing inter-account transfers, to the extent appropriate, rather than open market transactions, the applicants believe that high quality investments will be retained for the qualified plan separate accounts. The inter-account transfer procedure also avoids the need to accumulate liquid funds to meet exchange requests in the LNL accounts, which could disrupt the investment strategies and returns of those accounts. Moreover, because the bonds held by SIF-2 generally are odd lots, the inter-account transfers will avoid any odd-lot discounts in the price received by SIF-2 or odd-lot premiums in the price paid by SA-12 and will save dealers' fees incurred in open market transactions. The applicants represent that these procedures assure that each account involved receives, or pays fair

market value for its investments, facilitate the investment policies of the LNL accounts and save significant transaction costs for all plans holding contracts funded by these separate accounts.

14. The applicants represent that the transactions satisfy the criteria of section 408(a) of the Act as follows: (1) The decision to engage in an inter-account transfer will be made by independent plan fiduciaries after disclosure, on a quarterly basis, of information regarding the portfolios of the separate accounts involved in the inter-account transfers; (2) neither the applicants nor their affiliates have or will receive any commissions or fees in connection with the transfers; and (3) the value of each plan's interest in the separate accounts will be the same both before and after any such transfer.

For Further Information Contact: Ms. Katherine D. Lewis of the Department, telephone (202) 523-8882. (This is not a toll-free number).

**Robert L. Larson Contracting, Inc.
Employees' Profit Sharing Plan and
Trust (the Plan) Located in Orlando,
Florida**

[Application No. D-5898]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of sections 408(a), 408(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 proposed sale by the Plan of two parcels of real property to Robert L. Larson and Iris D. Larson, parties in interest with respect to the Plan, provided that the terms of such sale are at least as favorable to the Plan as the Plan could obtain in an arm's-length transaction with an unrelated party.

Summary of Facts and Representations

1. The Plan is a defined contribution pension plan with 112 participants and total assets of \$1,250,023 as of July 31, 1984. The Plan is sponsored by Robert L. Larson Contracting, Inc. (the Employer), a closely-held Florida corporation engaged in general residential construction in and near Orlando, Florida. The trustee of the Plan is Robert L. Larson (the Trustee), who is also the majority shareholder and an employee and director of the Employer.

2. Among the assets of the Plan are two parcels of real property (the Properties) located in a residentially and commercially zoned subdivision of Kissimmee, Florida, a suburb of Orlando. One of the parcels is unimproved and one is improved with a single-story masonry residence constructed in 1955. The Plan acquired the Properties in 1978 and 1979 from parties unrelated to the Plan for cash in the amount of \$40,000. The Trustee represents that the Properties were originally purchased for their rental income potential, due to their proximity to major tourism centers in Florida. The Properties have been rented for short terms to unrelated parties in the tourist lodging market. Since the Properties were purchased for the Plan, the surrounding area has experienced dramatic growth in hotel and motel space, and the rental income potential of the Properties has declined substantially. Including the Properties, the Plan is substantially invested in real property, and the Trustee has determined that the Plan must reduce its real property investments in order to attain sufficient liquidity to meet upcoming obligations to beneficiaries. In order to provide the Plan with sufficient liquidity, and because of adverse market conditions affecting the Properties' income potential, the Trustee is requesting an exemption to permit the Trustee and his wife, Iris D. Larson (together, the Larsons), to purchase the Properties from the Plan.

3. The Larsons will purchase the Properties from the Plan for cash in the amount of the Properties' appraised fair market value on the date of such sale. As of November 21, 1984, the Properties had a total fair market value of \$72,500, according to Thomas W. Bledsoe, MAI (Bledsoe), an independent professional real estate appraiser located in Winter Park, Florida. Bledsoe's appraisal will be updated as of the date of the proposed sale to reflect any increases in the Properties' fair market value since the appraisal of November 21, 1984. The Larsons will pay all fees and attendant costs of the sale transaction.

4. The proposed sale of the Properties by the Plan to the Larsons has been reviewed and evaluated by Owen L. Cox (Cox), Vice President of the Southeast Bank, N.A. (the Bank), located in Orlando, Florida, which will act as an independent fiduciary on behalf of the Plan with respect to the proposed sale of the Properties to the Larsons. Cox represents that the Bank does not have any commercial, financial or business relationship with the Larsons or with the Employer and that he has examined all appropriate records and performed such

inspections and checks necessary to make an informed determination as to whether the proposed transactions would be in the best interests and protective of the participants and beneficiaries of the Plan. In addition to determining the appropriateness of the proposed transaction, the Bank will also represent the Plan in the consummation of the sale to ensure that the transaction proceeds on the terms and conditions as proposed herein. Cox represents that it is the opinion of the Bank that the proposed sale of the Properties by the Plan to the Larsons as proposed herein would be in the best interests of the participants and beneficiaries of the Plan for the following reasons: As proposed, the Plan will not incur the sale costs, commissions and fees which the Plan could expect to pay in a standard commercial transaction at arm's length with an unrelated party. The Plan is heavily illiquid at the present time and the proposed transaction will provide the Plan with cash which is needed. The Plan's disposal of the Properties will enable the Plan to invest in assets with a more stable and less speculative appreciation potential than is provided by the Properties. Finally, Cox notes that the Properties' income yield to market has averaged approximately 4.5 percent for the past six years and that the proceeds of this proposed sale could be reinvested to provide a higher income yield in the securities market.

5. In summary, the applicants represent that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The Plan's interests in the proposed transaction will be represented by an independent fiduciary, the Bank, which has determined that the transaction, as proposed, will be in the best interests of the participants and beneficiaries of the Plan; (2) the Plan will not incur the costs, commissions and fees which it could expect in an equivalent transaction in a standard commercial context with an unrelated party; (3) the proposed transaction will enable the Plan to obtain sufficient liquid assets to overcome its present heavy illiquidity; and (4) the proposed transaction will enable the Plan to invest in other assets with better appreciation potential and a higher yield.

For Further Information Contact: Mr. Ronald Willett of the Department, telephone (202) 523-8194. (This is not a toll-free number.)

Key Banks Inc. Pension Plan Trust (the Plan) Located in Albany, New York

[Application No. D-5615]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975). If the exemption is granted the restrictions of section 408(a), 408(b)(1) and 408(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 proposed sale of a parcel of land (the Land) by the Plan to Key Bank N.A., an affiliate of Key Banks Inc. (Key Banks), the sponsor of the Plan; provided that the sales price of the Land is not less than its fair market value as of the date of sale.

Summary of Facts and Representations

1. The Plan is a defined benefit plan with approximately 4,200 participants. As of December 31, 1983, the Plan had total assets of approximately \$42 million. The Plan's committee, which principally consists of officers of the sponsor or its affiliates, is responsible for investment decisions regarding Plan assets. The Key Trust Company, an affiliate of the Plan sponsor, serves as the trustee of the Plan. Key Banks is a multi-bank holding company which provides banking and related financial services throughout a major portion of New York State.

2. In October, 1971, National Commercial Bank and Trust Company [(National Commercial), now known as Key Bank N.A.] conveyed certain vacant land (the Land) known as 52-56 State Street and 3-19 Green Street in Albany, New York to the predecessor trust to the Plan. The Land is adjacent to the bank's main office located at 60 State Street. Concurrent with the sale the Plan leased the Land back to National Commercial for a term of 99 years commencing November 1, 1971. The ground lease provides for an annual rental of \$64,439 and is "triple net" providing that the lessee pay all costs and expenses associated with the Land.

Between 1971 and 1973, a new building was constructed on the Land by National Commercial. Pursuant to an amendment to the ground lease dated April 2, 1973, the ownership of the building was confirmed in the lessee until the "expiration" day of the lease. After a succession of various mergers and consolidations involving the Plan

and the Plan sponsor, the Plan has retained its ownership of the Land and Key Bank N.A. has retained its ownership of the building.

3. The Land continues to be leased to Key Bank N.A. pursuant to the original ground lease. The applicant represents that the lease of land was provided relief until July 1, 1984 pursuant to the transitional rules contained in section 414(c)(2) of the Act.³ Effective May 1, 1984, the ground lease was amended and provided for an increase in annual rental under the ground lease to \$75,330. Mr. Edward DeL. Palmer, MAI, CRE, an Albany, New York real estate appraiser, has determined that such rental is the fair rental value for the Land. On June 25, 1984, the ground lease was amended whereby the Land was transferred to a separate trust to be administered by Mr. Palmer. The applicant represents that it will pay all applicable excise taxes with respect to the leasing of the Land beyond June 30, 1984, within 30 days from the date a final exemption on behalf of the Plan is published in the Federal Register.

4. The applicant seeks an exemption to allow the Plan to sell the Land to Key Bank N.A. at its appraised fair market value. The applicant represents, under general principles of law and case law in New York pertaining to the question of merger of title of the building with the Land, that the expiration of the transitional rules under section 414(c)(2) of the Act has not resulted in the Plan having title to the building. In this regard, the applicant states that the intent of the parties since 1973 has been to create a system of separate ownership of the Land and the building. The applicant further represents that the ground lease did not "expire" as such word is construed under the terms of the ground lease upon the ending of transitional relief under section 414(c)(2) of the Act.

5. Mr. Palmer appraised the Land and determined, as of March 1, 1984, that the Land had a fair market value of \$857,000. Mr. Palmer updated his appraisal in October, 1984, and determined that the Land's fair market value remained the same. Mr. Palmer further stated that his appraisals determining the above value took into consideration the fact that the Land is located adjacent to Key Bank N.A.'s main office, and that the owner of the improvement (Key Bank N.A.) will own the entire fee after purchase of the Land.

³ The Department expresses no opinion herein as to whether the lease of the Land by the Plan satisfied the conditions of section 414(c)(2) of the Act.

The Plan will not incur any expenses in connection with the sale of the Land.

6. The applicant represents that the sale of the Land will enable the Plan to dispose of an illiquid asset for cash. The sale will also enable the Plan to disengage from a continuing prohibited transaction and use the proceeds of the transaction to reinvest in other investment vehicles.

7. In summary, the applicant represents that the proposed transaction satisfies the statutory criteria of section 408(a) of the Act because (a) the sale will be a one-time transaction for cash; (b) the Land will be sold at its fair market value as determined by an independent appraiser; (c) the applicant will pay all applicable excise taxes with regard to the continued leasing of the Land; and (d) the Plan will not incur any expenses in connection with the sale of the Land.

For Further Information Contact: Mr. David Stander of the Department, telephone (202) 523-8881. (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 fiduciary responsibility 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) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or 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.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, D.C., this 22nd day of March, 1985.

Robert J. Doyle,

Deputy Assistant Administrator for Regulations and Interpretations, Office of Pension and Welfare Benefit Programs, U.S. Department of Labor.

[FR Doc. 85-7168 Filed 3-25-85; 8:45 am]

BILLING CODE 4510-29-M

MERIT SYSTEMS PROTECTION BOARD

Review of the Significant Actions of the Office of Personnel Management During CY 1984; Call for Comments

AGENCY: Merit Systems Protection Board.

ACTION: Notice of review of the significant actions of the Office of Personnel Management During CY 1984; call for comments.

SUMMARY: 5 U.S.C. 1209(b) requires the Board to review annually the "significant actions" of the Office of Personnel Management (OPM) and report to the Congress and the President on whether those actions are in accord with merit system principles and free from prohibited personnel practices. The Board is now beginning its review of OPM's significant actions during 1984. This Notice explains the Board's study and invites public comment on OPM programs and activities during Calendar Year 1984.

DATE: Comments must be received on or before April 23, 1985.

ADDRESS: Comments should be made in writing and sent to the Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 836, 1120 Vermont Avenue NW., Washington, DC 20419. Attention: Dennis L. Little, Director.

FOR FURTHER INFORMATION CONTACT: Harry C. Redd III, Office of Merit Systems Review and Studies, Merit Systems Protection Board, Room 836, 1120 Vermont Avenue NW., Washington, DC 20419, (202) 653-7208.

SUPPLEMENTARY INFORMATION:

(a) *Background.* The Civil Service Reform Act of 1978 established a series of positive merit principles (5 U.S.C. 2301) and prohibited personnel practices (5 U.S.C. 2302) to govern the conduct of personnel management in the Federal Government. The Merit Systems Protection Board is responsible for protecting the public interest in a civil service administered in accord with these merit objectives and free from improper practices. The Board does this by adjudicating employee appeals, acting on actions brought by the Special Counsel, conducting special studies of the civil service and other merit systems, and reviewing the regulations and significant actions of OPM. The Office of Merit System, Review and Studies (MSRS) has principal responsibility within the Board for merit systems studies and OPM oversight including the annual report on OPM's significant actions.

(b) *What is a "Significant Actions Report"?* The law allows the Board substantial discretion to determine which actions of OPM are "significant" to the merit system in any given year. In exercising its discretion as to which actions of OPM it will report on, the Board's priorities are:

(1) To examine any OPM policy or program which might conflict with one of the statutory merit principles or cause or contribute to the commission of a prohibited personnel practice;

(2) To evaluate the extent to which other major decisions made or actions taken by OPM are in accord with and promote the merit principles; and

(3) To consider technical questions of personnel management, budget questions, or questions relating to internal OPM administration only to the extent that they are relevant to making judgments on the broader merit systems issues described above.

(c) *Public Comment on Significant Actions.* The Board invites any interested person or organization to comment on: Which actions of the OPM, in their opinion, during Calendar Year 1984 were "significant" for the merit system; and whether those actions were consistent with the merit systems principles and free from prohibited personnel practices.

Although comments are invited on any action taken by OPM during 1984, comments should be germane to the Board's mandate as described in (b) above. In addition, the Board invites comments on the following:

(1) *Recruitment and Retention of a Quality Federal Work Force.*

The Board is especially interested in the following issues:

- Whether agencies are experiencing difficulty in advancing beyond the GS-7 level those employees initially hired at the GS-5 or 7 entry level under the Schedule B authority which has temporarily replaced the Professional and Administrative Career Examination (PACE).
- The extent to which internal staffing procedures are being used as an alternate source for entry level employees in professional and administrative careers;
- The potential impact of the recently announced expansion of delegated temporary hiring authority (Federal Personnel Manual Letter 316-21);
- The impact of recent changes to the Senior Executive Service bonus system;
- The efficacy of SES Candidate Development Programs;
- The potential impact of a pay freeze or cut on Federal recruitment and retention; and
- The attitude of selected college students towards the Federal Government as a potential employer.

(2) *Personal Management Evaluation.* In October, 1983 OPM redesigned its method of conducting personnel management evaluation. The stated purpose of this change was to enable OPM to make Governmentwide decisions based on statistically sound data collected from a random sample of agency installations. The Board invites comment on the effect during 1984 of OPM's new personnel management evaluation system on agency resources, merit principles, and Governmentwide personnel policy-making, as well as on OPM's ability to carry out its compliance responsibility stated in 5 U.S.C. 1103(a)(5) and 1104(b).

(3) *Containment of the "Grade Bump."* The Board plans to examine the effect of joint OPM-OMB efforts to reduce the number of GS and equivalent positions at grades 11-15.

Comments on the impact of this effort are welcomed, with particular attention to how it effects attraction and retention of employees and the effect, if any, that contracting out has had on this effort.

(d) The Board will protect the identity of persons submitting comments and the confidentiality of such comments to the extent permitted by law.

Dated: March 20, 1985

For the Board,

Herbert E. Ellingwood,
Chairman.

[FR Doc. 85-7191 Filed 3-25-85; 8:45 am]

BILLING CODE 7400-01-M

NATIONAL SCIENCE FOUNDATION**Advisory Panel for Ecology; Meeting**

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ecology.
Date and time: April 11 & 12, 1985—8:30 a.m. to 5:00 p.m. each day.
Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of meeting: Closed.
Contact person: Dr. Patrick W. Flanagan, Program Director, Ecology (202) 357-9734, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of Panel: To provide advice and recommendations concerning support for research in ecology.

Agenda: Review and evaluation of research proposals and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
March 21, 1985.

[FR Doc. 85-7120 Filed 3-25-85; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for History and Philosophy of Science; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for History and Philosophy of Science.
Date and time: April 11, 12, 13, 1985. From 9:00 am to 5:00 pm.
Place: Room 523, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.
Contact person: Dr. Ronald J. Overmann, Program Director, History and Philosophy of Science Foundation, Washington, D.C. 20550, telephone (202) 357-9677.

Purpose: To provide advice and recommendations concerning support for research in History and Philosophy of Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
March 21, 1985.

[FR Doc. 85-7121 Filed 3-25-85; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Ocean Sciences Research; Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Ocean Sciences Research.
Date and time: April 16, 17, and 18, 1985; 16-9 am. to 6 p.m.; 17-8:30 to 6 p.m.; 18-8:30 to 5 p.m.

Place: Rooms 421, 510A, 536, 602-L, 628, 1242A, & 1242B, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of meeting: Closed.
Contact person: Dr. Robert E. Wall, Head, Ocean Sciences Research Section, Room 611, National Science Foundation, Washington, DC 20550, telephone (202) 357-7924.

Purpose of meeting: To provide advice and recommendations concerning support for research in Oceanography.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such

determination by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,
Committee Management Officer.
March 21, 1985.

[FR Doc. 85-7118 Filed 3-25-85; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Psychobiology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Psychobiology.
Date and time: April 17-19, 1985, 8:30 a.m.—5:00 p.m. each day.

Place: National Science Foundation, 1800 G Street, NW., Room 540, Washington, D.C.

Type of Meeting: Part Open—Open April 18—10:00 a.m.—12:00 noon; Closed April 17—8:30 a.m.—5:00 p.m.; Closed April 18—8:30 a.m.—10:00 a.m. and 1:00 p.m.—5:00 p.m.; Closed April 19—8:30 a.m.—5:00 p.m.

Contact person: Dr. Fred Stollnitz, Program Director, Psychobiology Program, Room 320, National Science Foundation, Washington, D.C. 20550, Telephone (202) 357-7949.

Summary minutes: May be obtained from the contact person as listed above.

Purpose of panel: To provide advice and recommendations concerning support for research in psychobiology.

Agenda: Open—April 18, 10:00 a.m.—12:00 noon. General discussions of research trends and opportunities in psychobiology.

Closed—to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 1979.

M. Rebecca Winkler,
Committee Management Officer.
March 21, 1985.

[FR Doc. 85-7716 Filed 3-25-85; 8:45 am]
BILLING CODE 7555-01-M

Advisory Panel for Regulation and Policy Analysis; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science

Foundation announces the following meeting:

Name: Advisory Panel for Regulation and Policy Analysis.

Type of Meeting: Closed.

Date and Time: April 12, 1985, 8:00 a.m. to 6:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 540, Washington, D.C. 20550, Room 628.

Contact person: Laurence C. Rosenberg, Program Director, National Science Foundation, Room 335—Phone (202) 357-7417.

Purpose of panel: To provide advice and recommendations concerning research in Regulation and Policy Analysis.

Agenda: Closed: to review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposal. These matters are within exemptions (4) and (6) of U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

March 21, 1985.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 85-7717 Filed 3-25-85; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Systematic Biology Meeting

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Systematic Biology.

Date and time: April 15 & 16, 1985—8:30 a.m. to 5:00 p.m. each day.

Place: Room 1141, National Science Foundation, 1800 G St., NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact person: Dr. James E. Rodman, Program Director, Systematic Biology (202) 357-9588, Room 1140, National Science Foundation, Washington, D.C. 20550.

Purpose of panel: To provide advice and recommendations concerning support for research in systematic biology.

Agenda: Review and evaluation of research proposals, and projects as part of the selection process of awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning

individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

March 21, 1985.

[FR Doc. 85-7119 Filed 3-25-85; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-261]

Carolina Power & Light Company (H. B. Robinson Unit No. 2); Exemption

I

The Carolina Power and Light Company (the licensee) is the holder of Facility Operating License No. DPR-23 which authorizes operation of the H. B. Robinson Plant, Unit No. 2. This license provides, among other things, that it is subject to all rules, regulations and Orders of the Commission now or hereafter in effect.

The facility is a pressurized water reactor at the licensee's site located in Darlington County, South Carolina.

II

On November 19, 1980, the Commission published a revised Section 10 CFR 50.48 and new Appendix R to 10 CFR Part 50 regarding fire protection features of nuclear power plants (45 FR 76602). The revised § 50.48 and Appendix R became effective on February 17, 1981. Section 50.48(c) established the schedules for satisfying the provisions of Appendix R. Section III of Appendix R contains fifteen subsections, lettered A through O, each of which specifies requirements for a particular aspect of the fire protection features at a nuclear power plant. One of these fifteen subsections III.O is the subject of this exemption request. III.O specifies detailed requirements for oil collection system for reactor coolant pumps.

III

By letter dated November 16, 1980, the licensee informed the staff that installation of a fixed fire suppression system had been completed in each reactor coolant pump bay. The system was based on proposed NRC

requirements set forth in Section III.P of a proposed Appendix R notice in the Federal Register on May 29, 1980.

Additional information was provided by letter dated November 26, 1980. By letter dated January 19, 1981, the licensee requested an exemption from the requirements of Section III.O of Appendix R to 10 CFR Part 50. The request was supplemented by letters dated January 7, 1983, July 30, 1982, June 7, 1983, June 29, 1983 and October 5, 1983. The June 7, 1983, and October 5, 1983 letters proposed modifications for additional fire suppression as alternatives. This does not meet the technical requirements of Appendix R because oil collection systems for the reactor coolant pumps are not provided. The acceptability of the alternative measures are discussed below.

IV

The containment contains three reactor coolant pumps (A, B and C). These are located in bays (A, B and C). These bays also contain safety related cabling for the reactor coolant loop instrumentation. Bays A and B share a common ceiling; Bay C is isolated from Bays A & B to some extent. The bays are covered by removable concrete blocks. These blocks will cause the plume from an unmitigated fire to be diverted through the steam generator area. This area contains safety related steam flow instrumentation sensing lines.

Oil spilled in Bay A, will be confined to Bay A; however, oil spilled in Bays B and C can flow to adjacent areas. The foundation for the reactor coolant pumps is at the 237.000' level. The foundation for the steam generators is at the 238.33' level. The reactor coolant pump is located between the pressurized portion of the oil system and the steam generator supports, and serves to shield the steam generator supports in the event of an oil system rupture.

The major combustible in each bay is the 200 gallons of oil in each reactor coolant pump.

The existing fire detection system in each reactor coolant pump bay is a two-zone detection system. One zone consists of a single infrared flame detector; the other zone consists of a 325 °F fixed-temperature heat detector. Activation of one zone of detection sends an alarm to the control room; activation of the second zone of detection alarms in the control room also opens the preaction water deluge valve to the bay. Both detectors are wall mounted.

The existing fire suppression system for each bay, is a preaction sprinkler system. Each bay has its own deluge

valve, supply header, and a ring header that encircles the reactor coolant pumps at elevation 239 feet 4 inches. Each of the five risers off the ring header have three 220° F closed head side wall sprinklers at approximately 240 feet, 245 feet and 252 feet elevations. These systems are design to meet the minimum residual pressure and flow requirements of NFPA-Std-15.

The suppression system ring header piping in Bay A is designed to withstand an SSE, while Bays B and C are designed such that a seismic event would not impact safety related equipment due to suppression system rupture. The risers are restrained to withstand the nozzle reaction forces. These forces are greater than those anticipated from a seismic event.

The existing containment spray system would be used as an emergency back-up to the bay suppression system if necessary to cool the operating level and containment annulus outside of the RCP bays.

By letter dated June 7, 1983, the licensee proposed to:

(1) Provide additional ceiling mounted heat detectors to meet the spacing and location requirements of NFPA-STD-72E, "Standard on Automatic Fire Detectors".

(2) Replace existing closed head sprinklers with special open water spray nozzles and manual actuation from the control room.

(3) Construct 6 inch dikes at the 231 feet elevation in Bay B and Bay C.

(4) Revise operating procedures for the containment spray system to allow its operation as a back up fire suppression system with the sodium hydroxide valves out.

By letter dated October 5, 1983, the licensee committed to maintain an automatically actuated closed-head preaction system in lieu of a manually actuated open-head system.

We have evaluated the fire protection for the reactor coolant pump lube oil system and conclude that the effects of a fire in an RCP Bay will not prevent safe shutdown capability. There are no components within the RCP Bay that are required for safe shutdown. The effects of any fire within an RCP Bay will be prevented from affecting the safe shutdown equipment outside the RCP Bay by the suppression system inside the RCP Bay and the Containment Spray System outside the Bay.

It is the staff's conclusion that: (1) Installation of a reactor coolant pump oil collection system in this facility would not significantly enhance fire safety, and (2) the existing fire

protection system in the Reactor Coolant Pump Bays with the addition of the proposed modifications provides an acceptable level of safety to that achieved by compliance with the requirements of Section III.0 of Appendix R to 10 CFR Part 50. Therefore, the licensee's request for an exemption should be granted.

V

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, the exemption requested by licensee's letters as referenced and discussed in III. and IV. above is authorized by law, will not endanger life or property or the common defense and security, is otherwise in the public interest, and is hereby granted.

Pursuant to 10 CFR 51.32, the Commissioner has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 10124, March 13, 1985).

A copy of the Safety Evaluation dated March 7, 1985, related to this action is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the local public document room located at the Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 20th day of March, 1985.

For the Nuclear Regulatory Commission.

Frank J. Miraglia,

Deputy Director, Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85-7141 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-443/444]

Public Service Company of New Hampshire, et al. (Seabrook Station, Units 1 and 2); Issuance of a Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has issued a decision pursuant to 10 CFR 2.206 concerning a Petition dated August 22, 1984 filed by the New England Coalition on Nuclear Pollution. The Petitioner requested that the Commission take action to remedy

alleged violations and deficiencies associated with construction of the Seabrook facility by a number of electric companies (licensees), including Public Service Company of New Hampshire (PSNH). Specifically, the Petition contends that construction activities underway at the Seabrook facility are being performed to violation of the terms of the construction permits issued to the licensees authorizing construction of the Seabrook facility. The construction permits identified PSNH as the sole technically qualified entity responsible for construction of the Seabrook facility. The Petition alleges that PSNH is no longer acting in that capacity due to a series of recent management changes. The Petition also alleges violations of the Commission's quality assurance (QA) requirements, specifically, 10 CFR Part 50, Appendix B. Based on these alleged violations and deficiencies, the Petitioner seeks immediate suspension of construction of the plant until construction permit amendments have been obtained reflecting the management changes which have occurred at Seabrook and conformance with NRC QA requirements is demonstrated.

The Petition was referred to the Director, Office of Nuclear Reactor Regulation for treatment pursuant to 10 CFR 2.206 of the Commission's regulations and a final Director's Decision has been issued denying the Petitioner's request. The reasons for this denial are explained in the "Director's Decision under 10 CFR 2.206" (DD-85-3), which is available for inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Local Public Document Room at the Exeter Public Library, Front Street, Exeter, New Hampshire 03883.

A copy of the decision will be filed with the Secretary for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, takes review of the decision within that time.

Dated at Bethesda, Maryland, this 18 day of March 1985.

For the Nuclear Regulatory Commission.

Harold R. Denton,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-7142 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

[NRC Docket Nos. 50-338 OLA-1, 50-339 OLA-1 (ASLBP Docket No. 83-481-01 LA)]

Virginia Electric & Power Co. (North Anna Power Station, Units 1 & 2); Order¹ Scheduling Hearing

March 19, 1985.

The evidentiary hearing will commence on May 21, 1985 to receive evidence upon Concerned Citizens of Louisa County's Consolidated Contention 1 which, for the reasons alleged therein, opposes an amendment to the operating license. The Applicant requests that this amendment be approved to permit the North Anna Power Station to receive and store 500 spent fuel assemblies from the Surry Power Station.

The location of the hearing is: Room 300, U.S. District Court for the Western District of Virginia, 255 West Main Street, Charlottesville, Virginia 22901.

These formal evidentiary hearings, beginning at 9:00 a.m. and recessing at 6:00 p.m., will continue through May 24, 1985, and, if necessary, will resume on May 28 and continue through May 31, 1985.

The Applicant, the NRC Staff, and the Intervenor, Concerned Citizens of Louisa County, shall file their written direct testimony by May 3, 1985. Further, the parties are to confer, and, by May 3rd, they are to submit to the Board a joint list of proposed exhibits, which shall set forth any objections to the admissibility of any proposed exhibits, and responses thereto. By May 3rd, any proposed exhibits which are not available to a given party shall be provided to that party and a copy of each proposed exhibit shall be submitted to each of the Board members.

The order of cross-examination will be as follows: after the Applicant's direct testimony, the Intervenor will be the first to cross-examine; after the Intervenor's direct testimony, the Applicant will be the first to cross-examine; and, after the Staff's direct testimony, the Intervenor will be the first to cross-examine.

Limited appearance statements will be taken between 9:00 a.m. and 12 noon and between 7:00 p.m. and 10:00 p.m. on May 21, 1984. (The evidentiary hearing will proceed during any lulls in the taking of limited appearance statements between 9:00 a.m. and 12 noon on May 21st.) Oral limited appearance statements will be limited to five (5)

minutes each but written statements may be submitted without limitation on length.

A limited appearance statement is presented under oath and is not evidence—it serves to alert the Board and the parties to areas in which evidence need be adduced. Those individuals desiring to make limited appearance statements should promptly notify Mr. William L. Clements, Chief, Docketing and Service Branch, Office of the Secretary of the Nuclear Regulatory Commission, Washington, D.C. 20555.

The public is invited to attend the formal evidentiary hearing as well as the limited appearance sessions.

Dated at Bethesda, Maryland, this 19th day of March, 1985.

For the Atomic Safety and Licensing Board,
Sheldon J. Wolfe,

Chairman, Administrative Judge.

[FR Doc. 85-7139 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

Publication of Subagreement No. 3 Between the U.S. NRC and the Washington State Energy Facility Site Evaluation Council

AGENCY: Nuclear Regulatory Commission.

ACTION: Publication of subagreement No. 3 between the U.S. NRC and the Washington State Energy Facility Site Evaluation Council.

SUMMARY: On September 6, 1978, an "umbrella" memorandum of understanding was signed by the NRC and the State of Washington, providing principles of cooperation between the State and NRC in areas of concern to the State.

Subagreement No. 3 identifies specific areas of information exchange and cooperation which are mutually acceptable to the State of Washington, its agent the Energy Facility Site Evaluation Council (EFSEC), and the United States Nuclear Regulatory Commission.

FOR FURTHER INFORMATION CONTACT: Dean Kunihiko, Region V, U.S. Nuclear Regulatory Commission, 1450 Maria Lane, Suite 210, Walnut Creek, California 94596. (Telephone: (415) 943-3714.)

Dated at Walnut Creek, CA, this 18th day of March 1985.

For the U.S. Nuclear Regulatory Commission,

John B. Martin,

Regional Administrator.

[FR Doc. 85-7138 Filed 3-25-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Excepted Service

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: This gives notice of positions placed or revoked under Schedules A, B, and C in the excepted service, as required by civil service rule VI, Exceptions from the Competitive Service.

FOR FURTHER INFORMATION CONTACT: Tracy Spencer, (202) 632-6000.

SUPPLEMENTARY INFORMATION: The Office of Personnel Management published its last monthly notice updating appointing authorities established or revoked under the Excepted Service provisions of 5 CFR Part 213 on February 27, 1985 (50 FR 8026). Individual authorities established or revoked under Schedule A, B, or C between February 1, 1985 and February 28, 1985 appear in a listing below. Future notices will be published on the fourth Tuesday of each month, or as soon as possible thereafter. A consolidated listing of all authorities will be published as of June 30 of each year.

Schedule A

No Schedule A exceptions were established or revoked during the month of February.

Schedule B

The following exception is established:

Department of Labor

Not to exceed 110 positions of Criminal Investigator (Special Agent) in the Office of Labor Racketeering, Office of the Inspector General. Effective February 5, 1985.

Schedule C

The following exceptions are established:

Department of Agriculture

One Confidential Assistant to the Administrator, Agricultural Stabilization and Conservation Service. Effective February 4, 1985.

One Confidential Assistant to the Assistant Secretary for Science and Education. Effective February 4, 1985.

One Confidential Assistant to the Assistant Secretary for Governmental and Public Affairs. Effective February 4, 1985.

¹ The substance of this Order was made known to counsel for the parties during a telephonic conference call initiated by the Board on March 15, 1985. Counsel agreed that a § 2.752 prehearing conference would not be necessary.

One Confidential Assistant to the Assistant Secretary for Economics. Effective February 4, 1985.

One Confidential Assistant to the Chief, Soil Conservation Service. Effective February 4, 1985.

One Confidential Assistant to the Administrator, Farmers Home Administration. Effective February 4, 1985.

One Secretary (Typing) to the Administrator, Rural Electrification Administration. Effective February 4, 1985.

One Confidential Assistant to the Administrator, Office of the Administrator. Effective February 5, 1985.

One Special Assistant to the Secretary. Effective February 19, 1985.

One Private Secretary to the Administrator, Agricultural Marketing Service. Effective February 21, 1985.

One Private Secretary to the Executive Assistant to the Secretary. Effective February 22, 1985.

One Confidential Assistant to the Assistant Secretary for Administration. Effective February 27, 1985.

One Confidential Assistant to the Administrator, Agricultural Marketing Service. Effective February 28, 1985.

Department of Commerce

One Confidential Assistant to the Director of Business Liaison. Effective February 5, 1985.

One Confidential Assistant to the Assistant Secretary for Trade Administration. Effective February 8, 1985.

One Confidential Aide to the Deputy Under Secretary for the Travel and Tourism Administration. Effective February 13, 1985.

One Confidential Assistant to the Director of Business Liaison. Effective February 13, 1985.

One Special Assistant to the Deputy Assistant Secretary for the Economic Development Administration. Effective February 13, 1985.

One Special Assistant to the Deputy Assistant Secretary for Import Administration, International Trade Administration. Effective February 13, 1985.

One Confidential Assistant to the Deputy Assistant Secretary for Africa, Near East and South Africa, International Trade Administration. Effective February 19, 1985.

One Congressional Liaison Specialist to the Assistant Secretary for Congressional and Intergovernmental Affairs. Effective February 19, 1985.

One Confidential Assistant to the Secretary. Effective February 20, 1985.

Department of Education

One Executive Director, Intergovernmental Advisory Council on Education to the Deputy Under Secretary for Intergovernmental and Inter-agency Affairs. Effective February 1, 1985.

One Personal Assistant to the Director, Regional Liaison Staff. Effective February 5, 1985.

One Special Assistant to the Assistant Secretary for Legislation and Public Affairs. Effective February 27, 1985.

Department of Energy

One Staff Assistant to the Under Secretary. Effective February 5, 1985.

One Staff Assistant to the Administrator, Energy Information Administration. Effective February 11, 1985.

One Director, House Liaison Division, to the Associate General Counsel, Legislation, Regulation and Congressional Affairs. Effective February 15, 1985.

One Director, Senate Liaison Division to the Associate General Counsel, Legislation, Regulation and Congressional Affairs, Federal Energy Regulatory Commission. Effective February 15, 1985.

One Technical Advisor to a Member of the Commission, Federal Energy Regulatory Commission. Effective February 15, 1985.

Department of Health and Human Services

One Special Assistant to the Chief of Staff. Effective February 4, 1985.

One Confidential Assistant to the Commissioner, Administration on Aging, Office of Human Development Services. Effective February 14, 1985.

One Special Assistant to the Senior Advisor to the Secretary. Effective February 27, 1985.

Department of Housing and Urban Development

One Special Assistant to the Regional Administrator/Regional Housing Commissioner. Effective February 4, 1985.

One Executive Assistant to the Assistant Secretary for Public and Indian Housing. Effective February 6, 1985.

Department of Interior

One Press Secretary and Director, Public Affairs to the Secretary. Effective February 13, 1985.

One Staff Assistant to the Counselor to the Secretary. Effective February 13, 1985.

One Staff Assistant to the Secretary. Effective February 13, 1985.

One Staff Assistant to the Secretary. Effective February 13, 1985.

One Staff Assistant to the Counselor to the Secretary. Effective February 13, 1985.

One Staff Assistant (Intergovernmental Affairs) to the Assistant to the Secretary and Director, External Affairs. Effective February 13, 1985.

One Confidential Assistant to the Executive Assistant to the Secretary. Effective February 13, 1985.

One Special Assistant to the Assistant to the Secretary and Director, External Affairs. Effective February 13, 1985.

One Special Assistant to the Assistant Secretary and Director, External Affairs. Effective February 13, 1985.

One Special Assistant to the Director, Office of Surface Mining. Effective February 19, 1985.

One Confidential Assistant to the Secretary. Effective February 27, 1985.

Department of Justice

One Missing Children's Program Coordinator to the Administrator, Office of Juvenile Justice and Delinquency Prevention. Effective February 5, 1985.

One Special Assistant to the Director, Bureau of Justice Statistics. Effective February 11, 1985.

One Staff Assistant to the Commissioner, Immigration and Naturalization Service. Effective February 22, 1985.

Department of Labor

One Private Secretary to the Deputy Under Secretary for Intergovernmental Affairs. Effective February 6, 1985.

One Regional Representative to the Deputy Under Secretary for Intergovernmental Affairs. Effective February 11, 1985.

One Special Assistant to the Assistant Secretary for Mine Safety and Health Administration. Effective February 25, 1985.

Department of State

One Member, Policy Planning Staff, to the Chairman, Policy Planning Council. Effective February 11, 1985.

One Executive Assistant to the Administrator, Urban Mass Transportation Administration. Effective February 1, 1985.

One Special Assistant to the Deputy Assistant Secretary for Policy and International Affairs. Effective February 7, 1985.

One Special Assistant for Intergovernmental Relations to the Administrator, St. Lawrence Seaway Development Corporation. Effective February 14, 1985.

Department of the Treasury

One Director, Office of Business Affairs, to the Assistant Secretary for Business and Consumer Affairs. Effective February 5, 1985.

One Staff Assistant to the Director of the Bureau of the Mint. Effective February 5, 1985.

Consumer Product Safety Commission

One Public Affairs Specialist to the Supervisory Public Affairs Specialist. Effective February 1, 1985.

One Supervisory Public Affairs Specialist to the Executive Director. Effective February 13, 1985.

One Special Assistant to the Chairman. Effective February 22, 1985.

One Special Assistant (Legal) to a Commissioner. Effective February 22, 1985.

Export-Import Bank of the United States

One Secretary (Typing) to the President and Chairman. Effective February 5, 1985.

Federal Emergency Management Agency

One Director of Affairs to the Director of FEMA. Effective February 5, 1985.

Federal Home Loan Bank Board

One Congressional Liaison to the Executive Staff Director. Effective February 4, 1985.

One Congressional Relations Officer to the Executive Director and Chief of Staff. Effective February 4, 1985.

Federal Labor Relations Authority

One Staff Assistant to a Member, Federal Labor Relations Authority. Effective February 13, 1985.

Federal Maritime Commission

One Confidential Assistant to a Commissioner. Effective February 25, 1985.

Federal Mediation and Conciliation Service

One Public Affairs Specialist to the Public Affairs Director. Effective February 14, 1985.

Federal Trade Commission

One Special Assistant to the Director, Bureau of Economics. Effective February 19, 1985.

Government Printing Office

One Congressional Relations Officer to the Legislative Liaison Officer. Effective February 25, 1985.

General Services Administration

One Staff Assistant to the Regional Administrator, Region I. Effective February 14, 1985.

International Trade Commission

One Confidential Assistant to the Chairwoman. Effective February 22, 1985.

National Transportation Safety Board

One Confidential Assistant to the Vice Chairman. Effective February 15, 1985.

Office of Management and Budget

One Confidential Secretary to the Assistant Director for Legislative Affairs. Effective February 14, 1985.

Office of Personnel Management

One Special Assistant to the Chief, Office of Policy and Communications. Effective February 15, 1985.

One Deputy Assistant Director for Executive Administrative to the Assistant Director for Executive Administration. Effective February 15, 1985.

One Supervisory Legislative Analyst to the Director of Congressional Relations. Effective February 15, 1985.

One Confidential Assistant to the General Counsel. Effective February 19, 1985.

One Staff Assistant to the Deputy Assistant Director for Executive Administration, Office of Executive Administration. Effective February 22, 1985.

President's Commission on White House Fellows

One Associate Director to the Director. Effective February 4, 1985.

One Staff Assistant to the Director. Effective February 22, 1985.

Small Business Administration

One Director of Women's Business Ownership to the Associate Deputy Administrator for Special Programs. Effective February 19, 1985.

One Deputy Assistant Administrator for Congressional and Legislative Affairs to the Assistant Administrator for Congressional and Legislative Affairs. Effective February 21, 1985.

One Special Assistant to the Assistant Administrator for Congressional and Legislative Affairs. Effective February 27, 1985.

United States Information Agency

One Special Assistant to the Associate Director for Program. Effective February 20, 1985.

One Special Assistant (Private Sector Programs) to the Associate Director for

Educational and Cultural Affairs. Effective February 25, 1985.

Office of Personnel Management.

Donald J. Devine,

Director.

[FR Doc. 85-7025 Filed 3-25-85; 8:45 am]

BILLING CODE 5325-01-M

Federal Prevailing Rate Advisory Committee; Open Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, April 4, 1985

Thursday, April 11, 1985

Thursday, April 18, 1985

Thursday, April 25, 1985

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street NW., Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street NW., Washington, D.C. 20415, (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

March 13, 1985.

[FR Doc. 85-7102 Filed 3-25-85; 8:45 am]

BILLING CODE 6325-01-M

PENSION BENEFIT GUARANTY CORPORATION

Withdrawal of Request for Approval of Special Withdrawal Liability Rules; ILGWU National Retirement Fund

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of withdrawal of request for approval of special withdrawal liability rules for the ILGWU National Retirement Fund.

SUMMARY: This notice advises interested persons of the withdrawal of a request for approval of special withdrawal liability rules for the ILGWU National Retirement Fund (the "Plan"). Under section 4203(f) of the Employee Retirement Income Security Act of 1974, as amended, a multiemployer plan may establish special liability rules if the Pension Benefit Guaranty Corporation ("PBGC") finds that the rules apply to an industry that has the characteristics that would make use of the special rules appropriate, and that the rules would not pose a significant risk to the PBGC insurance program. On February 22, 1983, the PBGC published (at 48 FR 7526) a notice of pendency of a request from the Plan for approval of special withdrawal liability rules. The effect of this notice is to advise interested persons that the Plan has withdrawn its request for approval.

FOR FURTHER INFORMATION CONTACT: Thomas Veal, Director, Corporate Policy and Regulations Department (611), Pension Benefit Guaranty Corporation,

2020 K Street, N.W., Washington, D.C. 20006; 202-254-4833 (202-254-8010 for TTY and TDD). (These are not toll-free numbers.)

Issued at Washington, D.C., this 20th of March 1985.

Charles Sharp,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 85-7157 Filed 3-25-85; 8:45 am]

BILLING CODE 7708-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC-14431; 812-6029]

Bank of New Zealand, et al.; Notice of Application for an Order For an Exemption

March 19, 1985.

Notice is hereby given that the Bank of New Zealand, a commercial bank organized under the laws of New Zealand (the "Bank") c/o Troland S. Link, Davis Polk & Wardwell, 1 Chase Manhattan Plaza, New York, New York 10005, and its wholly-owned subsidiary, BNZ North America Inc., a Delaware corporation ("BNZNA"), 100 Tenth Street, Wilmington, Delaware 19801, (collectively, "Applicants") filed an application on January 22, 1985, and an amendment thereto on February 20, 1985, for an order of the Commission, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from all provisions of the Act in connection with the proposed issuance and sale of commercial paper in the United States. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the applicable provisions thereof.

The application states that the Bank, is the only wholly locally-owned trading bank conducting business in New Zealand. In terms of business volume, the Bank is the leading bank in New Zealand and had, as of March 31, 1984, consolidated total assets of NZ \$6,681 million. The Bank provides a wide range of commercial banking and related financial services in New Zealand and overseas. Subsidiaries and associated companies of the Bank provide financial, installment credit and leasing finance services. The Bank has a network of 385 branches and agencies located throughout New Zealand.

According to the application, the Bank is currently licensed to operate in Australia with nine branches therein

providing full trading and savings bank services. The Bank is a major shareholder of banks in Western Samoa and Fiji. The Bank also has branch offices in New York, Fiji, and Singapore, an agency office in Los Angeles and a representative office in Tokyo. The Bank is increasingly active in arranging and managing international financing, including activities in the collection and discounting of bills of exchange, establishing letters of credit, remittance of funds and trade inquiry services. The Bank maintains correspondent banking relationships with banks in all major financial centers throughout the world.

Applicants state that the Bank of New Zealand Act of 1979 ("Bank Act") serves as the constitution of the Bank, and pursuant thereto, the New Zealand Minister of Finance ("Minister") appoints the Bank's Board of Directors. The Board is required to give effect to directions of the Minister with respect to governmental policy. The Bank is subject to regulation by the Reserve Bank of New Zealand ("Reserve Bank"), the central, state-owned bank that implements governmental monetary policy. The Bank must submit monthly reports to the Reserve Bank detailing principal liabilities and assets, and subject to Minister approval, may be required to hold certain balances or assets with the Reserve Bank. The Reserve Bank may also direct trading bank policy with respect to advances, discounts and investments, and rates of interest or discount.

Applicants state that pursuant to section 8(a) of the International Bank Act of 1978, the Bank, as a foreign bank having United States branches, is subject to most of the provisions of the Bank Holding Company Act of 1956. Accordingly, the Bank is required to file with the Board of Governors of the Federal Reserve System ("Federal Reserve") annual reports containing detailed information with respect to the Bank and its U.S. subsidiaries, including BNZNA. The Bank and BNZNA are also required to furnish any additional information which the Federal Reserve may request. Applicants state that BNZNA, as a non-bank subsidiary of a foreign bank having United States branches, is generally restricted to furnishing services to or performing services for the Bank. The Federal Reserve also has the power, under certain circumstances, to terminate the Bank's control of BNZNA.

According to the application, BNZNA was organized on November 14, 1984; all of its capital stock will be purchased for \$10,000 by the Bank and credited to the Bank's capital account. Applicants

represent that no other common or capital stock will be issued. The Bank organized BNZNA to provide a vehicle through which the Bank may obtain short-term funds in the United States through the sale by BNZNA of short-term promissory notes of the type generally referred to as commercial paper ("Notes"), unconditionally guaranteed by the Bank, and advancing the proceeds thereof (to the extent not applied to the repayment of maturing Notes or the payment of current expenses) to the Bank in the form of short-term deposits or loans ("Advances"). Applicants also propose that BNZNA or the Bank or both issue and sell other debt securities from time to time and advance the proceeds thereof to the Bank in a manner similar to the Notes. The Minister has duly given consent to the issuance of short-term securities by BNZNA and the guarantee by the Bank of all obligations of BNZNA.

According to the application, the Notes will be unsecured, negotiable short-term promissory notes of prime quality, issued in denominations of \$1,000,000, and sold through major United States commercial paper dealers to institutional investors and other entities and persons who normally purchase commercial paper. Applicants state that the terms of the Notes and Advances are intended to qualify them for the exemption from registration requirements under section 3(a)(3) of the Securities Act of 1933 ("Securities Act"). Applicants represent that prior to issuance of the Notes, or any other future issue of debt securities issued by BNZNA or issued or guaranteed by the Bank in the United States, the Notes or other securities will have received one of the three highest investment grade ratings from at least one nationally recognized investment rating organization and that special United States counsel will certify that such rating has been received. Provided, however, no such rating will be obtained if United States counsel is of the opinion, having considered the doctrine of integration referred to in various releases and no-action letters made public by the Commission, an exemption from registration is available with respect to such issue under Section 4(2) of the Securities Act. The Notes will be direct liabilities of BNZNA, and will rank *pari passu* among themselves and equally with all other unsubordinated indebtedness of BNZNA and superior to the rights of its shareholders. Applicants state that the Bank will unconditionally guarantee the Notes. New Zealand law does not, according to the application,

provide for the subordination of the indebtedness represented by the guarantee of the Bank to any other unsecured indebtedness of the Bank. Applicants state that purchasing Notes will be the equivalent to purchasing obligations of the Bank because of the Bank's unconditional guarantee.

Applicants propose to issue and have outstanding, on an annual average, an aggregate of \$150,000,000 in Notes. Applicants will not advertise or offer the Notes to the general public, and BNZNA will not issue the Notes until it receives an opinion of counsel that the circumstances of the proposed offering entitle the Notes to the section 3(a)(3) exemption of the Securities Act. Applicants do not request Commission review or approval of the opinion of counsel. Applicants will also provide to each dealer selling the Notes sufficient information to prepare, and undertake to ensure that such dealer will provide each offeree of the Notes, a memorandum ("Memorandum") which describes the respective business of the Applicants and contains the most recently available financial statements of the Bank audited in accordance with New Zealand auditing practices. Applicants also undertake to include in the Memorandum a description of the differences between New Zealand accounting standards and GAAP used by United States banks. The Memorandum will be at least as comprehensive as those customarily used in offering commercial paper in the United States and will be updated periodically to reflect material changes in either Applicant's business or financial status. Applicants expressly condition receipt of the Commission's exemptive order upon compliance with the foregoing.

According to the application, a bank or trust company having an office in New York City will be appointed as issuing agent to issue the Notes. Applicants expressly submit to the jurisdiction of New York State courts and United States federal courts sitting in the City of New York for the purpose of any suit, action or proceeding arising from the Notes the guarantee of the Bank or with respect to the offer and sale of the Notes by means of the Memorandum. Applicants will also irrevocably appoint an agent to accept service of process in any such action arising from the Notes, guaranty or use of the Memorandum by a Noteholder and instituted in any state or federal court by a Noteholder. The appointment will be irrevocable until all amounts due with respect to the Notes have been paid. Applicants state that such

submission to jurisdiction and appointment of process agent will not affect the right of any Noteholder to bring suit in any court which would otherwise have jurisdiction over an Applicant by virtue of the offer and sale of Notes, the guarantee by the Bank or otherwise. Applicants' agents for the issuance of the Notes and service of process will not be trustees for Noteholders or have responsibilities or duties to act for such Noteholders as trustee.

Future offerings of BNZNA's debt securities will be unconditionally guaranteed by the Bank and the proceeds thereof will be deposited with, or loaned to the Bank for use by it or one of the Bank's subsidiaries. No securities will be offered or sold by either Applicant unless (1) the securities are registered under the Securities Act; (2) in the opinion of Counsel an exemption from registration is available with respect to such offer and sale; or (3) the staff of the Commission renders a no-action position with respect to the Securities Act if such securities are not registered. Each Applicant undertakes to provide to offerees in the United States, and undertakes to ensure that any underwriter or dealer through whom they offer such securities will provide, disclosure documents which contain the financial statements of the Bank and which are at least as comprehensive in their description of such Applicant and its business and, in the case of any securities issued by BNZNA, in their description of the Bank and its business, as those customarily used in United States offerings of such securities. Applicants will also appoint an agent to accept service of process in any suit, action or proceeding brought on, respectively, the debt securities or the guarantee of the Bank or with respect to the disclosure documents prepared in conjunction therewith and instituted in any state or federal court by the holder of the debt securities. Applicants also expressly submit to the jurisdiction of the New York State and United States federal courts sitting in the City of New York with respect to any such suit, action or proceeding. The consent to jurisdiction and appointment of process agent will be irrevocable until all amounts due and to become due in respect thereof have been paid. Applicants also state that such submission to jurisdiction and appointment of process agent will not affect the right of security holders to bring suit in any court which may have jurisdiction over the Applicants by reason of the offer and sale of the securities or otherwise. Applicants

expressly condition receipt of the Commission's exemptive order upon compliance with the foregoing.

Applicants state that because the assets of BNZNA could be considered securities within the meaning of the Act, and because of the uncertainty as to whether or not a foreign commercial bank is an investment company as defined under the Act, Applicants request an exemption from all provisions of the Act. Applicants submit that the requested exemption is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 15, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7132 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14428; File No. 812-5850]

The Life Insurance Company of Virginia, et al.; Exemptive Application

March 19, 1985.

Notice is hereby given that The Life Insurance Company of Virginia (the "Company"), Life of Virginia Separate Account I ("Account") and Life of Virginia Security Sales, Ltd. ("Security Sales"), referred to collectively herein as "Applicants", 6610 West Broad Street, Richmond, Virginia 23230, filed an application on May 15, 1984, and amendments thereto on September 13, 1984, and March 4, 1985, with another amendment forthcoming, for an order of the Commission, pursuant to section 6(c) of the Act, exempting Applicants from sections 2(a)(35), 26(a), and 27(c)(2) of the Act, and Rule 6e-3(T), thereunder, to

the extent necessary to permit certain transactions described in the application. Applicants assert that the requested exemptions involve technical and unforeseen matters under Rule 6e-3(T), the exemptive rule under the Act for separate accounts offering flexible premium variable life insurance contracts. All interested persons are referred to the application on file with the Commission for a statement of Applicants' representations, which are summarized below, and are referred to the Act and the rules thereunder for a statement of the relevant statutory provisions.

The Company is a stock life insurance company organized under the laws of the Commonwealth of Virginia and is admitted to do business in 45 states and the District of Columbia. The Company is the sponsor-depositor for the Account. The Account, a segregated investment "separate account" of the Company, is registered under the Act as a unit investment trust. The Account meets all conditions set forth in section (a) of Rule 6e-3(T) under the Act and was established for the purpose of funding flexible premium variable life insurance contracts ("the Contracts"), as defined in paragraph (c)(1) of Rule 6e-3(T). Security Sales, a registered broker-dealer, is the principal underwriter of the Contracts. Net payments made on the contract will be allocated to the Investment Subdivision of the Account that invests exclusively in shares of the Common Stock Portfolio (initially, the single operating portfolio) of the Life of Virginia Series Fund, Inc. ("the Fund"). The Fund is registered under the Act as an open-end, diversified management investment company and is incorporated under the laws of the Commonwealth of Virginia as a series type company with four classes of capital stock (each consisting of one portfolio).

Applicants state that the Contracts are designed to give the contractowner maximum flexibility by permitting him to vary the frequency and amount of purchase payments and to increase or decrease the specified amount (i.e., the amount of insurance under the Contract). At the contractowner's election, the death benefit will be either "Option 1", the greater of the specified amount or the cash value multiplied by the corridor percentage or "Option 2", the greater of the specified amount plus cash value or cash value multiplied by the corridor percentage. The corridor percentage is 250% for an insured age 40 or below on the contract anniversary prior to the date of death, with the percentage declining for each year over 40, but not below 100%. The Contract

provides for loans, partial surrenders, and complete surrenders. Initially, there will be no optional insurance benefits available. The cash value will reflect the amount and frequency of payments, the investment experience of the Account, any partial surrender, any loans, and any charges. According to the application, the Contract will remain in force, without regard to the contractowner making purchase payments, unless the cash value reduced by any outstanding debt is insufficient to cover the monthly deduction, discussed below, and a grace period expires without a sufficient payment.

Applicants state that cash value is reduced on each monthly anniversary by a monthly deduction equal to the monthly cost of insurance. The cost of insurance rates are based on the sex, attained age, risk class, and contract duration and are guaranteed not to exceed those stated in the Contract. The guaranteed rates are based on the 1958 Commissioners Standard Ordinary Mortality Table ("1958 CSO Table") with interest at 4% compounded yearly. A mortality and expense risk charge equal to an annual rate of .50% of the net assets of the Account will be imposed and the value of the net assets of the Account will reflect the investment advisory fee and other expenses incurred by the Fund. Applicants further state that a charge of 8.5% will be deducted from each payment; 6% of which will be for sales and distribution expenses and 2.5%, for state premium taxes. In addition, a partial surrender charge equal to the lesser of \$25 or 2% of the amount requested will be deducted from amounts paid.

1. Definition of Sales Load

Applicants request an exemption from section 2(a)(35) of the Act and from paragraphs (b)(1) and (c)(4)(ii) of Rule 6e-3(T) to the extent that paragraph (c)(4)(ii) prescribes that the amount excluded from sales load for cost of insurance is limited to the "cost of insurance for the period based upon the 1980 CSO Mortality Table and net interest at the annual effective rate [at the greater of 5% or the rate guaranteed at issuance of the contract]." Applicants seek an exemption to the extent necessary to permit the exclusion from sales load of amounts deducted for the actual cost of insurance charges under the Contract, which for standard underwriting risk classes is guaranteed never to exceed amounts based upon the 1958 CSO Mortality Table and an annual effective interest rate of 4 percent. Applicants state that any portion of the cost of insurance charge

in excess of a charge based on the 1980 CSO Mortality Table would be deemed sales load, and that unless contractowners paid sufficient minimum premiums in advance of, or coincident with, each monthly cost of insurance deduction, the sales load technically could exceed 9% of actual payments, and may result in a violation of the rule. Applicants argue, among other things, that competitive inequities would therefore result from a failure to grant the requested exemption. In this regard, Applicants note that scheduled premium variable life insurance contracts ("scheduled contracts"), like Applicants' contracts, have their sales load computed on the basis of actual payments, but under Rule 6e-2 of the Act (the exemptive rule for scheduled contracts) the 1958 CSO Mortality Table is used in doing so. Applicants further note that, consequently, most companies issuing variable life insurance contracts charge for cost of insurance based on the 1958 CSO Mortality Table.

2. Definition of Payment

Applicants request an exemption from paragraph (c)(7) of Rule 6e-3(T) to the extent that paragraph defines "payment" for purposes of the sales load provisions of the Act and the rule, other than the cancellation and conversion rights, by excluding the portion of gross premiums charged for substandard risks, incidental insurance benefits, and interest when premiums are paid more frequently than annually (together, "extra charges"). Applicants note that this aspect of the definition of "payment" parallels paragraph (c)(7) of Rule 6e-2. Applicants state, however, that the Contracts differ significantly from scheduled contracts; extra charges are deducted from the cash value of the Contract rather than from payments as they are made. Applicants further state that this different procedure creates technical problems of compliance with Rule 6e-3(T).

Applicants believe that a reason why the definition of payment in Rule 6e-2 excluded the extra charges was to provide a consistent basis upon which to apply the percentage limits for sales load and refund rights. It was premised, they state, on the assumption that these extra charges would be deducted from payments as made, effectively treated as separate payments paid to the insurer's general account for separate "fixed" coverages, and therefore should not be viewed as "sales loads" or as part of the payment for the scheduled contract.

Applicants emphasize that these amounts are never allocated to a separate account, and it therefore would

be inappropriate to measure the permissible sales load under the scheduled contract by comparing it to a payment including these extra charges.

Applicants state that under the Contracts, the gross payments, less front-end charges, represent the amounts invested on behalf of contractowners in the Account. Therefore, purchasers with identical net payments allocated to the Account initially will have the same variable benefits because they will have the same basic variable cash values in the Account. They further assert that the fact that the monthly deductions charged over time will depend on factors which will cause differing variable benefits over time should not affect this analysis because the amount of deductions will also be affected by the investment experience of the Account. Thus, they conclude that by defining "payment" to equal gross payment, contractowners making the same gross payments, having the same net payments allocated to the Account, and receiving the same basic variable cash value benefits, will have the same percentage sales load for purposes of the Act and Rule 6e-3(T).

Finally, Applicants represent that by now permitting them to compute sales load based upon gross payments rather than payments as defined in paragraph (c)(7), the Commission would not be permitting greater amounts to be deducted than permitted under Rule 6e-2. Applicants assert that the Contracts, in fact, probably can not be regulated on an equivalent basis with scheduled contracts without this exemptive relief because of the difficulty of attribution of these extra charges to particular purchase payments. Applicants note that under the Contracts, when each gross payment is received, it will not be possible prospectively to attribute a portion of it to the extra charges deducted from cash value since the timing and amount of actual gross payments made will necessarily be independent of the timing and amount of these monthly charges against cash value. Therefore, Applicants believe this exemption is necessary and appropriate and consistent with the policy and provisions of the Act.

3. Deduction of Insurance Charges from Cash Value

Applicants request an exemption from sections 26(a)(2) and 27(c)(2) of the Act to the extent necessary to permit deductions from the separate account for any extra charges. Rule 6e-3(T) provides an exemption from these sections to permit deductions from the separate account for the cost of

insurance (paragraph (b)(13)(iii)(E)). Although Applicants believe that the exemption provided for "the cost of insurance" should be broad enough to cover deductions for all costs of insurance charges, including substandard cost of insurance charges and charges for incidental insurance benefits, Rule 6e-3(T), nevertheless, does not literally include these items in this exemption.

Applicants state that under a scheduled contract the extra charges are deducted from the scheduled payments. However, under a flexible contract, contractowners have the ability to determine their own schedule of payments; therefore, the extra charges are "unbundled" from the payments and deducted directly from the contractowner's cash value. Applicants assert that in this fashion, each contractowner pays only the charges commensurate with the risks under his or her own contract, whereas if the extra charges were deducted from payments, assumptions would have to be made about the expected frequency and amount of payments by all contractowners, and amounts deducted from payments based on these assumptions. Applicants assert that, consequently, their proposal is more equitable than "levelizing" the charge and allowing contractowners who pay more frequently to subsidize those who pay with less frequency and for all contractowners to pay a "risk" charge for the possibility that the levelized charge would be insufficient. Applicants further represent that the proposed method of deducting amounts for the extra charges does not provide a means for assessing larger charges. As Applicants already noted, the timing of their deduction does not affect the insurer's ability to determine their level.

For the reasons stated above, Applicants submit that such relief is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 8, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the

case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7129 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14429; 812-5826]

**Merrill Lynch KECALP L.P. 1984, et al.;
Notice of Application for an Order
Exempting a Certain Transaction**

March 19, 1985.

Notice is hereby given that Merrill Lynch KECALP L.P. 1984 ("Partnership") and Merrill Lynch Interfunding Inc. ("Interfunding") (together, "Applicants"), 165 Broadway, One Liberty Plaza, New York, New York 10080, filed an application on April 16, 1984, and an amendment thereto on December 4, 1984, for an order, pursuant to section 17(b) of the Investment Company Act of 1940 ("Act"), requesting an exemption from the provisions of section 17(a) of the Act to permit the Partnership to acquire up to 50,000 shares of common stock of Ithaca Industries Inc. ("Ithaca") on the terms described below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

The application indicates that the Partnership, a limited partnership organized under the laws of Delaware, is registered under the Act as a management investment company whose investment objective is to seek long-term capital appreciation and the tax advantages associated with certain investments. The application states that the Partnership is an "employees' securities company" within the meaning of section 2(a)(13) of the Act and operates in accordance with the terms of an exemptive order (Investment Company Act Release No. 12363, April 8, 1982) granted by the Commission, pursuant to section 6(b) of the Act. Applicants state that the Partnership's registration statement became effective on February 24, 1984, and units of limited partnership interest in the Partnership were offered to employees of Merrill Lynch & Co., Inc. ("ML&Co.")

and its subsidiaries and to non-employee directors of ML&Co. In the case of employees of ML&Co. and its subsidiaries, such employees may invest in the Partnership only if they received compensation during 1983, on an annualized basis, equal to at least \$75,000. Applicants also state that Interfunding, a Delaware corporation, is an indirect subsidiary of ML&Co. that is engaged in commercial financing transactions. According to the application, Ithaca, a Delaware corporation, designs, manufactures and markets a variety of knitted apparel products which are sold under private labels to major chain stores, department stores, discounters, mail order distributor and supermarkets.

Applicants state that KECALP Inc. ("KECALP"), a Delaware corporation, is a wholly owned subsidiary of ML&Co. that was formed in June, 1981, for the purpose of serving as general partner of employee-benefit partnerships such as the Partnership. Applicants further state that KECALP is the sole general partner of the Partnership and that all investments made by the Partnership are approved by KECALP's investment committee, which consists of members of KECALP's board of directors.

Applicants state that, during 1983, Merrill Lynch Capital Markets ("MLCM"), an unincorporated group within Merrill Lynch, Pierce, Fenner & Smith Incorporated ("MLPF&S") that conducts MLPF&S investment banking and underwriting activities, structured a leveraged buyout of the predecessor firm of Ithaca. Applicants further state that, as a result of this transaction, which was completed in October, 1983, Ithaca's equity securities are owned by members of Ithaca's management, Interfunding and several institutional investors that are not affiliated with ML&Co. or its subsidiaries. The application indicates that MLCM received a fee of approximately \$1.8 million for arranging and structuring the leveraged buyout.

The application states that Ithaca's capitalization, following the completion of the leveraged buyout, was approximately \$150 million; \$100 million of that amount was provided by a revolving credit facility of which \$90 million was provided by three banks. Applicants state that each of the purchasers of common stock paid a purchase price of \$8 per share. The application further states that Interfunding has agreed to sell to the Partnership up to 50,000 shares of the 434,512 shares of common stock of Ithaca owned by it; the maximum number of shares proposed to be acquired by the Partnership represents

5% of Ithaca's outstanding common stock.

Applicants state that the purchase price to be paid by the Partnership to Interfunding for the shares of common stock of Ithaca proposed to be acquired by the Partnership will be the lower of (i) the value of the investment on the date it is acquired by the Partnership or (ii) the cost to Interfunding of purchasing and holding the investment. Applicants further state that, with respect to clause (i), the value of the investment at the time of acquisition by the Partnership will be determined by the board of directors of KECALP based on its evaluation of Ithaca's product, market, industry trends, competition, financial requirements and management. The application states that the board of directors will review historical earnings and sales, evaluate forecasts of operating results provided to Interfunding and analyze the purchase price relative to book value. Applicants represent that the members of the KECALP board of directors are sophisticated and experienced in valuing securities and evaluating financial transactions generally. Applicants further represent that appropriate record-keeping will be maintained and made available for inspection by the Commission in accordance with the Act. The application indicates, with respect to clause (ii), such cost will be the original purchase price of \$8 per share paid for the shares of Ithaca's common stock on October 28, 1983, plus carrying costs relating to such investment.

Applicants state that, for purposes of this transaction, carrying costs consist of interest charges computed at the lower of (i) the prime rate charged by Citibank, N.A. during the period from the date the investment committee of the KECALP board of directors authorized the investment (November 22, 1983) to the date the Partnership acquires the investment or (ii) the effective cost of borrowings by ML&Co. during such period. The application indicates that the effective cost of borrowings by ML&Co. is its actual "average cost of funds" which it calculates on a monthly basis by dividing its consolidated financing expenses by the total amount of borrowings during the period. Applicants represent that ML&Co.'s total borrowings, and consequently its total borrowing costs, are in part made up of its borrowings to finance proprietary investments such as Ithaca common stocks; hence, it is appropriate to attribute some of ML&Co.'s borrowing costs, calculated at the average cost of funds, specifically to the Ithaca

investment. Applicants further represent that, in agreeing to make attractive investments available to KECALP partnerships, ML&Co. recognizes that in each case the KECALP partnerships will need to obtain an exemptive order from the Commission permitting the purchase from ML&Co. or another affiliate and that there will therefore always be some delay between the time a KECALP partnership authorizes the purchase and the actual purchase. Applicants further state that ML&Co. recognizes that its having to carry this investment during the interim period will increase its overall borrowing needs beyond what they would otherwise be.

Applicants contend that the issuance of an order is justified by both the terms of the transaction and the fact that the investment in Ithaca is not otherwise available to the Partnership. With respect to the terms of the transaction, the application indicates that the investment committee of the board of directors of KECALP has reviewed the proposed investment in detail having considered all information deemed relevant, including the nature of the investment, the nature of the investments by affiliates of ML&Co. in Ithaca and the farmers of the proposed purchase price to be paid by the Partnership. For these reasons, Applicants request an order be granted, pursuant to section 17(b) of the Act.

The application states that, in evaluating the terms of the transaction, the investment committee of KECALP considered the fact that the proposed purchase price to be paid by the Partnership will include carrying costs incurred by an affiliate of KECALP if the value of the investment at the time of acquisition by the Partnership is more than the sum of the purchase price plus the affiliate's carrying costs. Applicants represent that no dividends have been received with respect to the proposed investment and that the purchase price to be paid by the Partnership will be reduced by the amount of any dividend for which the record date is prior to the date the Partnership acquires the investment. In approving a purchase price which may include carrying costs, Applicants state that the investment committee recognized that KECALP receives no compensation for serving as general partner of the Partnership and that ML&Co. had incurred considerable expenses in organizing the Partnership. Applicants further state that, in light of these factors, the investment committee believes it is wholly appropriate for the purchase price paid for portfolio investments to reflect carrying costs so long as the value of the investment at

the time of acquisition exceeds the amount of the purchase price plus carrying costs. Applicants indicate that Interfunding will only be reimbursed for its carrying costs if the sum of its purchase price plus carrying costs is less than the investment's current value. Applicants submit that to deny reimbursement for carrying costs would result in a further and unwarranted loss to Interfunding and ML&Co. and provide a disincentive to sell investments to the Partnership in the future.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 15, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7131 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8685]

Issuer Delisting; Application To Withdraw From Listing and Registration; Pyramid Magnetics, Inc.

March 19, 1985.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the common stock (no par value) of Pyramid Magnetics, Inc. ("Company") from listing and registration on the Pacific Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) The Company has been informed that certain brokerage firms will not make a market in the common stock of the Company as a result of listing on the Exchange. The Board of Directors of the

Company has determined that it is in the best interests of the Company to attempt to increase the number of brokerage firms making a market in the common stock of the Company. The Board of Directors also believes that the expenses and regulations associated with the Exchange listing are greater than any benefit derived therefrom.

(2) The Exchange has posed no objection to the withdrawal of the specified security from listing and registration on the Exchange.

Any interested person may, on or before April 9, 1985, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7124 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14430; 812-5987]

Templeton Global Funds, Inc. and John M. Templeton; Application for an Order Approving a Proposed Transaction

March 19, 1985.

Notice is hereby given that Templeton Global Funds, Inc. ("Company"), 405 Central Avenue, St. Petersburg, Florida 33731, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company of the series type, acting on behalf of Templeton Global I ("Global I"), one of the two series in which the Company's shares are issued; and John M. Templeton (together, "Applicants"), Lyford Cay, Nassau, Bahamas, an affiliated person of the Company, filed an application on November 16, 1984, pursuant to section 17(d) of the Act, and Rule 17d-1 thereunder, requesting an order permitting Global I to pay a proportionate share of certain legal fees associated with a tender offer for the shares of a portfolio company of Global I. All interested persons are referred to

the application on file with the Commission for a statement of the representations contained therein, which are summarized below and to the Act for the complete text of the pertinent statutory provisions.

The Company was organized under the laws of the State of Maryland on February 4, 1981. Templeton is a director and chairman of the board of directors of the Company, and is, in addition, a director and president of, Templeton Investment Advisers Limited, the Company's investment adviser. Therefore, Templeton is an "affiliated person" of the Company (and of Global I), according to the definition of affiliated person set forth in section 2(a)(3) of the Act.

It is further stated that at the time of the transactions described herein Global I owned 39,000 shares of Mascan Corp. ("Mascan"), a Canadian corporation whose shares are traded on the Toronto Stock Exchange. Global I purchased its shares at an approximate average price of Can. \$6.00 per share. At the same time, it is stated, Templeton beneficially owned, through a personal trust, 33,700 shares of Mascan.

In July, 1983, it is stated, three corporate minority shareholders of Mascan ("Minority Stockholders") sought Templeton's participation in engaging the Canadian law firm of Stikeman, Elliot, of Toronto, to represent their common interests in the insolvent Mascan, which was then being managed by a court-appointed interim receiver. Templeton agreed to contribute 10% of the legal fees and expenses, while each of the Minority Stockholders contributed 30% of such fees and expenses.

From July through December, 1983, Stikeman, Elliot investigated certain claims against the principal stockholder of Mascan concerning his management of the enterprise. In late December, 1983, this investigation was postponed when Hammerson Canada, Inc.

("Hammerson") proposed that, in exchange for all outstanding Mascan common stock, it would exchange shares of either Hammerson, or of a company ("Newco") which Hammerson proposed to create for the express purpose of acquiring those Mascan assets which Hammerson did not wish to acquire. On behalf of Templeton and the Minority Stockholders, Stikeman, Elliot responded to this proposed offer with concerns as to its fairness in value, the equality of treatment of all shareholders, and the preservation of claims against the principal shareholder. Stikeman, Elliot conducted extensive negotiations with Hammerson; the firm also obtained, on behalf of Templeton, and the Minority Stockholders, an order

from the Chief Justice of the Supreme Court of Ontario authorizing Hammerson to alter its offer.

Under the revised proposal, Hammerson offered to pay Can. \$15 cash per share of Mascan stock. It also offered to include warrants exercisable through September 30, 1984, to purchase shares of Newco. Hammerson also reached an agreement with the principal shareholder of Mascan under which he agreed to apply his proceeds from the exchange, after settling a debt collateralized by his Mascan shares, to the purchase of Newco shares. The offer also expressly preserved all potential shareholder claims against him. Finally, Stikeman, Elliot obtained the nomination of one person to Newco's board of directors to serve until the expiration of the warrants.

In response to the terms of the revised offer, Global I tendered its shares to Hammerson. It is further stated that because of the substantial benefits derived by Global I from the efforts of Stikeman, Elliot, Global I proposes to contribute to contribute 53.6% of the 10% share of legal expenses which Templeton agreed to pay in his July, 1983 agreement with the Minority Stockholders. This percentage is based upon the percentage of Mascan shares held by Global I and Templeton. As of May 1, 1984, Templeton's 10% share of legal expenses amounted to Can. \$18,828.78; of this amount, Global I would pay Can. \$10,092.23. Additionally, the Company, on behalf of Global I, also agreed to pay a pro rata of any future legal fees and expenses incurred in representing its interests in the transaction.

Applicants submit that the proposed payment by Stikeman, Elliot may be regarded as a "joint enterprise or other joint arrangement" within the meaning of Rule 17d-1(c) under the Act; therefore, Applicants have applied for an order approving the joint payment of the aforesaid legal fees and payments.

In support of such request, it is represented that, at a meeting held on October 2, 1984, the board of directors of the Company, including a majority of the Company's directors who are not "interested persons" thereof (as defined in section 2(a)(19) of the Act), determined that Global I had benefited from the efforts of Stikeman, Elliot in seeking modification of the Hammerson exchange offer proposal, and that it would be appropriate for Global I to bear a portion of the legal fees and expenses incurred by Templeton and the Minority Stockholders. The board further noted, that if Templeton, an affiliated person of the Company, had not beneficially owned shares of

Mascan, the Company's board of directors could have authorized payment by Global I of the legal expenses involved without obtaining Commission approval. Finally, it was decided that Global I should contribute to the legal expenses involved in Stikeman, Elliot's continuing investigation into the management of Mascan by its principal stockholder, subject to quarterly review by the Company of the status of the investigation and any resulting litigation.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 15, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, on order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7130 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8709]

Issuer Delisting; Order Granting Application To Withdraw From Listing and Registration; United Stockyards Corp.

March 19, 1985.

The above named issuer has filed an application with the Securities and Exchange and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

(1) The \$.01 par value common stock of the Registrant has been listed for

trading on the Exchange and, pursuant to a registration statement on Form 8-A, which become effective on February 7, 1985, the New York Stock Exchange ("NYSE"). Trading in the Registrant's common stock on the NYSE commenced at the opening on business on February 11, 1985, and concurrently therewith such stock was suspended from trading on the Exchange.

(2) The Board of Directors of the Registrant determined that, in view of the listing of the Company's common stock on the NYSE, it was advisable for the Company to withdraw from listing on the Exchange.

(3) The Exchange has informed the Registrant that it has no objection to the withdrawal of the Registrant's common stock from listing on the Exchange.

The Commission, having considered the facts stated in the application and having due regard for the public interest and protection of investors, orders that said application be, and it hereby is, granted, effective at the opening of business on March 20, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,
Secretary.

[FR Doc. 85-7123 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21863; Amex-84-35]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction

The American Stock Exchange ("Amex" or "Exchange") submitted on November 26, 1984, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder to amend the Amex Company Guide to add new sections 118, 145 and 1005 governing listing requirements for certain unit investment trusts which permit investors to separate their securities holdings into distinct trading components representing discrete interests in the income and capital appreciation potential of the securities deposited in the trust. On December 11, 1984, the Amex submitted Amendment No. 1 to the proposed rule change to modify several provisions of the original filing and on February 14, 1985, submitted Amendment No. 2 to the filing.¹

¹ Notice of the proposed rule change, together with the terms of substance of the proposed rule change, consisting of the filing as amended by

According to the Amex, the only such investment trusts it is contemplating listing at this time are the 30 trust series for which registration statements have been filed with the Commission by the Americus Shareowner Service Corporation ("Americus Trust" or "Trust"). The Amex has indicated that, should the opportunity arise, the Exchange may list similarly structured investments trusts other than Americus Trust.

Under the proposed rule change, each issuer of a security held by the trust must have a total assets exceeding \$100 million and a net worth greater than \$10 million. A listed trust must have a minimum public distribution of one million units held by at least 800 round-lot holders, and a stated term of at least three years. Further, no more than one trust may be listed on a single issuer. The proposed rule change prohibits a listed trust from accepting stock of Amex-listed issuers, and prohibits more than 5% of an issuer's securities from being held by a trust. Further, the trust must pass through any right to vote conferred by a security held by the trust to the beneficial holders of the trust's units and furnish such holders with copies of any shareholder communications received from the issuer to the extent the trust is reimbursed by the issuer.²

Americus currently has pending with the Commission filings to register under the Securities Act of 1933 units to be issued by thirty series of a unit investment trust registered under the Investment Company Act of 1940. The registration statements were filed in January 1984. The registration statements indicate that each investment trust series would offer to exchange its units on a one-for-one basis for shares of common stock of a

Amendment No. 1, was given by the issuance of a Commission release (Securities Exchange Act Release No. 21581, December 18, 1984) and by publication in the *Federal Register* (49 FR 50338, December 27, 1984).

² Amendment No. 2 was not published separately for comment because the proposed changes included in Amendment No. 2 do not materially alter the terms of substance of the proposed rule change as published in the *Federal Register*. The proposed prohibition against listing multiple trusts on an issuer, intended to address certain concerns raised by commentators, narrows the original proposal and raises no new issues commentators have not already had an opportunity to address. Similarly, the Amex proposal to prohibit trusts on Amex-listed issuers is more restrictive than the original proposal, which would have permitted up to 10% of the securities of a trust to be Amex-listed and traded. Finally, the proposed amendments to the delisting criteria under section 1005 of the Amex Company Guide would merely specify those provisions of the general Amex delisting criteria enumerated in the original filing that would apply to delisting the proposed trusts.

single major industrial issuer.³ Units of each Trust series may be divided by their holder into two components. The PRIME carries the dividend and voting rights in the underlying common stock. The SCORE component carries the right to capital appreciation over a specified price ("Termination Claim").⁴

II. Background

After Americus submitted its filings in January 1984, several corporations and individuals wrote to the Commission raising various questions about the Americus Trust concept.⁵ A number of commentators viewed the SCORE component as functionally equivalent to an option and questioned whether SCOREs and options require equivalent regulatory treatment. Commentators also questioned whether proliferation of the Americus concept would lead to market and investor confusion and disrupt the primary trading market for the issuers' equity securities. Other commentators stated that, by dividing shareownership rights between SCOREs and PRIMEs, the Trust would create conflicting interests among component holders that might adversely affect corporate governance. For example, they noted that SCORE holders would favor measures tending to promote capital appreciation while PRIME holders would support proposals to maximize current income distribution.

³ On November 14, 1984, Americus filed with the Commission Amendment No. 1 to its registration statement filed on Form S-6 for Americus Trust, Exxon Series A, Registration No. 2-88874. The statement amended the Exxon filing of January 1984 to reflect a private letter ruling, discussed *infra*, issued to Americus by the Internal Revenue Service, as well as to amend the original Exxon statement in a number of other respects. In addition, Americus filed two additional amendments, Nos. 2 and 3, to its Exxon statement on January 10, 1985 and February 13, 1985, respectively. On March 14, 1985, the Commission declared effective Amendment No. 3 to the Exxon statement. The amended statement does not alter the basic operating terms of the Trust nor the properties of the Trust securities.

⁴ The PRIME component also carries the right to receive, upon termination of the Trust, a distribution of stock and cash (for fractional interests) having a value of the lesser of the termination claim or the Net Asset Value Per Unit. SCORE holders would receive, at termination of the Trust, a distribution of stock and cash equal to the value of the excess of the Net Asset Value per unit over the Termination Claim.

⁵ The Commission received comment letters from the following issuers in connection with Americus' proposed formation of 30 Trusts series: International Business Machines Corp. ("IBM"), Procter & Gamble Company, Xerox Corp., Standard Oil Company (Indiana), Texaco Inc., GTE Corp., and Royal Dutch Petroleum. In addition, Congressman John D. Dingell, Chairman of the House Committee on Energy and Commerce, expressed various concerns relating to Americus Trust in a letter to Chairman John S.R. Shad, dated March 15, 1984.

On June 1, 1984, the Commission issued a release soliciting public comment on a number of issues relating to the Americus filings, including those raised by issuer and congressional commentators.⁶ The release presented the Commission's view that amendments to New York Stock Exchange ("NYSE")⁷ listing criteria were necessary to accommodate the novel functional properties of Americus securities should the NYSE choose to list additional Trust series, and requested comment on appropriate listing standards. The Commission also sent a letter to the NYSE requesting that it develop listing standards for Americus securities and recommending guidelines that the NYSE might follow in establishing such criteria.⁸ Further, the Commission decided to defer consideration of whether to declare the 30 Americus registration statements effective. The release elicited a number of comment letters from issuers, the securities industry, Congress, and the public, raising a number of concerns regarding the proposed Trust.⁹

On April 27, 1984, the Internal Revenue Service ("IRS") issued a Notice of Proposed Rulemaking under Section 7805(b) of the Internal Revenue Code of 1954, the effect of which would be to tax Americus as a partnership or

association rather than as a trust.¹⁰ Under the IRS proposal, Americus Trust would pay federal income tax on dividends and income paid to the Trust by the issuer on stock held by the Trust, instead of passing income through fully to investors. Concurrent with its issuance of the Final Draft of Proposed Rulemaking the IRS revoked an IRS private letter ruling of September 4, 1980, in which Americus was informed that it would be treated as a grantor trust for federal tax purposes.¹¹

As a result of the uncertain federal tax status of Americus Trust and of concerns raised by several NYSE issuers, the NYSE informed the Commission that it has established a moratorium on listing additional Americus Trust series.¹² In addition, the NYSE indicated that it had commenced a review of the issues related to Americus with the help of its Listed Company Advisory Committee ("LCAC").

Pending further action by the NYSE on Americus, the Commission wrote to Joseph Debe, President of Americus, informing him of the NYSE's letter to the Commission and requesting that he inform the Commission of whether he intended to continue to pursue registration of Americus Trust series in light of the NYSE moratorium.¹³ In that letter, the Commission also requested that Americus work with the NYSE in developing possible NYSE listing standards to accommodate the Trust series.

On November 14, 1984, Americus submitted to the Commission Amendment No. 1 to its registration statement ("Amended Exxon Statement") which stated that, once the registration statement was declared effective, application would be made to trade the Americus securities on the Amex. The Amended Exxon Statement stated further that on November 5, 1984,

the IRS had issued a supplemental ruling to Americus permitting Americus, subject to certain conditions, to rely on the IRS private letter ruling of September 4, 1980 and exempting the Trust from application of the proposed Treasury Regulation. The Amex then submitted to the Commission on November 26, 1984, the proposed rule change including listing standards for investment trusts meeting the description of the thirty Americus Trust series.

III. Issues Raised by Commentators

The commentators on the Amex proposed rule change raised many of the same concerns previously expressed regarding Americus.¹⁴ Several commentators stated that: (1) SCOREs were equivalent to options and, therefore, required similar regulatory treatment (e.g., preparation and dissemination of a risk disclosure document and establishment of special investor suitability criteria), and (2) that the Amex proposal, by authorizing exchange trading of a new derivative instrument and permitting multiple trusts to be listed on a single underlying issue, would create both investor and market confusion.

In addition, commentators objected to the following Trust characteristics that would be permitted under the Amex proposal: (1) Issuer communications would be transmitted by the Trust to unit and PRIME holders only upon reimbursement by the issuer of transmittal expenses, (2) the PRIME and SCORE holders would have differing investment interests, and (3) voting rights would "pass through" only to PRIME and unit holders.¹⁵

Two commentators stated that the Trust characteristics could significantly impact tender offers and impair the trust holders' ability to benefit from a tender offer.¹⁶ It was stated that, in a

⁶ See Securities Exchange Act Release No. 21009 (June 1, 1984), 49 FR 23653, June 7, 1984.

⁷ Prior to Americus' January 1984 filing of 30 Trust series with the Commission, the NYSE listed the units, PRIMEs and SCOREs of an Americus Trust for AT&T common shares. The Trust for AT&T was filed with the Commission and declared effective October 25, 1983, and began trading on a "when issued" basis on the NYSE on October 25. The AT&T PRIMEs and SCOREs were listed under existing NYSE listing standards for preferred stock and warrants. While the Commission staff did not object to the NYSE's listing the Americus AT&T Trust securities in the absence of new listing standards, the staff indicated to the NYSE that amendments to its listing standards, filed with the Commission under section 19(b) of the Act, might be required before the NYSE could list additional Trust series. See Americus Release, *supra* note 6, 49 FR at 23657 n. 26.

⁸ See letter from George A. Fitzsimmons, Secretary, SEC, to John J. Phelan, Jr., Chairman, NYSE, dated June 1, 1984.

⁹ The Commission received comment letters from a number of issuers that had commented previously on the Americus Trust concept, including IBM, Texaco, Inc., Procter & Gamble Company, Xerox Corp., Royal Dutch Petroleum, Standard Oil (Indiana), and CTE Corp. Additional commentators included Ford Motor Company, E.I. Du Pont de Nemours & Company, W.R. Grace & Co., American Society of Corporate Secretaries, Union Carbide Corp., The Dow Chemical Company, Financial Executives Institute, the National Association of Investors Corp., 3M Corp., Richard H. Troy, and Dennis McConnell of the University of Maine. See also letter from Anne Taylor, Associate General Counsel and Secretary, Chicago Board Options Exchange ("CBOE"), to Shirley E. Hollis, Acting Secretary, SEC, dated September 10, 1984.

¹⁰ Proposed Amendment to Treasury Regulation § 301.7701-4(c), 49 FR 18741, May 2, 1984. In a letter responding to the IRS Notice, Americus stated its opposition to the proposal and argued that, should the proposal be adopted, the Trust series already filed with the Commission should be granted "grandfather" status under the rule. Americus stated that the Trust had been developed in reliance on a ruling received from the IRS on September 4, 1980. Letter from Ciro A. Gamboni, Cahill, Gordon & Reindel (counsel to Americus), to Commissioner of Internal Revenue, IRS, dated June 26, 1984.

¹¹ See letter from Richard H. Manfreda, Chief, Individual Income Tax Branch, IRS, to A. Joseph Debe, President, Americus Shareowner Service Corporation, dated November 5, 1985.

¹² See letter from John J. Phelan, Chairman, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated July 11, 1984.

¹³ See letter from Shirley E. Hollis, Acting Secretary, SEC, to A. Joseph Debe, President, Americus, dated October 17, 1984.

¹⁴ See letters from IBM, dated January 15, 1985; Chevron, dated January 16, 1985; Royal Dutch Petroleum, dated January 17, 1985; the NYSE LCAC and the CBOE, dated February 8, 1985. Commentators responded to the solicitation of comments in Securities Exchange Act Release No. 21518, *supra* note 1, which described the Amex proposed listing standards prior to changes effected by Amendment No. 2 to the filing. Among other things, that amendment prohibited Amex listing of more than one trust on an issue. See note 2, *supra*.

¹⁵ The CBOE recommended that the trustee "must either (1) undertake voting responsibility for the shares underlying trust units or (2) make pass through mailings of materials provided by issuers of those shares to holders of trust units, PRIMEs and SCOREs, regardless of whether the issuer agrees to pay for such mailings."

¹⁶ See letters from IBM and the LCAC.

hostile takeover, raiders could buy PRIME components at a price below that of the underlying stock. Further, concern was raised that trust holders' participation in a tender offer could effectively be precluded because of: (1) The Trustee's obligation to reject all tender offers and (2) difficulties in buying components in order to combine them into units, redeeming the units for underlying shares and responding to the offer in a timely manner.¹⁷

IV. Discussion of Issues

Consistent with the Commission's request to the NYSE, the Amex developed listing standards specifically designed to accommodate the listing of Americus units, PRIMES and SCOREs.¹⁸

¹⁷ Commentators also raised a variety of other concerns about Amex's proposed listing standards for Americus Trust securities. IBM stated that "[s]ince the holder of the PRIME is concerned primarily with return on investment, the prospectus and annual report required by proposed section 118(g) [of the] Amex [rules] should address probable and possible costs in detail." IBM also recommended that the 5% ceiling on the percentage of an issuer's shares accepted by a listed trust be calculated on the basis of common shares, rather than "equity securities" as provided in the Note to subsection (b)(ii), and that a trust's annual report, under proposed Subsection (g), should disclose the non-cash as well as cash dividends distributed.

IBM recommended that the Amex clarify its suspension and delisting guidelines under proposed section 1005. The CBOE stated that the Amex proposal should include delisting standards incorporating minimum requirements for round lot holders of trust units and that the proposed minimum term should be extended from three years to, perhaps, ten years to minimize the similarities between SCOREs and options.

Royal Dutch Petroleum reiterated several of its concerns, notably that the market liquidity for its United States-registered shares could be impaired under the Amex proposal, because 5% of its total public float, which could be deposited in the Trust, would represent 20% of its United States-registered common stock. In this regard, Amex has indicated that it will not accept for listing and registration in the Trust on Royal Dutch until the Amex has been advised that the concerns raised by the most recent Royal Dutch comment letter "have been satisfactorily resolved or that the Commission staff would not object to such listing." See letter from Benjamin D. Krause, Senior Vice President, Amex, to Michael Cavalier, Branch Chief, Branch of Exchange Regulation, Division of Market Regulation, dated February 12, 1984.

¹⁸ Amex's Amendment No. 2 to its proposed listing standards addressed several issues raised by IBM in its comment letter of February 15, 1985. Notably, the amended Amex proposal responds to IBM's comment that the Amex clarify its suspension and delisting guidelines under proposed Section 1005. The amended requirements would apply delisting criteria under section 1003 (a) of the Amex Company Guide to target issuers, and provide a number of additional delisting criteria for investment trusts, including minimum numbers of record and/or beneficial holders of trust units or trading components (400), and of trust units outstanding (200,000).

For the reasons discussed below, the Commission believes that the proposed standards adequately address the concerns that have been raised by commentators and that the Commission expressed regarding listing standards for Americus trading instruments in its June 1, 1984, letter to the NYSE. Moreover, the Commission believes that the listing of Americus trusts will result in potential benefits to investors in the trust instruments and the underlying security. Specifically, the availability of the trust may permit some investors to more closely approximate their desired investment objectives through, for example, shifting some of the opportunity for upside gain through the sale of the PRIME component in return for additional income. Accordingly, the Commission has concluded that the Amex listing standards are consistent with the Act.

A. Similarity to Options and Need for Comparable Regulation

The Commission believes that, despite surface similarities between SCOREs, and options, on balance SCOREs more closely resemble warrants than they do options.¹⁹ In particular, warrants, like SCOREs, are (1) issued at a single exercise price (generally above the current market price), (2) with a single expiration date (generally three to ten years in the future),²⁰ and (3) equal only a modest percentage of the public float of the underlying stock. In addition, because of their longer terms to maturity, substantially smaller trading volume and more severely limited open interest, warrants generally do not present the same manipulative or other trading abuse opportunities as listed options.²¹

¹⁹ Several Commentators who responded to the Americus release of June 1, 1984, which described the prospect of the NYSE's listing additional Americus Trusts, were concerned that the NYSE did not propose to apply to SCOREs the historical restriction against permitting options to trade side-by-side on the same exchange floor at the same specialist post. The Commission believes, however, that such concerns are eliminated by having Americus securities trade on the Amex rather than the NYSE, because the issuers targeted by Americus are listed on the NYSE. In addition, the Amex also proposes to anticipate such concerns under section 118(d) by refusing to list an investment trust if the securities held by the trust are listed on the Amex.

²⁰ According to Amended Exxon Statement No. 2, the SCOREs on Exxon will expire five years after the deposit expiration date.

²¹ The Commission recognizes that there are differences between warrants and SCOREs. Warrants are technically exercisable at any time, whereas SCOREs cannot be redeemed independently but must be combined with an equal number of PRIMES. Moreover, warrants would be exercised at a "strike price" specified by the issuer at the time of issuance, while combined SCOREs would be redeemed for a prorated number of common shares selling at the market price. In

Options, unlike SCOREs as permitted under Amex proposed Section 118(c), are issued at a variety of exercise prices with additional exercise prices offered as the price of the underlying stock changes.²² This ensures that there are always "at-the-money" options available on the stock and thereby maximizes the speculative and hedging opportunities afforded by listed options trading. In addition, new stock options are listed quarterly with a maximum duration of nine months and there is no limitation on the number of stock options outstanding at any given time. By contrast, the expiration date of SCOREs of any given trust is, under Amex proposed section 118(g), a minimum of three years into the future,²³ and the maximum offering of any SCORE issue is proposed to be 5% of the public float of the underlying stock.²⁴

Accordingly, in view of the fact that warrants, by and large, are treated the same as any other securities and their trading is not subject to the special disclosure, suitability and related rules applied to standardized options trading, and in the absence of any demonstrated abuses, the Commission finds that it is not necessary at this time to require SCOREs trading to be governed by the special regulatory requirements applicable to standardized options.

In addition, warrant holders have no claim upon assets in liquidation, whereas SCORE holders have the right upon termination of the trust to the excess of the Net Asset Value per Unit over the Termination Claim (in stock and cash for any fractional shares). The Commission does not believe, however, that any of these differences result in any greater risk of market manipulation or disruption for SCOREs.

²² Although SCOREs, like call options, offer the investor the opportunity to speculate on a leveraged basis on possible price increases in the underlying stock, such opportunities would be limited by the single termination date. Accordingly, the regulatory concerns of commentators in this area are, in part, alleviated by the provisions in the Amex proposed rule change prohibiting the listing of more than one trust on a target issuer.

²³ While under Amex proposed section 118(g), the stated term of the Trust may not be less than three years, the proposed Americus Trust for Exxon will extend for five years. Although one commentator has stated that the Amex proposed trust term of three years would heighten similarities between SCOREs and options, the staff believes that a principal trading characteristic of options is that they are trading vehicles with significantly shorter terms than several years. For example, the most actively traded options series, by far, are those with three months or less to expiration.

²⁴ In addition, SCOREs, unlike call options, do not provide the holder the right to receive underlying common stock at a specified price upon exercise. The SCORE holder, at termination of the Trust, receives stock from the Trust equal in value to appreciation in the Net Asset Value per unit of the stock above the termination claim.

B. Investor Confusion

A number of commentators opposed the Americus offerings because they would result in the creation of new kinds of instruments (*i.e.*, SCOREs, PRIMEs and units) that could prove confusing to public investors. In the Commission's view, the Amex has taken a number of steps to minimize market confusion concerns. In particular, Amendment No. 2 to the Amex filing prohibits the trading on Amex of multiple trust on single underlying issues. In addition, Amex has indicated that its present intention is to list only the thirty investment trusts that have been granted tax relief by the IRS. Should Americus or other trust sponsors seek to establish additional trust series on the same or other target issuers to be traded on the Amex or other exchanges, the Commission would evaluate carefully the circumstances under which such trading appropriately could be expanded.

C. Impact on the Underlying Security

Commentators have raised a variety of concerns about the impact of the Americus Trust securities on the market for the underlying securities, on the ability of the issuers of the those securities to communicate with their shareholders, and on the governance of their corporations, given the differing voting rights and investment interests of PRIME and SCORE holders. The Commission does not wish to minimize the possible significance of such concerns in the abstract. However, in view of the 5% ceiling imposed by Amex on the percentage of the target issuer's shares that may be held by a trust²⁶ and the prohibitions of multiple trusts on a single issue, none of these concerns should be a major problem with respect to any trusts established under the Amex rules.

In addition, the Amex has proposed a variety of other specific provisions designed to address these issues. Under subsection 118(a), the Amex will not list a trust unless the issuer of the underlying securities has net worth in excess of \$10 million and total assets

greater than \$100 million. As noted above, the Amex also proposes to apply its traditional listing standards relating to number of shareholders to the Trust securities themselves. In conjunction with the 5% ceiling, the Commission is satisfied that the Amex proposal should ensure adequate liquidity in the market for Americus unit and components, while not reducing the liquidity of the underlying stocks.²⁶

With respect to shareholder communications, Americus and proposed Amex section 118(g) require the Trustee to transmit issuer communications to unit and PRIME holders only if reimbursed for transmittal expenses by the issuer. In the Commission's view, the Trustee's relationship to trust holders resembles a broker's to his street name customers (the beneficial owners of stock registered in the broker's name). In this regard, the Amex proposal is consistent with the obligations imposed on brokers pursuant to Rule 14b-1(b) under the Exchange Act.²⁷ Under this Rule, the broker is not required to transmit issuer communications to street name customers unless he receives assurances that the broker's reasonable expenses will be paid by the issuer. The Commission hopes most issuers will bear the expenses of forwarding shareholders communications given the importance these issuers have repeatedly given to communicating with their shareholders. Indeed, Americus represents that the AT&T holding companies have paid these expenses for the AT&T trust. Accordingly, the Commission does not believe that the differing voting rights and investing interests of PRIME and SCORE holders will materially impact on shareholder participation or corporate governance.²⁸

D. Tender Offers

Amex proposed sections 118, 145 and 1005 do not specifically address tender offers. Commentators also discussed, however, several issues regarding the effects of the proposed trusts in the

tender offer context.²⁹ The concern most often raised was that a hostile acquirer could, by buying PRIMEs, obtain significant voting power in the target company without paying the full price of the underlying stock. One commentator stated that the target issuer similarly could incorporate PRIMEs in a defensive strategy against a hostile bid. Conversely, some commentators stated that the Trustee's obligation to reject any tender offer could interfere with trust holders' ability to respond to an offer, since trust holders might encounter illiquid markets in either or both components, and administrative delays in redeeming units for common stock. In addition, a commentator questioned how the rules governing tender offers under Rule 10b-13 under the Exchange Act would apply to PRIMEs and SCOREs.³⁰

The Commission believes that the Americus registration statement clearly discloses the principal difficulties that may confront trust holders in responding to a tender offer.³¹ Trust holders are clearly informed that they are not investing in equity securities of the underlying company, and that the procedures for participating in a tender offer for the company's equity shares will be neither identical to nor perhaps as direct as those available to holders of the underlying stock. Moreover, the effect of PRIMEs in the tender offer context will be minimized due to the limited number of PRIMEs outstanding.

In addition, the Commission believes that Rule 10b-13³² would prohibit any person making a tender offer for a security underlying any of the trusts from purchasing outside of the offer (*i.e.*, in market or privately negotiated transactions) units, PRIMEs or SCOREs, whether or not the person owns one or more components prior to the offer. The Commission views PRIMEs and SCOREs, both individually and combined, as "immediately exchangeable for or convertible into the underlying stock," and thereby barred

²⁶ A similar 5% ceiling is contained in the Americus registration statement with respect to the number of shares the trustee can accept for any Trust series. Exhibit B of the IRS private letter to Americus, dated November 5, 1984, also establishes maximum numbers of shares that any one trust may accept. The numbers are intended to represent somewhat less than 5% of the outstanding common shares of each issuer. Experience with the AT&T Americus Trust suggests that substantially fewer shares than that may actually be deposited with the Trust. Indeed, common shares constituting only 0.8% of the outstanding common stock of pre-divestiture AT&T were deposited in the Trust on AT&T currently trading on the NYSE.

²⁷ Moreover, the deposited shares are not permanently removed from the market. Trust units can be redeemed at any time, and PRIMEs and SCOREs can be recombined and redeemed at any time. Accordingly, there should be a close relationship between the market for the underlying security and the markets that develop for Americus units, PRIMEs and SCOREs.

²⁸ 17 CFR 240.14b-1.

²⁹ In this regard, the Amex proposal does not provide that either component of listed investment trusts will carry voting or other express rights. Under proposed section 118(f), Amex only would require that the rights inhering in the securities be passed through to unit holders, thereby permitting the Trust instrument to confer differing voting rights on different component holders.

³⁰ The Americus registration statement provides that the Trustee must reject all tender offers for the common stock held in the Trust. Trust holders may respond to a tender offer by recombining components and redeeming the units for their pro rata share of the Trust-held stock.

³¹ See letter from IBM.

³² The availability to tender by letter of guarantee also may alleviate any concerns raised by administrative delays in transferring the units.

³³ Rule 10b-13 is designed to safeguard the interests of target shareholders by protecting them against any purchase outside of the tender offer by the bidder of the subject security (or a security immediately convertible into or exchangeable for the security) at a consideration greater than or different from that offered shareholders.

from purchase outside the offer under Rule 10b-13. The Commission therefore believes the creation of a limited number of Americus trusts will not interfere with underlying objectives of the Williams Act, particularly in light of our interpretation of Rule 10b-13.

V. Conclusion

The Commission finds that, in light of the 5% ceiling on the number of shares deposited as well as the limitation of only one trust per issuer, the Amex proposal adequately responds to concerns raised by commentators, and generally provides an appropriate regulatory scheme for the protection of investors. Accordingly, the Commission finds that the Amex proposed listing standards for investment trust securities under proposed sections 118, 145 and 1005 of the Amex *Company Guide* are consistent with the requirements of the Act and the rules and regulations thereunder, and, in particular, the requirements of section 6 of the Act and the rules and regulations thereunder.

By the Commission.

John Wheeler,
Secretary.

March 18, 1985.

[FR Doc. 85-7127 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21864; File No. SR-MCC-85-2]

Self-Regulatory Organizations; Proposed Rule Change by Midwest Clearing Corp. Relating to Mandatory Input of Municipal Bond Accrued Interest

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 11, 1985 the Midwest Clearing Corporation filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Attached to the filing as Exhibit A is a MST System Administrative Bulletin regarding mandatory input of municipal bond accrued interest.

II. Self-Regulatory Organization's Statement of the Purpose of the Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The proposal will require mandatory input of accrued interest on Municipal Bond Comparison System (MBCS) trade input forms. This filing supplements MCC's prior filings (SR-MCC-84-4 and SR-MCC-84-8) implementing MBCS. MBCS is operated as a link with the National Municipal Securities Comparison System offered by the National Securities Clearing Corporation (NSCC).

MBCS users have recommended that accrued interest be required trade input information. MBCS trade input forms currently allow accrued interest information to be input. Effective immediately, MCC will monitor trade input forms for accrued interest. In order to allow all MBCS Participants adequate time to adjust to this requirement, comparison input will not be rejected solely because of missing or incomplete accrued interest data. However, at the end of the monitoring period (projected to be around March 29, 1985), submission of accrued interest will be mandatory.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 in that it provides for the prompt and accurate clearance and settlement of securities transactions. The proposed change will facilitate municipal bond trade comparison, thus assisting the establishment of a national system for securities clearance and settlement.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Midwest Clearing Corporation does not believe that the proposed rule change will impose any burdens on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments have neither been solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the *Federal Register* or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve such proposed rule change, or
- (B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by April 16, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: March 19, 1985.

John Wheeler,
Secretary.

[FR Doc. 85-7126 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Order Granting Application To Strike From Listing and Registration; New York Stock Exchange, Inc.

March 19, 1985.

The New York Stock Exchange, Inc. ("Exchange") has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 and Rule 12d2-2(c) promulgated thereunder, to strike the common stock (\$2.50 par value) and the 9½% Sinking Fund Debentures due April 1, 1999 of Unidynamics Corporation ("Company") (File No. 1-4202) from listing and registration thereon.

The reasons alleged for striking this security from listing and registration include the following:

(1) In the opinion of the Exchange said securities are no longer suitable for continued listing and registration on the Exchange. Information supplied by the Company or taken from other sources believed by the Exchange to be reliable indicates that as of February 15, 1985, there were fewer than 580,000 shares of common stock of the Company in public hands as a result of a tender offer made by Crane Acquisition Corporation, a wholly-owned subsidiary of Crane Company. The extended tender offer expired on February 15, 1985.

(2) The Exchange's Rule 499.20 Subsection 2 states that the Exchange would normally give consideration to suspending or removing from the list a security of a company when—"Number of publicly held shares [is] less than 600,000."

(3) In view of the fact that the common stock of the Company was suspended from dealings on February 15, 1985, the Exchange also considered the appropriateness of the continued listing of the Debentures and determined that said Debentures were no longer suitable for continued listing and should be removed from the list on the Exchange.

The Commission, having considered the facts stated in the application and having due regard for the public interest and protection of investors, orders that said application be, and it hereby is, granted, effective at the opening of business on March 20, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-7125 Filed 3-25-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 02/02-5483]

Fans Capital Corp.; Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company (SBIC) under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended, (the Act), (15 U.S.C. 661 *et seq.*), has been filed by Fans Capital Corporation, (Applicant) with the Small Business Administration (SBA), pursuant to 13 CFR 107.102(1984).

The officers, directors and shareholders of the Applicant are as follows:

Name and address	Title or relationship	Percent of ownership
Fon-May Fan, 12-16 160 Street, Beechhurst, NY 11356.	President, Director	65
Foun-Chung Fan, 97 Taylor Drive, Closter, NY 07624.	Vice President/Director.	30
Jann J. Hwang, 40-65 62nd Street, Woodside, NY 11377.	Secretary, Treasurer, Director.	5

The Applicant, a New York corporation, with its principal place of business at 134-11 Dahlia Avenue, Unit B, Flushing, New York 11355, will begin operations with \$1,010,000 of paid-in capital and paid-in surplus. The Applicant will initially conduct its activities in the State of New York.

Matters involved in SBA's consideration of the Application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the Applicant under their management, including adequate profitability and financial soundness, in accordance with the Act and the SBA Rules and Regulations.

Notice is hereby given that any person may, not later than 30 days from the date of publication of this notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Flushing, New York.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: March 7, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-7094 Filed 3-25-85; 8:45 am]

BILLING CODE 8025-01-M

Direct Business Loans and Immediate Participation Loans; Interest Rates

The interest rate on section 7(a) Small Business Administration direct business loans (as amended by Pub. L. 97-35) and the SBA share of immediate participation loans in twelve and one fourth (12¼) percent for the fiscal quarter beginning April, 1, 1985.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 120.3(b)(2)(iii)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the April-June quarter of 1985, this rate will be eleven and three-eighths (11¾) percent.

Edwin T. Holloway,

Associate Administrator for Finance and Investment.

[FR Doc. 85-7115 Filed 3-25-85; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council; Public Meeting

The U.S. Small Business Administration Region II Advisory Council, located in the geographical area of Syracuse, will hold a public meeting at 9:00 a.m., Thursday, April 11th, 1985, at Marine Midland Bank—Corner of Jefferson and Warren Streets, 8th floor Boardroom, Syracuse, New York, to discuss matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write, or call J. Wilson Harrison, District Director, U.S. Small Business Administration, 100 South Clinton Street, Room 1071, Syracuse, New York 13260—(315) 423-5371.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 19, 1985.

[FR Doc. 85-7114 Filed 3-25-85; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council; Public Meeting

The Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting at 1:00 p.m., Tuesday, April 30 and end 12:00 Noon Wednesday, May 1, 1985, at the Holiday Inn (Charleston House), 600 Kanawha Blvd., East, Charleston, West Virginia, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration and others attending.

For further information, write, or call Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608 Clarksburg, West Virginia 26302-1608 or phone (304) 622-6601.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 19, 1985.

[FR Doc. 85-7112 Filed 3-25-85; 8:45 am]

BILLING CODE 8025-01-M

Region VII St. Louis District Advisory Council; Public Meeting

The U.S. Small Business Administration Region VII, St. Louis District Advisory Council, located in the geographical area of St. Louis and Eastern Missouri, will hold a public meeting at 10:30 a.m., Thursday, April 11th, 1985, at Schneithorst's Hofamberg Inn, Lindbergh and Clayton, St. Louis, MO 63124, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write, or call Robert L. Andrews, District Director, U.S. Small Business Administration, 815 Olive Street, Room 242, St. Louis Missouri 63101—(314) 425-6600.

Jean M. Nowak,

Director, Office of Advisory Councils.

March 18, 1985.

[FR Doc. 85-7113 Filed 3-25-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice CM-8/835]

Advisory Committee on International Investment, Technology, and Development, Subcommittee on Multilateral Affairs; Meeting

The Department of State will hold a meeting of the Subcommittee on Multilateral Affairs of the Advisory Committee on International Investment, Technology, and Development on April 10, 1985 from 2:00 p.m. to 4:00 p.m. The

meeting will be held in room 1408 of the Department of State, 2201 "C" Street, NW., Washington, D.C., 20520.

The purpose of the meeting will be to discuss the Transfer of Technology Code of Conduct in preparation for negotiations in the UNCTAD in Geneva, May 13-31, 1985, and to prepare for the five year review of the UNCTAD set of "Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices," scheduled for Geneva, November, 4-15, 1985.

Access to the State Department is controlled. Therefore, members of the public wishing to attend the meeting must contact the Office of Investment Affairs ((202) 632-2728) in order to arrange admittance. Please use the "C" street entrance.

The Chairman of the Subcommittee will, as time permits, entertain comments from members of the public at the meeting.

Dated: March 14, 1985.

Walter B. Lockwood, Jr.,

Executive Secretary.

[FR Doc. 85-7072 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/831]

Shipping Coordination Committee, Subcommittee on Safety of Life at Sea, Working Group on Ship Design and Equipment; Meeting

The Working Group on Ship Design and Equipment of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on April 25, 1985 at 9:30 A.M. in room 2415 at Coast Guard Headquarters, 2100 Second Street, SW., Washington, D.C.

The purpose of the meeting will be a general review of the agenda items considered during the Twenty-Eighth Session of the Subcommittee on Ship Design and Equipment of the International Maritime Organization (IMO) held January 14-18, 1985 and to begin necessary actions in preparation for the Twenty-Ninth Session.

Members of the public may attend up to the seating capacity of the room.

For further information contact Captain A. E. Henn, U.S. Coast Guard Headquarters (G-MTH/12), 2100 Second Street, S.W., Washington, D.C. 20593. Telephone: (202) 426-2167.

Dated: March 11, 1985.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 85-7068 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/322]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on the Carriage of Dangerous Goods; Meeting

The Working Group on the Carriage of Dangerous Goods of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting on April 23, 1985 at 10:00 A.M. in Room 2417 at Coast Guard Headquarters, 2100 2nd Street, SW., Washington, D.C.

The purpose of this meeting is to discuss—

1. United States positions on matters to be considered at the 37th Session of the International Maritime Organization (IMO) Subcommittee on the Carriage of Dangerous Goods to be held 13-17 May 1985, and in particular:

- The rewrite of the International Maritime Dangerous Goods (IMDG) Code stowage and segregation requirements;
- The marking of gas cylinders;
- The revision of the IMDG Code packaging requirements for poisons;
- The revision of the IMDG Code explosive recommendations;
- The inclusion of marine pollutants in the IMDG Code;
- The inclusion of consumer commodity requirements in the IMDG Code.

2. United States proposals made to the 37th Session of the IMO Subcommittee on the Carriage of Dangerous Goods; and

3. IMO activities of a continuing nature. Members of the public may attend up to the seating capacity of the room.

For further information contact Lieutenant John P. Aherne, U.S. Coast Guard Headquarters (G-MTH-3), 2100 2nd Street, SW., Washington, D.C. 20593. Telephone: (202) 462-1577.

Samuel V. Smith,

Executive Secretary, Shipping Coordinating Committee.

[FR Doc. 85-7069 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/837]

Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group A of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 23, 1985 at 10:00 a.m., in Room 1207,

Department of State, 2201 C Street, NW., Washington, D.C.

Study Group A deals with U.S. Government aspects of international telecommunication operations and tariffs. The Study Group will discuss international telecommunications questions relating to telephone, telegraph, telex, new record services, data transmission and leased channel services in order to develop U.S. positions to be taken at upcoming international meetings of CCITT Study Group III (May 7-10), Study Group I (May 9-17) in Geneva, and Study Group VIII (June 5-14, 1985) in Kyoto.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled. All persons wishing to attend the meeting should contact the office of Earl Barbely, Department of State, Washington, D.C.; telephone (202) 632-3405. All attendees must use the C Street entrance to the building.

Earl S. Barbely,

Chairman, U.S. CCITT National Committee.

[FR Doc. 85-7074 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/834]

Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT); Meeting

The Department of State announces that Study Group D of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on April 17, 1985 at 9:00 a.m. in Room 1103/1105, U.S. Department of Commerce, 325 Broadway, Boulder, Colorado.

This Study Group deals with matters in telecommunication relating to the development of international digital data transmission. The purpose of this meeting is to discuss reports of several recent international working group meetings and preparation for the international meeting of CCITT Study Group VII, Geneva, April 22-May 3, 1985.

Members of the general public may attend the meeting and join in the discussion subject to the instructions of the Chairman. Requests for further information may be directed to Mr. Earl S. Barbely, State Department, Washington, D.C., 20520; telephone (202) 632-3405.

Dated: March 6, 1985.

Richard E. Shrum,

Acting Director, Office of International Communications Policy.

[FR Doc. 85-7071 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/833]

Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Group 2 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet on April 16, 1985 in Room 512] of the National Aeronautics and Space Administration, 600 Independence Avenue, SW., Washington, D.C. The meeting will begin at 9:30 a.m.

Study Group 2 deals with matters relating to the communications for scientific satellites, space probes, spacecraft, exploration satellites (e.g., meteorological and geodetic) and to interference problems concerning the radio astronomy and radar astronomy services. The purpose of the meeting is to discuss preparations for the international meeting of Study Group 2 in September, 1985.

Members of the general public may attend the meeting and join in the discussions subjects to instructions of the Chairman.

Requests for further information should be directed to Mr. Richard E. Shrum, State Department, Washington, D.C. 20520, Telephone (202) 632-2592.

Dated: March 6, 1985.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 85-7070 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

[Public Notice CM-8/836]

Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR); Meeting

The Department of State announces that Study Groups 10 and 11 of the U.S. Organization for the International Radio Consultative Committee (CCIR) will meet jointly on April 19, 1985 in Room 330, 1200 19th Street, NW., Washington, D.C. beginning at 9:30 a.m.

Study Group 10 deals with questions relating to sound broadcasting; Study Group 11 deals with questions relating to television broadcasting. The purpose of the meeting is to review documentation for the meetings of

international Study Groups 10 and 11, October-November, 1985, in Geneva.

Members of the general public may attend the meeting and join in the discussions subject to the instructions of the Chairman. Requests for further information should be directed to Mr. Richard Shrum, State Department, Washington, D.C. 20520; telephone (202) 632-2592.

Dated: March 18, 1985.

Richard E. Shrum,

Chairman, U.S. CCIR National Committee.

[FR Doc. 85-7073 Filed 3-25-85; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No., PE-85-5]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: April 15, 1985.

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

FOR FURTHER INFORMATION CONTACT: The petition, any comments received and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916,

FAA Headquarters Building (FOB 10A),
800 Independence Avenue, SW.,
Washington, D.C. 20591; telephone (202)
426-3644.

This notice is published pursuant to
paragraphs (c), (e), and (g) of § 11.27 of
Part 11 of the Federal Aviation
Regulations (14 CFR part 11).

Issued in Washington, D.C., on March 20,
1985.

John H. Cassidy,
Assistant Chief Counsel, Regulations and
Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
24542	General Motors Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24549	AMP Incorporated	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24548	Allied Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24553	Philip Morris Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24532	Rochester Telephone Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24531	Southwestern Bell	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24529	Jas. I. Miller Tobacco Co.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24528	Nabisco Brands, Inc.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list.
24379	Pacific Southwest Airlines	14 CFR 91.54(c)	To allow petitioner, Pacific Aircraft Finance, and British Aerospace and its subsidiaries to operate certain leased aircraft without complying with the filing and notification procedures of that section.
24461	Georgia Dept. of Natural Resources	14 CFR 91.73 (a) and (d)	To conduct drug enforcement activities at night in aircraft without operating the anticollision system or position lights.
24479	Mountain Air Cargo	14 CFR 135.179	To exempt petitioner from the cited section and any other pertinent section which purports to govern the development of and operation of Cessna 208A aircraft under a Minimum Equipment List ("MEL").
24484	Universal Airlines	14 CFR 121.61(d)(1)	To allow Mr. B. Peterson to serve as chief inspector without having held a mechanic certificate with airframe and powerplant ratings for at least 3 years.
22872	Air Transport Assoc. of America	14 CFR portion of	Extension of Exemption 36538 to allow member carriers to permit the actual static airplane preflight inspection training and checking requirements for a pilot candidate for a rating in a two-member flightcrew airplane to be accomplished by using an advanced and approved pictorial means.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24299	Beech Aircraft Cor.	14 CFR 61.31(a)(1)	To allow pilots of the Beech Model 300 airplane, which is certificated at a maximum weight of more than 12,500 pounds, to operate these aircraft without holding an appropriate type rating. Denied 3/5/85.
17067	Sis-Q Flying Service, Inc.	14 CFR 91.27	To extend the May 31, 1985, termination date of Exemption 2430C. That Exemption allows petitioner to conduct ferry flights of four-engine DC-6 airplanes with one engine inoperative when the aircraft is operated under contract with the U.S. Forest Service for Forest fire control. Granted 5/7/85.
24420	The Flying Tiger Line, Inc.	14 CFR 91.303	To allow petitioner to operate one Stage 1 DC-8 at Miami International Airport until the aircraft is reengineered. Denied 3/1/85.
24207	Charles R. Downs	14 CFR 65.104	To allow petitioner to apply for a repairman certificate even though he is not the primary builder of his experimental aircraft. Granted 2/22/85.
24312	Kimberly-Clark	14 CFR 21.181	To allow the operation of a Canadair CL-600 aircraft utilizing the provisions of a minimum equipment list. Granted 3/5/85.
24329	Elwood W. McCary	14 CFR 121.383(c)	To allow petitioner to continue to serve as a pilot in operations conducted under Part 121 after reaching his 60th birthday. Denied 2/5/85.
24330	C.L. Johnson	14 CFR 121.383(c)	To allow petitioner to continue to serve as a pilot in operations conducted under Part 121 after reaching his 60th birthday. Denied 2/5/85.
24197	Scimitar, Inc.	14 CFR 21.181	To allow petitioner to operate a B-727-44 aircraft utilizing the provisions of a minimum equipment list. Granted 2/5/85.
24313	W.R. Grace & Co.	14 CFR 21.181	To allow the operation of B-727 aircraft utilizing the provisions of a minimum equipment list. Granted 2/7/85.
24006	American Aviation Industries	14 CFR 21.19(b)(1)	To allow petitioner to apply for a supplemental type certificate for a design change to the Lockheed Model 1329 jetstar airplane, subject to certain conditions and limitations. Amended grant 2/21/85.
23521	Singapore Airlines, Ltd.	14 CFR 21.181	To amend Exemption No. 3768, as amended, by adding two B-747-312 airplanes and by extending the 5/31/85 termination date. That exemption allows petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. Granted 2/21/85.
23386	Mid Pacific Airlines	14 CFR 121.378	To extend exemption No. 3710 to allow petitioner to contract with Toa Domestic Airlines and Nippo Maintenance company for repair, inspection, and overhaul of Nippon YS-11 aircraft. Granted 2/21/85.
24517	Mohamed Abdallah Baroom	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988; BAC 1-11; HZ-AMB. Granted 3/7/85.
24204	Airtec, Inc.	14 CFR 43.3(b)	To allow petitioner to remove and install aircraft parts in its commercially operated Mitsubishi MU2 aircraft when they are to be used in air ambulance service. Granted 2/8/85.
24304	Omniflight Offshore, Inc.	14 CFR 43.3	To allow petitioner's pilots to remove, check, reinstall, and safety wire magnetic chip detector plugs on Bell 206 helicopters. Granted 2/11/85.
23875	Beech Aircraft Corporation	14 CFR 45.29(b)	To amend Exemption 4061 to allow petitioner to display nationality and registration marks on the nacelles of petitioner's Model 115-6, an experimental flight test airplane. Amended grant 2/8/85.

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24279	Ketchikan Air Service Inc., and Others	14 CFR 135.203(a)(1)	To allow the following operators to conduct overwater seaplane operations under Special Visual Flight Rules below 500 feet above the surface: Alaska Island Air, Inc.; Ketchikan Air Service, Inc.; Revilla Flying Service, Inc.; Ternco Helicopters, Inc.; Westflight Aviation, Inc. Tye Airlines; Taquan Air, Inc.; Totem Air. Partial Grant 2/20/85.
22436	American Airlines	14 CFR 121.99 and 121.351(a)	To extend the February 15, 1985, termination date of Exemption 349A, to allow petitioner to operate airplanes in extended overwater operations on routes in the New York Oceanic Control Area between the east coast and Bermuda with one of two installed high frequency communication radio systems inoperative at the time of departure and without maintaining two-way radio communications between each aircraft and the dispatch office along the named route. Granted 2/15/85.
24311	Malvin Simon & Assoc., Inc.	14 CFR 21.181	To allow the operation of Hawker-Siddeley airplanes utilizing the provisions of minimum equipment list. Granted 2/20/85.
24294	Aramco Associated Co	14 CFR 91.45	To allow petitioner to return its DC-8-72 aircraft N726A to a base for repairs with one engine inoperative without obtaining a special flight permit. Granted 2/20/85.
24462	Captain Stuart F. Nelson	14 CFR 121.383(c)	To allow petitioner to serve as a pilot in Part 21 operations after reaching his 60th birthday. Denied 2/20/85.
23438	AirLifeline of Texas, Inc.	14 CFR 61.118(a)	To amend Exemption 3678 which permits petitioner's volunteer pilots who hold private pilot certificates to be reimbursed for fuel, oil, and maintenance expenses while serving on petitioner's official missions. The amendment would also allow instrument flight rule (IFR) visual flight rule (VFR) and operations at night provided the aircraft are properly equipped and the pilots meet current requirements. The amendment would also permit operation of the aircraft in accordance with inspection requirements of § 91.169(a) (1) and (2). Granted 2/20/85.
24453	Mid Pacific Airlines, Inc.	14 CFR 121.411(a) and (2) and (a)(3); 121.411(b)(2); 121.413(c)	To allow F-28 simulator training of Mid Pacific personnel in the Netherlands by employees of Fokker. Granted 2/25/85.
24157	Chiri Shrimp, S.A.	14 CFR 21.181	To allow petitioner to operate a Douglas C-54-B-DC aircraft utilizing the provisions of a minimum equipment list. Granted 3/4/85.
24141	Xerox Corporation	14 CFR 21.181 (a), (b), (e)(1), and (e)(4)	To permit petitioner to operate three Canadair Challenger CL-600 airplanes, N914X, N1045X, and N4000X, using a Federal Aviation Administration (FAA)-approved minimum equipment list. Granted 2/26/85.
24427	United States Ultralight Foundation, Inc.	14 CFR 103.1	To expand the definition of "ultralight" to include powered vehicles of not more than 350 pounds empty weight produced in conformance with a vehicle airworthiness program recognized by the FAA and able to carry two occupants solely for the purpose of flight instruction conducted by holders of FAA flight or ground instructor certificate who have registered under an FAA-approved Powered Ultralight Vehicle Pilot Competency and Registration Program. Granted 2/26/85.
24226	Aeronaves De Mexico, S.A.	14 CFR 91.307	To amend Exemption No. 3119 to add 2 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: 10 DC-9. Granted 2/26/85.
22690	Boeing Commercial Airplane Co.	14 CFR 61.57(c)	To permit certain pilots employed by petitioner to satisfy the general recent flight experience requirements by alternate means. Granted 2/26/85.
24390	Air Transport Assoc.	14 CFR 83.29(b)(2)	To allow flight engineers to be trained under the provisions of Exemption 2095D rather than 2095H. Denied 2/11/85.
24155	The Department of the Navy	14 CFR 91.73(a)	To conduct night flight operations along the United States/Mexican border for drug enforcement purposes without lighted aircraft position lights. Granted 3/6/85.

[FR Doc. 85-7041 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-13-M

National Highway Traffic Safety Administration

Automotive Fuel Economy Program; Report to Congress

The attached document, *Automotive Fuel Economy Program, Ninth Annual Report to the Congress*, has been prepared pursuant to section 502(a)(2) of the Motor Vehicle Information and Cost Savings Act (Pub. L. 92-513), as amended by the Energy Policy and Conservation Act (Pub. L. 94-163), which requires in pertinent part that "each year beginning in 1977, the Secretary shall transmit to each House of Congress, and publish in the Federal

Register, a review of average fuel economy standards under this part."

Barry Felrice,

Associate Administrator for Rulemaking.

Automotive Fuel Economy Program

Ninth Annual Report to the Congress—January 1985

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Section I: Introduction
 Section II: Fuel Economy Improvement by Manufacturers
 Section III: FY 1984 Rulemaking Activities
 Section IV: Impact of Domestic Content Amendment
 Section V: Use of Advanced Technology

Section I: Introduction

This Ninth Annual Report to the Congress summarizes the activities of the National Highway Traffic Safety Administration (NHTSA) during Fiscal Year (FY) 1984 regarding the implementation of applicable sections of

Title V: "Improving Automotive Fuel Efficiency," of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901 *et seq.*), as amended (the Act). Section 502(a)(2) of the Act requires submission of a report by January 15th of each year. Included in this report are sections summarizing rulemaking activities during FY 1984 and a discussion of the use of advanced automotive technology by the industry as required by section 305, Title III of the Department of Energy Act of 1978 (P.L. 95-238).

Title V of the Act requires the Secretary of Transportation to administer a program for regulating the fuel economy of new passenger cars and light trucks in the United States (U.S.) market. The authority to administer the program has been delegated by the Secretary to the Administrator of NHTSA, 49 CFR 1.50(f).

NHTSA's responsibilities in the fuel economy area include: (1) Establishing average fuel economy standards for manufacturers of passenger automobiles and light trucks as necessary; (2) promulgating regulations concerning procedures, definitions, and reports necessary to support the fuel economy standards; (3) considering petitions for exemption from established fuel economy standards by low volume manufacturers (those producing fewer than 10,000 passenger cars annually worldwide) and establishing alternative standards for them; (4) preparing reports to Congress annually on the progress of the fuel economy program; (5) enforcing the fuel economy standards and regulations; and (6) responding to petitions concerning domestic production by foreign manufacturers and other matters.

To date, passenger car fuel economy standards have been established by the Congress for model years (MY's) 1978 through 1980 and for 1985 and thereafter, and by NHTSA for the 1981 through 1984 model years. Standards for light trucks have been established by NHTSA for MY's 1979 through 1986. All current standards are listed in Table I-1.

TABLE I-1.—FUEL ECONOMY STANDARDS FOR PASSENGER CARS AND LIGHT TRUCKS FOR THE 1978 THROUGH 1986 MODEL YEARS (IN MILES PER GALLON)

	Passenger cars	Light trucks		
		Two-wheel drive	Four-wheel drive	Composite ²
1978	¹ 18.0			
1979 ⁴	19.0 ³	17.2	15.8	17.2
1980 ³	20.0 ³	16.0	14.0	
1981 ³	22.0	16.7	15.0	
1982	24.0	18.0	16.0	17.5
1983	26.0	19.5	17.5	19.0
1984	27.0	20.3	18.5	20.0
1985	¹ 27.5	19.7	18.9	19.5
1986	¹ 27.5	20.5	19.5	20.0

¹ Standards for 1979 model year light trucks were established for vehicles with a gross vehicle weight rating (GVWR) of 6,000 lbs. or less. Standards for MY's 1980 through 1986 are for light trucks with a GVWR of up to and including 8,500 lbs.

² For model years 1982-1986, manufacturers may comply with the two-wheel and four-wheel drive standards or may combine their two-wheel and four-wheel drive light trucks and comply with the combined standard.

³ Established by Congress in the Energy Policy and Conservation Act of 1975.

⁴ For MY 1979, light truck manufacturers may comply separately with standards for four-wheel drive, general utility vehicles and all other light trucks, or combine their trucks into a single fleet and comply with the 17.2 mpg standard.

⁵ Light trucks manufactured by a manufacturer whose fleet is powered exclusively by basic engines which are not also used in passenger automobiles, must meet standards of 14 mpg and 14.5 mpg in model years 1980 and 1981, respectively.

⁶ For MY 1985 and thereafter.

Section II: Fuel Economy Improvement by Manufacturers

The fuel economy achievements of both domestic and foreign manufacturers in MY 1983 have been updated since their publication in the

Eighth Annual Report to the Congress and, together with current data for MY 1984, are listed in Tables II-1 and II-2. Although there was some fuel economy improvement over MY 1983, lower fuel prices continued to stimulate consumer demand for larger cars and larger engines in MY 1984. These lower prices also contributed to reduced demand for diesel engines. However, manufacturers continued to introduce new technologies and more fuel-efficient models. Consequently, MY 1984 Corporate Average Fuel Economy (CAFE) values increased over MY 1983 levels for 14 of the 22 passenger car manufacturers listed in Table II-1. These companies account for about 87 percent of total MY 1984 production. In general, the domestic companies improved their passenger car CAFE levels, while imported car CAFE levels declined.

For light trucks, the average MY 1984 CAFE for manufacturers using the two-wheel-drive standard for compliance declined 0.1 miles per gallon from MY 1983 levels, and the average CAFE for manufacturers using the four-wheel-drive standard remained the same despite the introduction of some new fuel-efficient four-wheel-drive models. CAFE levels for both domestic and imported light truck manufacturers generally declined, but the overall fleet fuel economy level changed very little

because the import share of total production rose.

TABLE II-1.—PASSENGER CAR FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR¹

Manufacturer	Model year—CAFE ² (miles per gallon)	
	1983	1984
Domestic:		
AM	33.5	35.5
Chrysler	27.0	27.1
Ford	23.8	25.3
GM	23.5	24.8
Sales Weighted Average	24.2	25.3
Imported:		
Alfa Romeo	25.2	26.6
BMW	25.6	27.3
Chrysler Imports	33.9	37.0
Ford Imports (for Puerto Rico)	35.4	34.9
Honda	35.3	35.2
Isuzu	30.7	29.3
Jaguar	18.8	19.0
Mazda	28.9	30.7
Mercedes Benz	26.6	25.4
Mitsubishi	30.2	30.4
Nissan	32.7	31.6
Peugeot	25.1	24.5
Renault	31.4	33.2
Saab	25.9	25.2
Subaru	32.4	33.3
Toyota	32.6	32.9
Volvo	25.8	26.4
VW ³	30.0	28.9
Sales Weighted Average	31.6	31.2
Total Fleet Average	25.9	26.5
Fuel Economy Standards	26.0	27.0

¹ Manufacturers of fewer than 10,000 passenger cars annually are not listed.

² Corporate Average Fuel Economy.

³ Includes VW domestic production as well as Audi and Porsche.

TABLE II-2.—LIGHT TRUCK FUEL ECONOMY PERFORMANCE BY MANUFACTURER AND MODEL YEAR

Manufacturer	Model year CAFE (miles per gallon)					
	Two-wheel drive		Four-wheel drive		Combined ¹	
	1983	1984	1983	1984	1983	1984
Domestic:						
AM	23.2		19.3	20.5		
Chrysler					17.7	18.4
Ford	18.7	19.0	17.2	18.3		
GM	20.1	19.5	19.2	19.4		
Sales Weighted Average	20.1	19.5	19.2	19.4	17.7	18.4
Imported:						
Chrysler Imports					27.5	27.9
Ford Imports	31.1	29.6				
Isuzu	35.7	35.2	29.6	28.1		
Mazda	30.6	29.7				
Mitsubishi	29.9	27.8	24.0	22.7		
Nissan	28.7	27.9	24.0	22.7		
Subaru			29.0	28.8		
Suzuki			25.0	28.8		
Toyota	27.1	26.7	22.4	22.6		
VW	21.4	20.6				
Sales Weighted Average	28.5	27.9	24.7	24.4	27.5	27.9
Total Fleet Average	21.3	21.2	20.2	20.2	19.4	18.9
Fuel Economy Standards	19.5	20.3	17.5	18.5	19.0	20.0

¹ In model years 1983 and 1984, manufacturers could comply with the two-wheel and four-wheel drive standards or could combine their two-wheel and four-wheel drive trucks and comply with the combined standards.

Because of continued consumer demand for larger vehicles and engines, a number of manufacturers did not meet the CAFE standards for MY 1984. With the exception of Jaguar, these manufacturers are not expected to pay civil penalties because in earlier years

they earned sufficient credits by exceeding fuel economy standards to offset later shortfalls, or, in some cases, they anticipate earning credits in future years which will carryback to MY 1984. Jaguar does not expect to have carryback credits from the future, but

settlement of the exact amount of civil penalty is pending resolution of issues with EPA concerning test procedure changes. Auto manufacturers claim that changes in the EPA test procedures, as well as changes in the specifications of the test fuel, have resulted in lower CAFE values in recent year. EPA is studying these issues. Until a resolution is made, final CAFE values and resulting civil penalties are not known.

The total fleet average fuel economy for the MY 1984 passenger car fleet falls short of the standards by 0.5 mpg, but this shortfall may be reduced once the issues with EPA are resolved and final CAFE values are determined for each manufacturer. Total fleet average fuel economy values of light trucks exceeded the separate MY 1984 standards. NHTSA estimates that by 1995 the projected cumulative passenger car and light truck fuel savings, due to manufacturers' achievements through 1984 and assuming they meet the MY's 1985-86 standards, would amount to approximately 390 billion gallons, compared to consumption projected at MY 1976 new vehicle fuel economy levels.

The characteristics of the passenger car fleet (Table II-3) reflect the trend toward smaller domestically produced cars and larger imported cars. The average curb weight of the MY 1984 domestic cars is 119 lbs. lighter than the MY 1983 domestic cars, while the import average curb weight has increased 84 lbs. The average engine displacement of the MY 1984 domestic cars declined 12 cubic inches from MY 1983, while the average engine displacement of the imports increased by 4 cubic inches. The size of domestic automobiles declined in MY 1984 with a decrease in the proportion of cars in the EPA full and midsize classes and an increase in the proportion of compact, subcompact and two seaters. The imported car fleet showed a reverse trend with more compact and midsize cars and a decline in minicompacts and subcompacts. Overall the domestic fleet improved in CAFE by 1.1 mpg in MY 1984, while the imports declined by 0.4 mpg.

Other changes in characteristics of the passenger car fleet that affect fuel economy include the previously-mentioned decline in diesel engine usage to less than 2 percent of sales, an increase in the use of turbocharged engines, more front-wheel drive cars, and slightly more automatic transmissions with lockup clutches or split torque features. The diesel engine decline lowers the fuel economy of the fleet, while the more efficient transmissions and increased front-wheel

drive usage helps fuel economy. Turbocharging could improve fuel economy if the turbocharged engine replaces a larger naturally-aspirated engine, but the current applications of

the turbocharging are generally to enhance performance of an existing engine. The increase in performance of the fleet in MY 1984 is shown by the increase in horsepower to weight ratio.

TABLE II-3.—PASSENGER CAR FLEET CHARACTERISTICS

	Total fleet		Domestic fleet		Import fleet	
	MY 1983	1984	1983	1984	1983	1984
Fleet average fuel economy, (miles per gallon)	25.9	26.5	24.2	25.3	31.6	31.2
Fleet average curb weight (pounds)	2,908	2,878	3,128	3,009	2,384	2,448
Fleet average engine displacement (cubic inches)	182	178	209	197	115	119
Fleet average horsepower per weight ratio horsepower per 100 pounds	3.57	3.66	3.54	3.63	3.66	3.77
Percent of fleet	100	100	71	78	29	24
Segmentation by EPA size class (percent)						
Two-seater	1.6	3.2	0.4	2.5	4.7	5.4
Minicompact	2.3	0.3	0.0	0.0	7.9	1.4
Subcompact ¹	28.0	25.9	10.7	12.4	70.8	69.8
Compact ¹	20.9	27.9	22.9	30.2	16.0	20.5
Mid-size ¹	31.8	29.2	44.5	37.2	0.6	2.9
Full size ¹	15.3	13.5	21.5	17.6	0.0	0.0
Percent of diesel engines	2.1	1.7	1.3	0.9	4.1	4.3
Percent of turbocharged engines	1.7	2.7	0.3	2.0	5.3	5.3
Percent of front-wheel drive	47	55	42	52	60	65
Percent of automatic transmissions	74	76	88	86	39	43
Percent of Automatic transmissions with lock-up clutches or split torque	80	82	86	86	42	55

¹ Includes associated station wagons.

Section III: FY 1984 Rulemaking Activities

A. Light Truck Fuel Economy

During FY 1984, NHTSA issued two proposed rules concerning light truck fuel economy standards. On March 8, 1984 (49 FR 8637), the agency issued proposed fuel economy standards for model years 1985 and 1987 light trucks. The agency proposed ranges of standards instead of specific standards due to uncertainty regarding a number of key factors. These factors primarily were the mixes of vehicles and engines estimated to be sold in those model years. The proposed standards are listed below:

Model year	Composite standard (miles per gallon)	2-wheel drive standard (miles per gallon)	4-wheel drive standard (miles per gallon)
1985	20.0-21.5	20.3-22.3	18.5-19.5
1987	20.0-22.5	20.3-22.9	18.5-21.5

The proposed standards were developed by the agency based on manufacturer's responses to a questionnaire issued by the agency in October 1982. Nine manufacturers of light trucks were asked to provide NHISA with detailed data on their light truck fleets for model years 1983 through 1987. That data showed, as expected, that foreign manufacturers forecast fuel economy levels much higher than most domestic manufacturers. The foreign

manufacturers produce only small or compact trucks and do not offer the larger, heavier, less fuel-efficient light trucks made by domestic manufacturers to satisfy the needs of business users. The data also indicated that American Motors and Chrysler planned to introduce smaller vehicles and thus had higher projected fuel economy levels in model years 1986 and 1987 than the other two major domestic manufacturers, GM and Ford.

During 1983, as NHTSA worked on developing its proposed standards for model years 1986 and 1987, significant changes occurred in the light truck market. Gasoline prices dropped slightly, an economic recovery occurred, and consumer and business demand rose for larger trucks and engines. Consequently, the agency was concerned that proposed standards based strictly on the questionnaire responses might not be consistent with these market changes. Accordingly, the agency proposed a range of standards for each year, rather than point estimates. The final standards would be determined based on data submitted by commenters in response to the proposal.

NHTSA's second proposed rule on light truck fuel economy standards covered model year 1985. On November 21, 1983, Ford petitioned the agency to reduce the existing light truck fuel economy standards for model years 1984-85. Ford requested that the agency lower the MY 1984 composite standard

from 20.0 mpg to 19.0 mpg and the MY 1985 standard be lowered from 21.0 mpg to 19.5 mpg, with similar changes in the optional two- and four-wheel drive standards. Ford argued that it has applied all the fuel economy improving technology (and more in certain instances) projected by the agency when the standards were originally established on December 11, 1980 (45 FR 81593). Ford also argued that it had introduced all the contemplated, more fuel-efficient, new models. Two factors, however, had caused Ford's fuel economy capability to be substantially less than NHTSA had projected in 1980. Ford claimed these factors were a change in consumer demand for domestic fuel-efficient vehicles and a fuel economy penalty associated with changes in exhaust emission regulations. According to Ford, consumer demand resulted in lower than anticipated sales of domestic compact trucks and higher than anticipated installation rates of larger displacement engines. In the emissions control area, manufacturers were required to comply with more stringent light truck emissions standards for hydrocarbons and carbon monoxide beginning with the 1984 model year, and (beginning with the 1985 model year) to certify compliance with light truck emissions standards for an extended useful life period. NHTSA had considered the impact of the 1984 emissions standards when the fuel economy standards were originally set, but had anticipated that the negative fuel economy effect of the emissions standards changes could be offset by the use of advanced emissions control technology. NHTSA had not considered the impact of the extended useful life regulation because it was promulgated by EPA after the fuel economy standards were established. Ford argued that it experienced fuel economy reductions of 0.3-0.4 mpg for 1984 and an additional 0.2 mpg in 1985 due to the emissions regulations, notwithstanding the use of advanced emissions control technology.

Ford indicated it could meet the original MY 1985 standard only by severely restricting product availability and restricting its product mix (although Ford could not achieve the level of the 1984 standard, it could comply with that standard using credits earned in model years 1981 and 1983). These product actions, Ford argued, could result in significant sales losses, profit reductions, and employment cuts. The negative effects of these actions would be confined to Ford, its dealers, and its suppliers, since other manufacturers could comply with the MY 1985

standard using their planned product mixes. Because Ford's competitors would not be affected in a similar fashion, the company and its products would suffer comparatively in the marketplace.

NHTSA's evaluation of the fuel price assumptions used in the original final rule indicated that actual prices have been much lower than projected. The most significant impact of this price change was that consumers are now purchasing larger gasoline engines and fewer diesel engines than the agency projected in 1980. NHTSA's analysis of Ford's model years 1984-85 light truck fleets concluded that Ford had adopted the technological improvements the agency projected in 1980, but that its fuel economy levels had declined due to market shifts beyond the company's control. GM and Chrysler suffered similar fuel economy declines due to market shifts. The agency's financial analysis concluded that Ford could not alter its MY 1985 product mix without unacceptable costs in terms of lost profits, employment reductions, and sales cuts.

Based on its analysis, NHTSA issued a proposed rule on May 30, 1984 (49 FR 22516), to lower the MY 1985 composite standard from 21.0 mpg to 19.5 mpg, with corresponding changes in the optional two- and four-wheel drive standards. The agency decided to deny the Ford request for the 1984 model year, because the petition was not timely filed with regard to that year. The original MY 1985 standards are compared with the proposed changes in the following table.

Model year 1985 standard	Composite standard (miles per gallon)	2-wheel drive standard (miles per gallon)	4-wheel drive standard (miles per gallon)
Original	21.0	21.6	19.0
Proposal	19.5	19.7	18.9

On October 22, 1984 (49 FR 41250), NHTSA published a final rule on the light truck fuel economy standards for model years 1985 and 1986. The final rule for MY 1985 is identical to the standards proposed by the agency in May. The final rule's fuel economy standards for MY 1986 are 20.0 mpg for the composite standard, 20.5 for the optional two-wheel drive standard, and 19.5 mpg for the optional four-wheel drive standard. With regard to the MY 1985 standards, the agency concluded that consumer demand for larger gasoline engines, fewer diesel engines, and larger trucks caused a reduction in the industry's capability for that year. These factors resulted in a 1.5 mpg decline in Ford's MY 1985 capability

from the 21.0 mpg level NHTSA had estimated in the 1980 final rule. A number of minor effects combined to produce an additional 0.2 mpg loss for Ford, but were more than offset by a 0.4 mpg fuel economy gain due to the use of electronic fuel injection in certain light truck engines. NHTSA concluded that Ford experienced an additional 0.2 mpg fuel economy loss coincident with the imposition of more stringent emissions standards. Although the agency concluded this loss will occur for Ford in MY 1985, EPA indicated to NHTSA that, in their opinion, this loss is due to efforts to improve engine performance through engine calibration and is not an inherent effect of the emissions standards. NHTSA treated this effect as equivalent to the engine mix changes described above, because it appears to result from market demand for increased vehicle performance.

In the final rule, the agency noted that GM and Chrysler could not achieve the original MY 1985 light truck standards. GM's MY 1985 fuel economy was projected to be 20.0 mpg; Chrysler's 1985 fuel economy was estimated to be 20.3 mpg. As required by the Act, NHTSA took industrywide considerations into account when selecting the final MY 1985 standards. NHTSA concluded that Ford was the "least capable" manufacturer in regard to improving the average fuel economy of its light trucks. Because production of many 1985 models had already begun, setting the standards above Ford's capability would not likely increase that company's fuel economy performance through greater use of technology, but might require drastic product restrictions which would adversely affect Ford. Such actions by Ford might also result in the shifting of sales of larger light trucks with larger engines to other manufacturers, thereby achieving no net fuel economy improvement for the industry as a whole. On the other hand, setting standards below the level attainable by GM and Chrysler would not likely cause those companies to reduce their fuel economy performance, because the agency projected fuel economy levels for those companies were based on their planned product mixes.

For model year 1986, NHTSA projected that Ford could technically achieve a fuel economy level as high as 20.4 mpg, compared to 19.5 mpg in MY 1985. GM could achieve 20.6 mpg, compared to 20.0 mpg in MY 1985. These fuel economy gains are due primarily to new engines and engine efficiency improvements. Chrysler has a potential MY 1985 fuel economy level of 21.6 mpg.

1.3 mpg higher than the company's potential MY 1985 level. Chrysler's fuel economy improvement for MY 1986 is derived mainly from the introduction of fuel-efficient engine technology and the introduction of a new compact pickup truck. Chrysler's MY 1985 fuel economy capability is higher than that of GM or Ford primarily because compact vans and buses comprise almost half of its total light truck sales. These vehicles are expected to constitute much smaller proportions of GM and Ford light truck sales.

NHTSA selected the final MY 1986 standards based on the capabilities of both GM and Ford. Both companies faced the risk that consumer demand for larger trucks and engines would result in lower MY 1986 fuel economy levels. Data provided by Ford indicated that Ford's MY 1986 fuel economy could be as low as 19.6 mpg if consumers maintain a strong demand for larger vehicles. In addition, GM faced several technological risks for MY 1986. Certain engine improvement programs might not be feasible for MY 1986. NHTSA estimated that GM's MY 1986 capability would decline to 20.0 mpg if these programs became infeasible.

Additional factors had to be considered in selecting the MY 1986 standards. Production leadtime constraints precluded any major technology changes in manufacturer's product plans for that year. New programs could not be developed to compensate for market shifts or technological problems. Furthermore, manufacturers' projections (and NHTSA's analyses) of their fuel economy improvement capabilities had been steadily declining, due to market changes. For all of these reasons, NHTSA decided to set the MY 1986 composite standard at 20.0 mpg. The agency concluded that the risks of reduced sales and employment from attempts to achieve a higher fuel economy level for MY 1986 outweighed the potential fuel savings.

The agency decided not to issue the MY 1987 standards when the MY 1985-86 standards were issued. NHTSA is conducting further analyses of the MY 1987 data submitted by commenters to the proposal. When these analyses are completed, the agency will proceed with rulemaking.

B. Carryback Plans

Among other changes, the Automotive Fuel Efficiency Act of 1980 amended Title V to expand the carryforward and carryback periods for credits generated by exceeding fuel economy standards from one year in either direction to three years. To take advantage of the

carryback provisions, a manufacturer must "... submit a plan demonstrating that such manufacturer will earn sufficient credits ... within the next 3 model years which when taken into account would allow the manufacturer to meet that standard for the model year involved."

Ford became the first company to submit a plan under these provisions. In a letter dated May 8, 1984, Ford requested approval of a carryback plan to provide the company with sufficient credits to meet the MY 1984 passenger car standard of 27.0 mpg. The company projected its MY 1984 passenger car CAFE would be 25.4 mpg, including the assumption that EPA would grant a 0.2 mpg adjustment in its upcoming test procedure adjustment final rule.

Ford's plan demonstrated how the company would generate sufficient credits in MY 1986 to offset the MY 1984 shortfall. On July 31, 1984, NHTSA approved the plan, except for one part. NHTSA disallowed the consideration of the assumed test procedure adjustment, because EPA had not completed its rulemaking on the subject. The agency stated that, once the EPA rulemaking was completed, Ford could submit a revised plan reflecting any test procedure adjustment promulgated by EPA.

On November 27, 1984, GM submitted a draft carryback plan covering its MY 1984 passenger cars. However, the company requested that NHTSA not take action on its plan until issues are resolved concerning the EPA test procedure adjustments and the inclusion of GM-Toyota joint venture vehicles in GM's domestic fleet CAFE. The necessary petition concerning the GM-Toyota joint venture vehicles has not been submitted yet.

C. Center for Auto Safety Petition

In a letter dated July 26, 1984, the Center for Auto Safety (CFAS) petitioned the agency to raise the existing passenger standard for model years 1987-90. CFAS requested that the existing 27.5 mpg standard for those years be increased to 31.5, 34.5, 37.5, and 40.5 mpg, respectively. CFAS argued that higher standards are feasible and necessary to minimize oil imports.

On November 28, 1984, NHTSA published a Federal Register notice (49 FR 46770) granting the CFAS petition. The agency stated that the issues raised by CFAS should be analyzed in the context of rulemaking. However, the agency also noted that the granting of a petition does not mean a rule will necessarily be issued. The determination of whether to issue a rule

is made in the course of rulemaking, in accordance with statutory criteria.

Section IV: Impact of Domestic Content Amendment

The Automobile Fuel Efficiency Act of 1980 (Act of 1980) modified several provisions of the Motor Vehicle Information and Cost Savings Act. One of these modifications concerned the domestic content provision in section 503 of Title V. Section 503 specifies that passenger cars having less than 75 percent of the cost to the manufacturer attributable to value added in the United States or Canada are considered to be foreign manufactured. Conversely, vehicles with at least 75 percent value added in the U.S. or Canada are considered to be domestically manufactured for the purposes of complying with fuel economy regulations. Since section 503 also requires that domestically and foreign produced passenger automobiles not be grouped together for the purpose of complying with fuel economy standards, highly fuel-efficient vehicles with less than 75 percent value added in the United States or Canada may not be used by a manufacturer to offset the lower fuel economy of its domestically produced cars.

The domestic content provision was included in Title V to promote employment in the U.S. automobile industry by encouraging manufacturers to produce high fuel economy vehicles in this country, instead of relying on the importation of such cars which they produce or purchase abroad. However, foreign manufacturers choosing to build their most fuel-efficient vehicles in the U.S. or Canada, with at least 75 percent domestic content, would not, under the original domestic content provision, be permitted to average such cars with their less fuel-efficient foreign-produced models. Thus, there existed a disincentive for foreign manufacturers to initiate U.S. production and to achieve high levels of domestic content. The Act of 1980 permits manufacturers completing their first year of production in the period 1975-85 to petition NHTSA for exemption from the separate compliance provisions of section 503 of Title V. Such a petition must be granted unless the agency finds that doing so would result in reduced employment in the U.S. automobile industry.

Volkswagen of America, Inc. (VWoA) has been the only manufacturer to petition NHTSA for an exemption from the separate compliance provision. The agency granted the petition for relief on October 23, 1981. The agency concluded that granting the petition would not

result in adverse effects on employment in the U.S. automobile industry.

As required by the Act of 1980 (section 512(c)(1) of Title V), the Secretaries of Transportation and Labor have made during 1984 their third annual examination of the impact of the domestic content amendment to Title V. During 1984, auto industry unemployment declined substantially as the economy continued to grow. U.S. hourly indefinite layoffs fell from 107,900 at the end of calendar year 1983 to 52,100 as of early November 1984 (the last data available when this report was prepared). In contrast to the other domestic passenger car manufacturers, VWOA experienced a slight decrease in car sales through October 1984. Compared to the same period in 1983, U.S.-built VW sales were down 6.9 percent. In contrast, AMC sales grew 4.2 percent, Chrysler sales increased by 16.8 percent, GM sales were up 16.9 percent, and Ford sales rose 29.2 percent. Nonetheless, VWOA expects that its MY 1985 U.S. produced vehicles, like its 1984 models, will contain over 75 percent domestic content. There is not reason, at present, to change the 1981 findings of NHTSA that granting VWOA's petition will promote employment in the U.S. automobile industry without causing undue harm to domestic manufacturers. Also, no evidence has been found that the domestic content provision has permitted a manufacturer of domestically produced cars to attain the 75 percent level, and then subsequently to fall below the 75 percent requirement.

Section V: Use of Advanced Technology

This section fulfills the statutory requirement of the Department of Energy Act of 1978 (Pub. L. 95-238) Title III, section 305, which directs the Secretary of Transportation to submit an annual report to Congress on the use of advanced technologies by the automotive industry to improve motor vehicle fuel economy. This report focuses on the introduction of new models, the application of materials to save weight, and the advances in engine technology in model year 1984.

American manufacturers introduced new, fuel-efficient sport cars in model year 1984 to attract the attention of the young buyers in the market. General Motors introduced the all new mid-engine, 4-cylinder, 2-seater Pontiac Fiero, which featured a steel space frame and reinforced plastic outer skin with low aerodynamic drag. Chrysler introduced the Dodge Daytona and Chrysler Laser coupes with optional turbocharged 4-cylinder engines.

General Motors also brought out a new line of front-wheel drive downsized large luxury cars, (Buick Electra, Oldsmobile 98, and Cadillac Deville) which were introduced early as 1985 models. The Tempo/Topaz, which Ford Motor Company introduced in 1983, is a fuel-efficient 1984 model that set early sales records. Ford's compact Escort was also among the most popular automobiles sold in 1984. Chrysler introduced their Plymouth Voyager and Dodge Caravan compact vans in 1984. Chrysler claims that these fuel-efficient compact vans have the lowest aerodynamic drag of any van. Ford introduced new aerodynamic headlamps on the Mark VII to reduce drag. American Motors introduced the Encore, a hatchback version of the Alliance, and new downsized Cherokee and Wagoneer light trucks. The Cherokee and Wagoneer are 1,000 pounds light than their predecessors.

Two major factors, fuel economy standards and competition among carmakers and their suppliers to reduced assembly and tooling costs, have encouraged the use of lightweight long-lasting materials. Plastics led in the application of new materials. The Pontiac Fiero has 180 lbs. of plastic body panels, including sheet-molded compound for the hood, roof, rear panels, and deck. Rocker panels are made from thermoplastic olefin, while bumper fascias and fenders are made from reaction-injection-molded urethane. American Motors' new downsized Jeep Cherokee Chief has a fiberglass-reinforced liftgate that is lighter and will not corrode. Ford uses molded, black polycarbonate thermoplastic bumpers on the Escort GT and Lynx LTS and RS models. These bumpers are lighter than aluminum. The application of plastic is estimated to be 6.3 percent of the material content, by weight, of a U.S. produced automobile in both 1983 and 1984.

Although plastics led the application of new materials, the use of conventional mild steel and cast iron remained constant in usage per car. New forms of steel are being used, however. Chrysler's downsized minivans use steel galvanized on both sides for 88 percent (by weight) of the body to help fight corrosion. Chrysler is now offering a five year warranty against exterior perforation caused by rust. The Pontiac Fiero's 600 pound frame is made from high-strength steel, galvanized high-strength steel, and mild steel. Other applications for high-strength steel included hollow tube sway bars offered as options on Chrysler's new mini-vans, and wheels for the 1984 AMC Encore.

The overall use of steel has remained at 55.0 percent of the material content, by weight, of a typical U.S. produced automobile in both 1983 and 1984.

Aluminum was used in new applications in 1984. Ford's new imported 2.4 liter and 2.0 liter diesel engines featured aluminum cylinder heads. Chrysler's compact van has extruded aluminum bumpers. Cast aluminum wheels are available on the Chrysler Laser, Dodge Daytona, Lincoln Mark VII, and Ford Mustang SVO. AMC's new Cherokee/Wagoneer uses a cast aluminum transmission bell housing. Ford's compact and subcompact models have aluminum radiators for 1984. A new four-speed automatic transmission was introduced in General Motors A-Body cars, which will reduce weight because of its aluminum components.

Sales of diesel engines are continuing to decline. Overall U.S. diesel sales in MY 1984 were only 1.7 percent of all passenger cars, compared to 2.1 percent for MY 1983.

The use of electronics is increasing rapidly. An article in "Automotive Engineering" estimated that the electronic content on a Cadillac Seville increased from 1,100 electronic elements in 1983 to 2,250 elements in 1984. One specific area of electronic growth is the fuel management system. Electronic fuel injection is being offered to provide precise fuel control.

Turbocharging, improved engine breathing, and higher compression ratios were emphasized in 1984 to provide more performance from smaller engines. GM offers a turbocharger on its 1.8 liter engine in the Pontiac Sunbird and on the 3.8 liter engine on the Buick Regal and Riviera. The 3.8 liter engine develops 200 hp, and it is expected that this engine, which also features sequentially-fired multipoint fuel injection and computer-controlled coil ignition, will find future application in higher priced cars. Ford Motor Company and Chrysler Corporation are boosting horsepower of their 4-cylinder engines with turbochargers for wider model application. Ford's 1.6 liter engine used for the Escort/Lynx and EXP develops 115 horsepower in the turbocharged model, compared to 79 horsepower in the naturally aspirated version. Ford also introduced a new 2.3 liter engine with high-swirl combustion chambers for the Tempo/Topaz. Chrysler has improved the performance of their 1.6 liter and 2.2 liter engines. The 2.2 liter turbocharged engine in the Dodge Daytona and Chrysler Laser helped Chrysler gain the sales lead in the use of turbocharged engines. In model year

1984, Chrysler sales of turbocharged engines (100,000) exceeded the combined sales of GM and Ford (36,000). American Motors has developed a new 2.5 liter engine which features a unique system that instantaneously readjusts the spark timing for each cylinder separately. This feature, developed for AMC's four-wheel drive vehicles, is not offered on any other vehicles sold domestically.

The relatively slow decline in the sales of large cars with V-8 engines and the market shift from subcompact to compact size automobiles has been largely offset by the technology improvements being introduced in the model year 1984 models. The improvement of domestic passenger car fuel economy from model year 1983 to model year 1984 is evidence of the success of the technological improvements.

[FR Doc. 85-6968 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

[Docket No. 85-1W; Notice 1]

Transportation of Natural and Other Gas by Pipeline; Petition for Waiver

The Tennessee Gas Pipeline Company has petitioned the Materials Transportation Bureau (MTB) for a waiver from compliance with the requirements of 49 CFR 192.553(d) to permit the maximum allowable operating pressure (MAOP) of five transmission line segments shown on drawings TO-T16-300-1-66, TO-T16-300-1-67, TO-T16-300-1-70, and TO-T16-300-1-70A to be increased to 975 psig from the current 880 psig. These line segments are located in Sussex and Passaic Counties in New Jersey, with two (2) Class 3 locations between mainline valves (MLV) 325-1 and 326-1, one (1) Class 3 location between MLV 326-1 and 327-1, and two (2) Class 3 locations between MLV 328-1, and 329-1, on the Company's 300-1 transmission line.

Line 300-1 was designed and constructed in 1955 in accordance with the "USAS B31.8 Standard Code for Pressure Piping, Gas Transmission and Distribution Piping Systems," a code of industry consensus standards for safe gas piping systems. Pipe in line 300-1 is 24 inches in diameter, with a 0.375-inch wall thickness. It was manufactured according to API Standard 5LX, grade X52 requirements. The design pressure of the line sections involved is 975 psig, based on a design factor of 0.60.

When the Federal gas pipeline safety standards in 49 CFR Part 192 became effective in November 1970, the highest actual operating pressure of 880 psig (54

percent SMYS) became the MAOP of the line section in accordance with § 192.619(a)(3). Subsequently, population density was determined under the requirements of § 192.607. This study showed the five locations described above to be Class 3 locations. Thereafter, the entire line section was hydrostatically tested to at least 1462 psig for 8 hours, without leakage, a pressure level equivalent to 90 percent of the pipe's specified minimum yield strength (SMYS).

Under the provisions of §§ 192.553 and 192.555 governing permissible increases in a pipeline's MAOP (uprating), the 1462 psig pressure test and other steps performed by the Company requalified all but the five Class 3 segments of the line section for operation at an MAOP of 975 psig (60 percent SMYS). The five Class 3 segments are restricted from operation at the higher MAOP by § 192.553(d), which provides in relevant part that "a new maximum allowable operating pressure established under this subpart may not exceed the maximum that would be allowed under this part for a new segment of pipeline constructed of the same materials in the same location." In accordance with § 192.619(a), the maximum for a new pipeline in a Class 3 location constructed of pipe like that in line 300-1 would be 812 psig, or the design pressure for such a pipeline based on a 0.50 design factor. In contrast, this limitation did not affect the establishment of a 975 psig MAOP for the remaining Class 2 portion of the line section, because of a new pipeline of the same materials in the same Class 2 location would qualify for a 975 MAOP under § 192.619(a) based on a design factor of 0.60. After the 1462 psig pressure test was made, four other segments of the line section between MLV 325-1 and MLV 326-1 have changed from Class 2 to Class 3 locations. However, under the provisions of § 192.611(a), because they were previously tested to 90 percent of SMYS, these additional Class 3 segments may operate at their previously established MAOP of 975 psig. The § 192.553(d) limitation does not apply since these additional segments were uprated to 975 psig before the change in class location occurred.

In support of its waiver request, the Company states that the current 880 psig operating pressure is no longer adequate to meet its delivery demands for the 300-1 line. The proposed increased pressure is part of a filing that is currently under consideration by the Federal Energy Regulation Commission (FERC) to provide additional service to New England customers. Approval by FERC is anticipated in sufficient time to

deliver additional gas for the 1985-86 heating season. This increase in capacity can in part be provided by uprating the five Class 3 segments for which the waiver is sought to 975 psig, or alternatively by replacing the five segments with new pipe at an estimated cost of \$1,204,300. The Company also points out that the line section involved has been coated and cathodically protected against corrosion since 1956 and electrical surveys and visual inspections have shown the section to have no significant deterioration since the pressure tests were made in 1971 and 1973.

MTB believes that a waiver of § 192.553(d) to permit the proposed uprating should be granted because the five Class 3 segments for which the waiver is sought are not materially different with respect to design, construction, maintenance, and leak history from similar Class 3 segments in the same line section that now have an MAOP of 975 psig. The distinguishing factor is merely the timing of the 1462 psig qualifying pressure test. Had it been performed before the five segments involved changed from Class 2 to Class 3, the segments could have been qualified for the higher 975 MAOP without restriction by § 192.553(d).

Interested persons are invited to comment on the proposed waiver by submitting in triplicate such data, views, or arguments as they may desire. Communications should identify the Docket and Notice numbers and be submitted to: Dockets Branch, Room 8426, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

All comments received before April 25, 1985 will be considered before final action is taken. Late filed comments will be considered so far as practicable. All comments will be available for inspection at the Dockets Branch, Materials Transportation Bureau, between the hours of 8:30 a.m. to 5:00 p.m., before and after the closing date for comments. No public hearing is contemplated, but one may be held at a time and place set in a Notice in the Federal Register if requested by an interested person desiring to comment at a public hearing and raising a genuine issue.

[49 U.S.C. 1672; 49 CFR Part 1.53(a); Appendix A of Part 1, and Appendix A of Part 106]

Issued in Washington, D.C., on March 21, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85-7108 Filed 3-25-85; 8:45 am]

BILLING CODE 4910-60-M

Sunshine Act Meetings

Federal Register

Vol. 50, No. 58

Tuesday, March 26, 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).

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1

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: Thursday, March 28, 1985.

LOCATION: Third Floor Hearing Room, 1111-18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Mid Year Review

The Commission and staff will review and discuss the status of CPSC's Fiscal Year 1985 Operating Plan.

Closed to the Public.

2. Enforcement Matters OS # 3247

The Commission will consider Enforcement Matter OS # 3247.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENCY INFORMATION, CALL: 301-492-5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, MD 20207 301-492-6800.

Dated: March 21, 1985.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 85-7165 Filed 3-21-85; 5:03 pm]

BILLING CODE 6355-01-M

2

FARM CREDIT ADMINISTRATION

Federal Farm Credit Board; Meeting

AGENCY: Farm Credit Administration.

SUMMARY: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming regular meeting of the Federal Farm Credit Board scheduled to be held on the first Monday of April 1985, as specified in 12 CFR 604.325(a).

DATES AND TIMES: The regular meeting of the Federal Farm Credit Board is scheduled to be held in McLean, Virginia, on April 1, 1985, 8:30 a.m. to 4:30 p.m.; April 2, 1985, 8:30 a.m. to 4:30 p.m.; and April 3, 1985, 8:30 a.m. to 3:00 p.m.

ADDRESS: Farm Credit Administration, Federal Board Room, 1501 Farm Credit Drive, McLean, VA 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of this meeting of the Federal Farm Credit Board will be open to the public (limited space available), and parts of the meeting will be closed to the public. The matters to be considered at the meeting are:

Monday, April 1

- *1. Executive Session
2. Approval of February Minutes
3. Review of Agenda
4. Reports of Board Members
5. Governor's Report
 - (a) Spokane District Director-at-Large Appointment
 - (b) Proposed Legislation Granting FCA Intermediate Enforcement Authorities
 - (c) Resolution Directing the FCA Staff to Draft and Submit Legislation Authorizing the Merger of Unlike Banks
 - (d) Office of Internal Audit Report
 - ** (e) Status of Litigation Cases Involving FCA
6. Board Assessment of Santa Barbara Planning Conference
7. Proposed Changes to Board's Leadership Agenda

Tuesday, April 2

8. Regulation Changes
- Final
 - Part 611, Liquidations of Banks and Associations
 - Section 617.7000—Frequency of Examinations and Audits
 - Various Sections—Technical Changes Due to Agency Reorganization

Proposed

- Financial Disclosure, Public Information and Confidentiality
- Section 615.5370—Banks for Cooperatives' Earnings
9. Office of Examination and Supervision Report
 - *** (a) Status Report on Serious Problem Banks
 - (b) Status of FCB Regulations Rewrite Project
 - *** (c) Staff Analysis and Recommendations on Gallagher Report concerning Spokane District Director/Officer Liability
 - *** (d) Progress Report on System Stress Study

- (e) OES Process for Handling Examination/Supervisory Reports
- *** (f) FCA Supervisory Reports

Wednesday, April 3

10. Office of Administration Report
 - (a) Legislative Report
 - (b) Economic Report
 - (c) Budget Performance Report
11. FCS Building Association
12. Other Item

* Closed Session—exempt pursuant to 5 U.S.C. 552b(c)(2).

** Closed Session—exempt pursuant to 5 U.S.C. 552b(c)(10).

*** Closed Session—exempt pursuant to 5 U.S.C. 552b(c) (8) and (9).

Dated: March 21, 1985.

Donald E. Wilkinson,
Governor.

[FR Doc. 85-7170 Filed 3-22-85; 9:21 am]

BILLING CODE 6705-01-M

3

FEDERAL HOME LOAN MORTGAGE CORPORATION

DATE AND TIME: Thursday, March 28, 1985, 1:00 p.m.

PLACE: 1776 G Street, NW., Washington, D.C., Conference Room C, Eighth Floor.

STATUS: Closed.

CONTACT PERSON FOR MORE

INFORMATION: Alan B. Hausman, 1776 G Street, NW., P.O. Box 37248, Washington, D.C. 20013, (202) 789-4763.

MATTERS TO BE CONSIDERED:

Closed: Minutes of February 27, 1985 Board of Directors' Meeting
Closed: President's Report
Closed: Financial Report.

Date sent to Federal Register: March 22, 1985.

Maud Mater,
Secretary.

[FR Doc. 85-7229 Filed 3-22-85; 2:25 am]

BILLING CODE 6720-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-84-15A]

FEDERAL REGISTER Citation of previous announcement.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Thursday, March 28, 1985 at 10:00 a.m.

CHANGES IN THE MEETING:

9. Investigation No. 731-TA-189 [Final] (Calcium Hypochlorite from Japan) briefing and vote.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebler, Eckes, Lodwick, and Rohr determined by unanimous vote that Commission business requires the change in subject matter by addition of the agenda item, affirmed that no earlier announcement of the addition to the agenda was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-7751 Filed 3-22-85; 3:35 pm]

BILLING CODE 7020-02-M

5

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-16]

TIME AND DATE: At 1:00 p.m., Monday, April 8, 1985.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigation 701-TA-248 [Preliminary] (Certain ethyl alcohol from Brazil) briefing and vote.
6. Investigation Nos. 701-TA-240 and -241, and 731-TA-249, -250, and -251 [Preliminary] (Oil country tubular goods from Austria, Romania and Venezuela) briefing and vote.
7. Investigation Nos. 701-TA-242, and 731-TA-252 and -253 [Preliminary] (Certain welded carbon steel pipes and tubes from Thailand and Venezuela) briefing and vote.
8. Investigation No. TA-201-54 (Potassium permanganate) briefing and vote.
9. Investigation No. 701-TA-221 [Final] (Certain cast-iron pipe fittings from Brazil) briefing and vote.
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE

INFORMATION: Kenneth R. Mason, Secretary, (202) 523-0161.

Kenneth R. Mason,
Secretary.

[FR Doc. 85-7252 Filed 3-22-85; 3:35 pm]

BILLING CODE 7020-02-M

6

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of March 25, April 1, 8, and 15, 1985.

PLACE: Commissioners' Conference

Room 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:**Week of March 25**

Tuesday, March 26

2:00 p.m.

Discussion of Motion to Disqualify in TMI-1 Restart Case (Closed—Ex. 10)

Thursday, March 28

10:00 a.m.

Discussion of Environmental Qualification of Electrical Equipment—Status of Compliance with Rule (Public Meeting)

2:00 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of April 1—Tentative

Tuesday, April 2

2:00 p.m.

Discussion of Indian Point Order (Public Meeting)

Wednesday, April 3

9:30 a.m.

Briefing on Source Term (Public Meeting)

2:00 p.m.

Continuation of Briefing on Source Term (Public Meeting) (if needed)

3:00 p.m.

Briefing by IDCOR on Evaluation of Nuclear Power Plant Accident Risk (Public Meeting)

Thursday, April 4

10:00 a.m.

Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6) (if needed)

2:00 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of April 8—Tentative

Thursday, April 11

2:00 p.m.

Periodic Meeting with Advisory Committee on Reactor Safeguards (ACRS) (Public Meeting)

3:30 p.m.

Affirmation Meeting (Public Meeting) (if needed)

Week of April 15—Tentative

Tuesday, April 16

10:00 a.m.

Briefing on Final Rule on Backfitting (Public Meeting)

Friday, April 19

9:30 a.m.

Briefing on TMI-1 Steam Generator and Other Plant Matters (Public Meeting)

11:15 a.m.

Affirmation/Discussion and Vote (Public Meeting) a. Indian Point Order (Tentative)

TO VERIFY THE STATUS OF MEETINGS

CALL (RECORDING): (202) 634-1498.

CONTACT PERSON FOR MORE

INFORMATION: Julia Corrado (202) 634-1410.

George T. Mazuzan,

Office of the Secretary.

March 21, 1985.

[FR Doc. 85-7253 Filed 3-22-85; 4:06 pm]

BILLING CODE 7590-01-M

7

POSTAL SERVICE BOARD OF GOVERNORS**Notice of a Meeting**

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR § 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold meetings at 1:00 p.m. on Monday, April 1, 1985, in Hartford, Connecticut, and at 8:00 a.m. on Tuesday, April 2, 1985, in conference Room 311, Hartford Post Office, 141 Western Street, Hartford, Connecticut 06101-9998. As indicated in the following paragraph, the April 1 meeting is closed at public observation. The April 2 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meetings should be addressed to the Secretary of the Board, David F. Harris, at (202) 245-3734.

At its meeting on March 4, 1985, the Board voted in accordance with the provisions of the Government in the Sunshine Act to close to public observation its meeting scheduled for April 1. (See 50 FR 10141, March 13, 1985.)

The meeting will involve a discussion of personnel matters.

Agenda

Monday Session: April 1, 1985—1:00 p.m. (Closed)

1. Discussion of Personnel Matters.

Tuesday Session: April 2, 1985—8:00 a.m. (Open)

1. Minutes of the Previous Meeting, March 4-5, 1985.
2. Remarks of the Postmaster General. (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the Members of miscellaneous current developments concerning the Postal Service. Nothing that requires a decision by the Board is brought up under this item.)
3. Contract for Board Support Services.
4. Officer Compensation.
5. Report on Finance Group Programs. (Mr. Cummings, Senior Assistant Postmaster General, Finance Group, will brief the Board on developments in the Finance Group.)
6. Update Briefing on INTELPOST. (Mr. Lee, Senior Assistant Postmaster General.

Research and Management Systems Group, will brief the Board on the developments in the INTELPOST program.)

7. Report of the Regional Postmaster General. (Mr. Mulligan, Regional Postmaster General, will report on Postal conditions in the Northeast Region.)

8. Capital Investment Project:

a. Human Resources Information System—Phase I:

b. Norman, Oklahoma, Technical Training Center.

9. Consideration of a Tentative Agenda for the May 6-7, 1985, meeting of the Board in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 85-7180 Filed 3-22-85; 10:58 am]

BILLING CODE 7710-12-M

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Vol. 50, No. 58

Tuesday, March 26, 1985

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Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

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