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federal register

Thursday
April 11, 1985

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Environmental Protection Agency

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How To Cite This Publication: Use the volume number and the page number. Example: 50 FR 12345.

Selected Subjects

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Separate Parts in This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and findings aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

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

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Presidential Documents

Title 3—

The President

Presidential Determination No. 85–10 of April 2, 1985

Military Assistance for Haiti

Memorandum for the Secretary of State

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

(1) determine that the furnishing of up to $300,000 for Haiti in assistance under Chapter 2 of Part II of the Act, without regard to the provisions of Section 540(e) of the Foreign Assistance and Related Programs Appropriations Action, 1985,[1] is important to the security interests of the United States; and

(2) authorize the furnishing of such assistance for necessary transportation, maintenance, communications, and related articles and services to enable the continuation of migrant and narcotics interdiction operations.

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

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

Ronald Reagan

THE WHITE HOUSE,
Washington, April 2, 1985.

cc: The Secretary of Defense

[FR Doc. 85–8847
Filed 4–9–85; 3:17 pm]
Billing code 3195–01–M

[1] **Editorial note:** The act is entitled the "Foreign Assistance and Related Programs Appropriations Act, 1985."

Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 989

Raisins Produced From Grapes Grown in California; Final Free and Reserve Percentages for the 1984–85 Crop Year for Certain Varietal Types of Raisins

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule designates final free and reserve percentages for Natural (sun-dried) Seedless, Oleate and Related Seedless, and Zante Currant raisins from California's 1984 production. They are intended to stabilize supplies and prices, and help counter the destabilizing effects of the burdensome supply situation facing the raisin industry. Free raisins can be shipped immediately to any market, while reserve raisins must be held by handlers in a pool for the account of the Raisin Administrative Committee. The Committee works with the USDA in administering the marketing order program. Reserve raisins may be sold later by the Committee to handlers for free use, exported to authorized countries, carried over as a hedge against a short crop the following year, sold to government agencies, or disposed of in other outlets noncompetitive with those for free raisins.

EFFECTIVE DATES: August 1, 1984 through July 31, 1985.

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

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA guidelines implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified a "non-major" rule under criteria contained therein.

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

It is found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date of this action until 30 days after publication in the **Federal Register** (5 U.S.C. 553) in that: (1) The relevant provisions of this part require that the percentages designated herein for the 1984–85 crop year apply to all Natural (sun-dried) Seedless, Oleate and Related Seedless, and Zante Currant raisins acquired by handlers from the beginning of that crop year; (2) handlers are marketing 1984–85 crop raisins of these varietal types and this action must be taken promptly to achieve its purpose of making the full trade demand quantity computed by the Committee for these varietal types available to handlers; (3) this action relieves restrictions on handlers; and (4) handlers are aware of this action unanimously recommended by the Committee at an open meeting and need no additional time to comply with these percentages. In fact, many have been conducting their operations on the basis that no more than the full trade demand would be released for immediate sale to domestic and export markets.

This final rule designates final free and reserve percentages for the 1984–85 crop year for Natural (sun-dried) Seedless raisins of 61 percent and 39 percent, for Oleate and Related Seedless raisins of 78 percent and 22 percent, and for Zante Currant raisins of 64 percent and 36 percent, respectively. These percentages would apply to all standard raisins of these varietal types acquired by handlers during the 1984-85 crop year.

These final marketing percentage designations would be pursuant to §§ 989.54 and 989.55 of the marketing agreement and Order No. 989, both as amemded (7 CFR Part 989; 50 FR 1830), regulating the handling of raisins produced from grapes grown in California, hereinafter referred to collectively as the "order". The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

Pursuant to § 989.54(a), on or before August 15 of each crop year, the Committee is required to hold a meeting to review shipment data, inventory data, and other matters relating to the supply of raisins of all varietal types. For any varietal type for which a free tonnage percentage may be recommended, the Committee is required to compute a trade demand under a formula prescribed in that paragraph. In accordance with these provisions, the Committee computed and announced a trade demand of 182,425 tons for Natural (sun-dried) Seedless raisins, 6,088 tons for Oleate and Related Seedless raisins, and 1,869 tons for Zante Currant raisins.

As required under § 989.54(b), the Committee met on October 4, 1984, and computed and announced preliminary free and reserve percentages for each of these varietal types. The Committee determined that the field price for Natural (sun-dried) Seedless raisins was firmly established, but that the field prices for Oleate and Related Seedless, and Zante Currant raisins were not firmly established. Hence, in accordance with § 989.54(b), preliminary free and reserve percentages to release 85 percent of the computed trade demand for Natural (sun-dried) Seedless raisins, and 65 percent of the computed trade demand for Oleate and Related Seedless and Zante Currant raisins were computed and announced by the Committee. With respect to Natural (sun-dried) Seedless raisins, 85 percent of the computed trade demand equalled 155,061, which when divided by the initial estimate of production (291,857 tons) resulted in a preliminary free percentage of 53 percent. The difference between the preliminary free percentage and 100 percent is the preliminary reserve percentage or 47 percent. Sixty-five percent of the computed trade demand for Oleate and Related Seedless raisins was 3,957 tons which when divided by the initial crop estimate of 7,420 tons resulted in a preliminary free percentage of 53 percent. The reserve percentage was 47 percent. For Zante Currants, the portion of the trade demand required to be released totalled 1,228 tons, which when divided by the initial crop estimate of 2,722 tons resulted in a preliminary free percentage

of 45 percent. The reserve percentage was 55 percent.

Subsequent to the October 4 meeting, the Committee determined that the field prices for Oleate and Related Seedless and Zante Currant raisins had been firmly established and the Committee computed and announced an interim change in the preliminary free percentages for each varietal type to release 85 percent of the computed trade demand to handlers. The preliminary free percentage for Oleate and Related Seedless raisins was increased to 70 percent and for Zante Current raisins it was moved up to 59 percent. Corresponding decreases were made in the reserve percentages for each varietal type. Departmental approval was not necessary for any of these Committee actions.

Under § 989.54(d) of the order, the Committee is required to recommend to the Secretary, no later than February 15, final free and reserve percentages which, when applied to the final production estimate of a varietal type, will tend to release the full trade demand for any varietal type for which preliminary or interim percentages have been computed and announced. Section 989.54(d) also provides that the difference between any final free percentage designated by the Secretary and 100 percent shall be the final reserve percentage.

On January 8, 1985, the Committee met and recommended final free and reserve percentage for the 1984–85 crop year and made its final production estimates for Natural (sun-dried) Seedless, Oleate and Related Seedless, and Zante Currant raisins.

The Committee estimated the 1984–85 season production of Natural (sun-dried) Seedless raisins at 297,873 tons (6,016 tons more than its preliminary estimate of 291,857 tons). Dividing the computed trade demand of 182,425 tons by the final estimate of production results in a final free percentage of 61.24 percent. The Committee rounded that percentage to 61 percent which results in a final reserve percentage of 39 percent.

For Oleate and Related Seedless raisins, the Committee estimated the 1984–85 production at 7,765 tons (345 tons more than its preliminary estimate of 7,420 tons). Dividing the computed trade demand of 6,088 tons by the final estimate of production for this varietal type results in a free percentage of 78.40 percent. The Committee rounded that percentage to 78 percent which results in a final reserve percentage of 22 percent.

For Zante Currant raisins, the Committee's final estimate of production totalled 2,960 tons (238 tons more than its preliminary estimate of 2,722 tons). Dividing the computed trade demand of 1,889 tons by the final production estimate results in a free percentage of 63.82 percent. The Committee rounded that percentage to 64 percent which results in a final reserve percentage of 36 percent.

The Committee met again on January 16, and pursuant to § 989.54(c), computed and announced interim free percentages of 60 percent for Natural (sun-dried) Seedless, 76 percent for Oleate and Related Seedless, and 63 percent for Zante Currants. These percentages released almost all of the computed trade demand for each of these varietal types. This decision reflects the strong marketing conditions which currently exist in domestic and export markets, and the Committee's belief that it's final production estimates are accurate.

After consideration of all relevant matter presented, the information and recommendation submitted by the Committee, and other available information, it is further found that the designation, under §§ 989.54 and 989.55, of final free and reserve percentages for the 1984–85 crop year for Natural (sun-dried) Seedless, Oleate and Related Seedless, and Zante Currant raisins, as hereinafter set forth, will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 989

Marketing agreement and orders, Grapes, Raisins and California.

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Therefore, § 989.237 is added to 7 CFR Part 989 reading as follows: (The following section will not be published in the Code of Federal Regulations).

§ 989.237 Final free and reserve percentages for the 1984–85 crop year.

The percentages of standard Natural (sun-dried) Seedless, Oleate and Related Seedless, and Zante Currant raisins acquired by handlers during the crop year beginning August 1, 1984, which shall be free tonnage and reserve tonnage, respectively, are designated as follows:

	Free percentage	Reserve percentage
Natural (sun-dried) seedless	61	39
Oleate and related seedless	78	22
Zante currant	64	36

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

Dated: April 8, 1985.

Thomas R. Clark,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 85-8769 Filed 4-10-85; 8:45 am]

BILLING CODE 3410-02-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 116

Coastal Barrier Resources System; Financial Assistance; Policies of General Application

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: Based on the Coastal Barrier Resources Act of 1982, which prohibits direct or indirect Federal financial assistance under authority of any Federal law within the Coastal Barrier Resources System, including, but not limited to the construction or purchase of any structure, appurtenance, facility or related infrastructure as well as the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, or erosion prevention of, any system unit, SBA proposed a subpart to advise the public of the Agency's responsibilities under section 5 of the above cited Act.

EFFECTIVE DATE: April 11, 1985.

ADDRESS: Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Edward J. Myerson, Deputy Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416, (202) 653–6470.

SUPPLEMENTARY INFORMATION: On August 24, 1984, 49 FR 33692, a notice of proposed rulemaking was published in the **Federal Register** to advise the public of SBA's responsibilities under section 5 of the Coastal Barrier Resources Act of 1982. No comments were received.

Since this subpart merely advises the public of the applicability of Pub. L. 97–348, 16 U.S.C. 3501 *et seq.* to SBA's programs, it is subject neither to the requirements of the Regulatory Flexibility Act nor of Executive Order 12291.

There are no reporting or recordkeeping requirements subject to OMB approval in this Rule.

List of Subjects in 13 CFR Part 116

Flood insurance, Flood plains, Lead poisoning, Small businesses, Veterans, Coastal barrier system.

PART 116—[AMENDED]

Accordingly, pursuant to 16 U.S.C. 3501 *et seq.* and 15 U.S.C. 634(b)(6), a new Subpart E is added to Part 116, as follows:

Subpart E—Coastal Barrier Resources Act

Sec.
116.40 Purpose and scope
116.41 Definition of Coastal Barrier Resources System.

Authority: 16 U.S.C. 3501 *et seq.* and 15 U.S.C. 634(b)(6).

Subpart E—Coastal Barrier Resources Act

§ 116.40 Purpose and scope.

This subpart describes the application of the Coastal Barrier Resources Act of 1982 (Act), the SBA financial assistance programs. The Act prohibits direct or indirect Federal financial assistance under authority of any Federal law within the Coastal Barrier Resources System, including, but not limited to the construction or purchase of any structure, appurtenance, facility or related infrastructure as well as the construction or purchase of any road, airport, boat landing facility, or other facility on, or bridge or causeway to, or erosion prevention of, any system unit. The following programs are subject to the legislation: all financial assistance under Subsections 7 (a) and (b) of the Small Business Act, and Titles III, IV, and V of the Small Business Investment Act, as amended, including lease, surety bond and pollution control guarantees, small business investment companies, and development companies.

§ 116.41 Definition of Coastal Barrier Resources System.

Coastal Barrier Resources System. "Coastal Barrier Resources System" means those undeveloped coastal barriers located on the Atlantic and Gulf coasts of the United States that are identified and generally depicted on maps entitled "Coastal Barrier Resources System," enacted by Congress, and on file and available for public inspection in the Office of the Director of the United States Fish and Wildlife Service, Department of the Interior.

(Catalog of Federal Domestic Assistance Programs, Nos. 59.001 thru 3, 58.008, 59.010 thru 14, 59.016 thru 18, 59.020 thru 25, 59.027 thru 31)

Dated: March 27, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85-8656 Filed 4-10-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 416

[Reg. No. 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Eligibility

AGENCY: Social Security Administration, HHS.

ACTION: Correction of final rule.

SUMMARY: In the final rule which appeared in the **Federal Register** on February 11, 1985 (50 FR 5571), § 416.210(b) of Regulations No. 16 was revised. In that section reference is made to section 43 of the Internal Revenue Code. Section 471 of Pub. L. 98-369 (The Deficit Reduction Act of 1984) redesignated section 43 as section 32. Section 416.210(b) is being corrected to conform to that legislation.

FOR FURTHER INFORMATION CONTACT: Dave Smith, 6401 Security Boulevard, Baltimore, Maryland 21235, telephone (301) 594-7460.

PART 416—[AMENDED]

SUPPLEMENTARY INFORMATION: A revision of § 416.210(b) of Regulations No. 16 was published as a final rule on February 11, 1985 (50 FR 5571). Section 43 of the Internal Revenue Code, which was referred to in the revision, was redesignated as section 32 by section 471 of Pub. L. 98-369 (The Deficit Reduction Act of 1984). In order to conform the regulations to the legislation, § 416.210(b) should be corrected to read as follows:

§ 416.210 You do not apply for other benefits.

* * * * *

(b) *What "other benefits" includes.* "Other benefits" includes any payments for which you can apply that are available to you on an ongoing or one-time basis of a type that includes annuities, pensions, retirement benefits, or disability benefits. For example, "other benefits" includes veterans' compensation and pensions, worker's compensation payments, Social Security insurance benefits, unemployment insurance benefits and earned income tax credits (EITC's) payable under sections 32 and 3507 of the Internal Revenue Code. You will be required to apply to your employer for advance payment of EITC's. If a past period of employment is involved, or if your earned income is derived from self-employment, you will be required to apply with your personal income tax return.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program)

Dated: April 3, 1985.

Wallace O. Keene,

Acting Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 85-8743 Filed 4-10-85; 8:45 am]

BILLING CODE 4190-11-M

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Commissioner of Food and Drugs; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting its final rule that added the delegation of authority from the Assistant Secretary for Health to the Commissioner of Food and Drugs under section 156 of Title 35 of the United States Code (35 U.S.C. 156) (49 FR 50642; December 31, 1984).

EFFECTIVE DATE: December 31, 1984.

FOR FURTHER INFORMATION CONTACT: Robert L. Miller, Office of Management and Operations (HFA-340), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4976.

SUPPLEMENTARY INFORMATION:

PART 510—[CORRECTED]

In FR Doc. 84-33794, appearing on page 50642 in the issue for Monday, December 31, 1984, in the third column of that page the following correction is made:

§ 5.10 [Corrected]

In § 5.10 *Delegations from the Secretary, the Assistant Secretary for Health, and Public Health Service Officials*, paragraph (a)(27), the phrase "Title II of the Drug Price Competition and Patent Term Restoration Act of 1984 (35 U.S.C. 156)" is changed to read "section 156 of Title 35 of the United States Code (35 U.S.C. 156), as amended,".

Dated: April 3, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8653 Filed 4-10-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 71, 170, 171, 180, 201, 310, 312, 314, 330, 430, 431, 433, 510, 511, 514, 570, 571, 601, 812, 1003, and 1010

[Docket No. 82N-0293]

New Drug and Antibiotic Regulations

Correction

In FR Doc. 85-4071 beginning on page 7452 in the issue of Friday, February 22, 1985, make the following corrections:

1. On page 7459, in the third column, in the first line, "for" should read "from"; also, in the eighth line, "significant" should read "significantly".

2. On page 7464, in the third column, in the second complete paragraph, in the first line, "had" should read "has"; also, in the sixteenth line, "inveitably" should read "inevitably"; and in the third complete paragraph, in the eighth line, "complied" should read "compiled".

3. On page 7478, in the first column, in the first complete paragraph, in the eleventh line, "report an" should read "report about an"; also, in the second column, in paragraph 97, in the second line, "to" should read "on".

4. On page 7480, in the first column, in paragraph 102, in the seventeenth line, after "ways" insert a period, and before "reviewing", begin a new paragraph and insert the following: "a. The final rule codifies the general principle that during the course of".

5. On page 7486, in the first column, in paragraph 120, in the thirty-first line, "reviews" should read "reviewers".

6. On page 7490, in the second column, in the second complete paragraph, in the eighth line, "had" should read "has".

PART 314—[CORRECTED]

§ 314.50 [Corrected]

7. On page 7495, in the second column, in § 314.50(d)(2)(i), in the fourth line, insert "that" between "studies" and "otherwise".

8. On page 7496, in the second column, in § 314.50(d)(6)(i), in the fourth line, "analyses" should read "analysis"; also, in the sixth line "analysis" should read "analyses".

9. On page 7496, in the third column, in § 314.50(f)(1), in the tenth line, "FDA-1517" should read "FDA-1571".

§ 314.70 [Corrected]

10. On page 7499, in the first column, in § 314.70(b)(1)(v)(*a*), in the third line, "established" should read "establishment";

§ 314.72 [Corrected]

Also, in the third column, in § 314.72(a)(2)(ii), in the first line, "is" should read "in".

§ 314.80 [Corrected]

11. On page 7500, in the second column, in § 314.80(c), in the eighth line, "(HFN-70)," should read "(HFN-730),".

12. On page 7501, in the third column, in § 314.80(h), in the fourteenth line, "resaleable" should read "releaseable".

§ 314.81 [Corrected]

13. On page 7502, in the first column, in § 314.81(b)(2)(i), in the eighth line, "the" should read "this".

§ 314.103 [Corrected]

14. On page 7504, in the third column, in § 314.103(c)(3), in the thirteenth line, "is" should read "its".

§ 314.150 [Corrected]

15. On page 7507, in the third column, in § 314.150(a), in the fourteenth line, insert "and" after "act".

§ 314.200 [Corrected]

16. On page 7510, in the second column, in § 314.200(e)(2)(I)(B), in the fourth line, "rational" should read "rationale".

§ 314.300 [Corrected]

17. On page 7512, in the second column, in § 314.300(b)(6)(i), in the first line, "DFA" should read "FDA".

18. On page 7513, in the third column, in § 314.300(d)(1), in the first line, "no" should read "not".

PART 514—[CORRECTED]

§ 514.1 [Corrected]

19. On page 7517, in the second column, in § 514.1(b)(12)(iii), in the first line, "Will" should read "With".

BILLING CODE 1505-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 916

Approval of Permanent Program Amendments From the State of Kansas Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of an amendment to the Kansas permanent regulatory program (hereinafter referred to as the Kansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA).

By letter dated December 21, 1984, Kansas submitted a program amendment consisting of a revision to K.A.R. 47-15-13 which governs notices of violations (NOV) and contains procedures for extending abatement periods beyond 90 days under certain circumstances. OSM published a notice in the **Federal Register** on February 15, 1985, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 6364). The public comment period ended March 18, 1985.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director of OSM has determined that the amendment meets the requirements of SMCRA and the Federal regulations. Accordingly, the Director is approving the program amendment. The Federal regulations at 30 CFR Part 916 which codify decisions on the Kansas program are being amended to implement this action.

This final rule is being made effective immediately in order to expedite the State program amendment process and encourage States to bring their programs into conformity with the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: April 11, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Rieke, Director, Kansas City Field Office, Office of Surface Mining, Room 502, 1103 Grand Avenue, Kansas City, Missouri 64106; Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Background

The Kansas program was conditionally approved by the Secretary of the Interior on January 21, 1981. Information pertinent to the general background, revisions, modifications, and amendments to the Kansas program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Kansas program can be found in the January 21, 1981 **Federal Register** (46 FR 5892).

II. Discussion of the Amendment

By letter dated December 21, 1984, Kansas submitted a program amendment consisting of revision to K.A.R. 47-15-13 which governs notices of violation (NOV) and contains procedures for extending abatement periods beyond 90 days under certain

circumstances. Proposed K.A.R. 47–15–13 is patterned after OSM's regulations on NOVs at 30 CFR 843.12. Specifically, Kansas has included regulatory language in K.A.R. 47–15–13 that allows the permittee to request an extension of the 90-day abatement time limit from the State under certain conditions.

OSM published a notice in the Federal Register on February 15, 1985 (50 FR 6364), announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendments. The notice stated that a public hearing would be held only if requested. Since there were no requests for a hearing, a hearing was not held. The public comment period closed March 18, 1985.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Kansas on December 21, 1984, meets the requirements of SMCRA and 30 CFR Ch. VII, as discussed below.

The Kansas rule at K.A.R. 47–15–13 establishes procedures for granting an extension of the 90-day abatement period under certain circumstances.

K.A.R. 47–15–13 reflects the revised language of 30 CFR 843.12. Paragraph (c) was amended to allow extensions of the 90-day abatement period under specific conditions which are set forth in paragraph (f). These conditions include: The permittee applying for and diligently pursuing a permit renewal or other necessary approval that will not be issued within the 90 days; a valid judicial order precluding abatement within 90 days to which the permittee is pursuing all rights of appeal and to which there is no other effective legal remedy; a labor strike; taking actions that violate safety standards established by the Mine Safety and Health Act, and climatic conditions precluding abatement within 90 days. Extensions may be granted for climatic conditions only if abatement would cause more environmental harm than it would prevent. No extension granted under this provision may exceed 90 days.

The Federal rule at 30 CFR 843.12 requires all permittees to meet certain conditions before they are granted an extension of the 90-day abatement period. All the Federal conditions for granting an extension are contained in the Kansas rule. Therefore, the Director finds that the Kansas rule change is no less effective than the Federal regulation.

IV. Public Comment

The responses to public comments are set forth below.

1. The Fish and Wildlife Service (FWS) commented that the proposed amendment would be a disincentive to mining companies to correct violations in a timely manner. The FWS would prefer to see the Kansas rule unchanged. The Director finds that the rule change sets forth specific criteria for extending the abatement period beyond 90 days. The burden of proof for granting an extension rests with the permittee. The Director considered the FWS's comments but has found the Kansas rule to be no less effective than the Federal regulations which provide for an abatement period of more than 90 days under certain circumstances. Therefore, the Director is not requiring changes to the Kansas rule.

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

V. Director's Decision

The Director, based on the above findings, is approving the December 21, 1984, amendment to the Kansas program. The Director is amending Part 916 of 30 CFR Ch. VII to reflect approval of the above State program modification.

VI. Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 916

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: April 8, 1985.

John D. Ward,

Director, Office of Surface Mining.

PART 916—KANSAS

30 CFR 916.15 is amended by adding a new paragraph (d) as follows:

§ 916.15 Approval of regulatory program amendments.

* * * * *

(d) The following amendment submittted to OSM on December 21, 1984, is approved April 11, 1985. Kansas regulation K.A.R. 47–15–13.

[FR Doc. 85–8730 Filed 4–10–85; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 62

[CGD 85–005]

Deletion of Loran Description; Change in Blink Procedure

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule deletes Subpart 62.40-Loran from Title 33, Code of Federal Regulations (CFR). The informational provisions of this subpart are obsolete and contain no regulatory directives. Of particular note is a recent modification in Signal Warning procedures which diverges from the procedures outlined in § 62.40–15. This change and all future modifications will be more effectively publicized via updates to Coast Guard publications which provide current Loran information to system users.

EFFECTIVE DATE: May 13, 1985.

FOR FURTHER INFORMATION CONTACT: CWO G.D. Ziemer, Radionavigation Information Branch (G–NRN–3), Room 1413, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. Telephone (202) 472–5857.

SUPPLEMENTARY INFORMATION: This rule merely deletes nonregulatory material from the CFR; therefore, notice and comment are unnecessary in accord

with 5 U.S.C. 553(b)(B). Since the information is available to the public through more appropriate and easily accessible publications, no adverse impact will result from this rule.

Discussion

Subpart 62.40 of Title 33 CFR discusses various aspects of the Loran radionavigation system. Much of this material relates specifically to Loran-A which is no longer in use. In addition, the Loran "Signal Warning" section in the existing regulations is now obsolete because the signal warning provisions (commonly known as "blink procedures") have recently been changed.

Loran transmitting stations use blink to alert users of signal irregularities which affect the accuracy of the Loran system. For those interested in the technical change, secondary stations no longer exhibit blink during master off-air periods whether scheduled or not. In addition, master stations no longer display ninth pulse blink to notify users of system abnormalities. Users will continue to be notified by way of secondary blink of other system abnormalities. Loran users should make note of this change in personal copies of the Loran-C User Handbook. This change is in response to inquiries from affected parties and responses to a Request for Comments published in the **Federal Register** on Monday, December 21, 1981. (46 FR 61980)

Subpart 62.40—Loran is being deleted because current and complete Loran information is more effectively disseminated through the Loran-C User Handbook, COMDTINST M16562.3 and the Radionavigation Bulletin. Copies of the handbook can be purchased for $4.75 each from the Superintendent of Documents, Order Section, U.S. Government Printing Office, Washington, DC 20402. The Radionavigation Bulletin is available free of charge from Commandant (G-NRN-3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593. Both of these publications are frequently updated and represent a more appropriate method of disseminating non-regulatory information to interested parties.

Drafting Information

The principal persons involved in drafting this document are CWO G.D. Ziemer, Project Manager, Office of Navigation and LT Dave Shippert, Project Counsel, Office of Chief Counsel.

Regulatory Evaluation

This final rule is considered to be non-major under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This rule merely removes non-regulatory material from the CFR. Since the impact of this final rule is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 62

Navigation (water), United States aids to navigation system.

PART 62—[AMENDED]

§§ 62.40–1 through 62.40–20

For the reasons set out in the preamble, 33 CFR Part 62 is amended by deleting Subpart 62.40-Loran in its entirety (§§ 62.40–1 through 62.40–20 inclusive).

Authority: 33 U.S.C. 81; 49 CFR 1.45(2); 49 CFR 1.46(b).

Dated: March 6, 1985.

T.J. Wojnar,

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

[FR Doc. 85-8719 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 100

[CGD2 85-02]

Special Local Regulations; Memphis in May Canoe and Kayak Race

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 738.5 to 736.0, Lower Mississippi River. The "Memphis in May Canoe and Kayak Race", a flotilla of canoes and kayaks, will be held on May 11, 1985 at Memphis, Tennessee. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATE: These regulations will be effective from 9:00 a.m. on May 11, and terminate at 12:00 noon on May 11, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR 100.35, for the purpose of promoting the safety of life and property on the Lower Mississippi River between miles 738.5 and 736.0 during the "MEMPHIS IN MAY CANOE AND KAYAK RACE", May 11, 1985. This event will consist of a flotilla of canoes and kayaks which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. There was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, Project Officer, Boating Technical Branch, and Lt. R.E. Kilroy, USCG, Project Attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

PART 100—[AMENDED]

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended by adding a temporary § 100.35–0201 to read as follows:

§ 100.35–0201 Lower Mississippi River, miles 738.5 through 736.0.

(a) *Regulated Area:* The area between Mile 738.5 and 736.0 Lower Mississippi River is designated the regatta area, and may be closed to commercial navigation or mooring between the hours of 9:00 a.m. and 12:00 noon (local time), on May 11, 1985.

(b) *Special Local Regulations:* Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol, while they are operating in the performance of their assigned duties.

(1) The Patrol Commander may be reached on Channel 16 (156.8 MHz) when necessary, by the call sign "Coast Guard Patrol Commander".

(c) A succession of sharp, short signals by whistle or horn from vessels patrolling the areas under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Vessels so signalled shall stop and shall comply with the orders of the Patrol Vessel. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(d) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(e) The Patrol Commander may restrict vessel operation within the regatta area to vessels having particular operating characteristics.

(f) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(g) This § 100.35–0201 will be effective on May 11, 1985, between the hours of 9:00 a.m. and 12:00 noon local time.

Authority: 33 U.S.C. 1233; 49 U.S.C. 108; 33 CFR 100.35; 49 CFR 1.46(b).

Dated: April 4, 1985.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 85–8722 Filed 4–10–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 100

[CGD11 85–02]

Marine Event; San Diego Crew Classic

AGENCY: Coast Guard, DOT.

ACTION: Final rule; correction.

SUMMARY: Special local regulations for the San Diego Crew Classic were issued by Commander, Eleventh Coast Guard District on 22 March 1985 and published in the **Federal Register** on April 1, 1985 (50 FR 12799). Due to a sewage spillage in the original regulated area, this event will take place in a new location in Mission Bay, California. All other information in the promulgated regulations shall remain the same.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: In consideration of the foregoing Part 100 of Title 33, Code of Federal Regulations, is corrected by revising § 100.35 11–85.02(a) to read as follows:

§ 100.35 11–85–02 San Diego Crew Classic, Mission Bay, CA

(a) *Regulated Area:* The following area may be closed intermittently to all vessel traffic. The portion of Mission Bay, California bounded by Enchanted Cove, Fiesta Island, Pacific Passage and DeAnza Point.

* * * * *

(33 U.S.C. 1233; 33 U.S.C. 1236; 49 CFR 1.46(b); 33 CFR 100.35)

Dated: April 5, 1985.

F.P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 85–8716 Filed 4–10–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR PARTS 146 and 150

[CGD 82–069a]

Casualty Reporting Requirements

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This rule eliminates the costs of salvage, cleaning, gas freeing and drydocking from the marine casualty reporting requirements contained in Title 33, Code of Federal Regulations (CFR). Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. This Final Rule will have a negligible effect on the number of reports submitted by the marine industry by reducing the cost of marine casualties for reporting purposes.

EFFECTIVE DATE: This regulation becomes effective on May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Lt. W.F. Diaduk, Office of Merchant Marine Safety (G–MMI–1/14), Room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593; 426–1455, 7:00 to 3:30, Monday through Friday.

SUPPLEMENTARY INFORMATION: On October 19, 1983 (48 FR 48475), the Coast Guard published a Notice of Proposed Rulemaking (NPRM) (CGD–82–069a) concerning eliminating the costs of salvage, cleaning, gas freeing and drydocking from the casualty reporting requirements contained in Title 33, Code of Federal Regulations. No comments were received.

Since the costs of salvage, cleaning, gas freeing and drydocking can vary widely depending on the nature of the casualty, they tend to distort the basis for using a monetary criteria to establish a reporting threshold. Based on this fact, the casualty reporting requirements for vessels contained in Title 46, Code of Federal Regulations, were amended by eliminating these costs. This rulemaking will amend the Outer Continental Shelf Activities and Deepwater Port regulations (33 CFR 146.30 and 150.711 respectively) in the same manner and provide for uniform reporting requirements throughout the marine industry. Statistics for 1981 indicate that only one per one thousand casualties (approximately 0.10% of the casualty population) involved instances where this amendment could have eliminated the need for reporting. Consequently, this proposal will have a negligible effect on the number of reports submitted.

Drafting Information

The principal persons involved in drafting this proposal are: Lt. W.F. Diaduk, Project Manager, Office of Merchant Marine Safety and Lt. S.R. Sylvester, Project Attorney, Office of the Chief Counsel.

Regulatory Evaluation

This revision is considered to be nonmajor under Executive Order 12291 and nonsignificant under the DOT regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this final rule has been found to be so minimal that further evaluation is unnecessary. This proposal will have a negligible effect on the number of reports submitted, as discussed in the Supplementary Information section.

Regulatory Flexibility Act Certification

Since the impact of the final rule is to be minimal, the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

Information collection requirements contained in these regulations (33 CFR

146.30(d) and 33 CFR 150.711(a)(1)) have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96–511) and have been assigned OMB control number 2115.0003.

List of Subjects

33 CFR Part 146

Coast Guard, Continental shelf, Marine safety, and Reporting and recordkeeping requirements.

33 CFR Part 150

Coast Guard, Deepwater ports, Oil imports, Environmental protection, Water pollution control and Reporting and recordkeeping requirements.

In consideration of the foregoing, Parts 146 and 150 of Title 33, Code of Federal Regulations, are amended as follows:

PART 146—OUTER CONTINENTAL SHELF ACTIVITIES

1. The authority citation for Part 146 reads as follows:

Authority: Sec. 4, 67 Stat. 462 (43 U.S.C. 1333) as amended; sec. 22 of sec. 208, Pub. L. 95–372, 92 Stat. 656 (43 U.S.C. 1348); 49 CFR 1.46(z).

2. In § 146.30 paragraph (d) is revised to read as follows:

§ 146.30 Notice of casualties.

* * * * *

(d) Damage costs referred to in paragraphs (b)(3) and (b)(4) of this section include the cost of labor and material to restore the facility to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage of the facility.

PART 150—DEEPWATER PORTS

3. The authority citation for Part 150 reads as follows:

Authority: Secs. 10(a), 10(b), Pub. L. 93–627, 88 Stat. 2137–18 (33 U.S.C. 1509 (a) and (b)); 49 CFR 1.46(s).

4. In § 150.711 paragraph (a)(1) is revised to read as follows:

§ 150.711 Casualty or accident.

(a) * * *

(1) Any component of a deepwater port which is hit by a vessel and total damage to all property is in excess of $25,000. Damage cost includes the cost of labor and material to restore the property to the service condition which existed prior to the casualty, but does not include the cost of salvage, cleaning, gas freeing, drydocking or demurrage.

* * * * *

Dated: April 8, 1985.

B.G. Burns,

Captain, U.S. Coast Guard, Acting Chief, Office of Merchant Marine Safety.

[FR Doc. 85–8718 Filed 4–10–85; 8:45 am]

BILLING CODE 4910–14–M

POSTAL SERVICE

39 CFR Part 111

Merchandise Return Service; Correction

AGENCY: Postal Service.

ACTION: Final rule; correction.

SUMMARY: In FR Doc. 85–4270, in the issue of Monday, March 11, 1985, the Postal Service published a final rule on Merchandise Return Service. The rule contained, at two places, erroneous instructions on the proper location for class of mail endorsements to be printed or rubber stamped on the merchandise return label by permit holders. This final rule corrects those instructions.

EFFECTIVE DATE: June 30, 1985.

FOR FURTHER INFORMATION CONTACT: F.E. Gardner, (202) 245–5756.

SUPPLEMENTARY INFORMATION: In the final rule published on March 11, 1985, newly revised DMM 919.442 and 919.443 provided, among other things, that the class of mail endorsements must be printed or rubber stamped "to the left of the merchandise return legend and above the address. . . ." This is incorrect. The endorsements must be printed or rubber stamped in the open space to the *right* and above the *Merchandise Return Label* legend. This is consistent with Exhibit 919.4, published on page 9627 as a part of the rule. For additional clarity, we are adding a "see" reference to this Exhibit.

For the above reasons, the Postal Service hereby makes the following corrections to FR Doc. 85–4270 beginning on page 9622 in the issue of Monday, March 11, 1985:

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

On page 9624, first column, paragraphs .442 and .443 are corrected to read as follows:

.442 Parcels will be returned as First-Class Mail if the permit holder endorses the label "First-Class." The endorsements must be in letters at least ¼ of an inch high and must be printed or rubber stamped in the open space to the right and above the *Merchandise Return Label* legend. See Exhibit 919.4.

Note.—First-Class Mail cannot be insured unless the contents contain third- and fourth-class matter and are so labeled.

.443 Parcels qualifying for special rate fourth-class or library rate will be returned at those rates provided the appropriate identifying endorsement prescribed in 725.1, 764.11 or 767.1 is preprinted or rubber stamped in letters at least ¼ of an inch high in the open space to the right and above the *Merchandise Return Label* legend. See Exhibit 919.4.

(39 U.S.C. 401, 404(a)(1))

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 85–8701 Filed 4–10–85; 8:45 am]

BILLING CODE 7710–12–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 260, 261, and 266

[SWH–FRL–2815–6]

Hazardous Waste Management System; Definition of Solid Waste; Corrections

AGENCY: Environmental Protection Agency.

ACTION: Technical Corrections to the Definition of Solid Waste Final Rulemaking.

SUMMARY: On January 4, 1985, EPA promulgated a final rule which dealt with the question of which materials being recycled (or held for recycling) are solid and hazardous wastes. This rule also provided general and specific standards for various types of hazardous waste recycling activities. In reviewing this rulemaking and as a result of questions and comments received, the Agency has identified a number of typographical and technical errors requiring correction. This notice makes these changes and modifies the previous publication accordingly.

EFFECTIVE DATE: These corrections become effective on April 11, 1985.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free, at (800) 424–9346 or at (202) 382–3000. For technical information contact Matthew A. Straus, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, (202) 475–8551.

SUPPLEMENTARY INFORMATION: On January 4, 1985, EPA amended its existing definition of solid waste. See 50 FR 614. This rulemaking defined which materials are solid wastes when

disposed of, burned, incinerated, or recycled. The major part of the regulation addressed the question of which secondary materials being recycled (or held for recycling) are solid wastes and, if hazardous, hazardous wastes. The Agency also published regulatory standards for various types of hazardous waste recycling activities.

The Agency has received a number of questions and comments on various aspects of this final rule. In considering these questions and in reviewing the final rule, the Agency has identified a number of typographical errors and technical errors requiring correction. These corrections and changes are described below:

A. Compliance Dates for Precious Metal Reclamation

The preamble specifically spells out the compliance dates for all persons who generate, transport, treat, store, or dispose of wastes which are covered by the final rule (see 50 *FR* 614). In that discussion, EPA indicated that for persons reclaiming precious metals from recycled materials (*i.e.*, hazardous waste), the rule would become effective immediately since these are ". . . rules for which the regulated community does not need time to come into compliance."[1] This is true, for the most part, because precious metal reclamation is exempt from most of the regulatory requirements. The new rules do impose certain regulatory requirements on certain persons (*i.e.*, those who were not previously subject to regulation) for the first time, however—namely, manifest requirements (§ 266.70(b)(2)), notification requirements for those persons who have not previously notified (§ 266.70(b)(1)), and certain recordkeeping requirements (§ 266.70(c)). The Agency intended that the rules become effective immediately only for those persons who are subject to less regulation, however, since these are the only persons who need no time to come into compliance. EPA, therefore, is clarifying this part of the preamble to indicate that §§ 266.70 (b) and (c) will not become effective for those persons who are subject to increased regulation with respect to precious metal reclamation until July 5, 1985 (assuming Federal operation of the hazardous waste program), or in authorized States, when the States amend their rules to incorporate and make effective this part of the Federal program.

B. Notification and Part A Requirements

1. Submission of Section 3010 Notification

The January 4th regulation stated that any person who generates, transports, treats, stores, or disposes of hazardous wastes that are covered by the new regulation must notify EPA or a State authorized by EPA to operate the hazardous waste program by April 4, 1985, unless these persons have previously notified EPA or an authorized State. See 50 *FR* 614. A number of questions have been raised regarding who must notify and by when. We repeat the instructions here to clarify any misunderstanding. In particular:

- Any person who has previously notified EPA or an authorized State either as a generator or a treater, storer, or disposer *does not* need to do so again except as described below. In addition, certain recycled materials are exempt from any regulation under these rules, and persons are not required to notify with respect to these exempt recycled materials.
- Any person who has previously notified EPA or an authorized State of their activities but has withdrawn their application must re-notify the Agency or an authorized State of their activities.
- Persons who have not notified (and were never required to notify) must submit a notification to EPA or a State with an authorized permit program. This is true even for those generators, transporters, treaters, storers, or disposers who are located in a State that has an authorized permit program since Section 3010 of RCRA is independent of the Section 3006 State authorization section. Thus, even though a person may not have to comply with any of the substantive requirements of this rule on July 5 (*i.e.*, the January 4th rules do not become effective in authorized States until that State amends its rules to adopt the new requirements) they still must notify EPA or a State with an authorized permit program that they either generate, transport, treat, store, or dispose of a recyclable material. (The rules on obtaining authorization for newly promulgated regulations are set out in 40 CFR 271.21. See 49 *FR* 21678, May 22, 1984.)

2. Submission of Part A Permit Applications

The January 4th regulation also indicated that all persons had to: (1) Notify EPA or an authorized State by April 4, 1985 and (2) submit a new or an amended Part A permit application to EPA or an authorized State by July 5, 1985, in order to be eligible, or to remain eligible for interim status. These instructions misstate the requirements in two respects. First, as described in Section B.1., any person who has previously notified EPA or an authorized State does not need to do so again, except where the previous notification has been withdrawn. We, therefore, are clarifying the notification procedures to indicate that facilities that wish to be eligible or to remain eligible for interim status need only file a notification if they have not previously notified EPA or an authorized State that they generate, transport, treat, store, or dispose of hazardous wastes and have not received an identification number.

The second correction deals with the submission of the Part A permit application. In particular, persons should *not* submit their Part A permit application to a State that has an authorized permit program (either final or interim authorization) until that State amends its regulations to adopt the January 4th rules and EPA authorizes the amended State program. Once this process is completed, the new or amended permit applications are to be submitted to the State pursuant to the State requirements. Those facilities which are located in States which do not have permit programs authorized by EPA must submit their new or amended Part A permit application to EPA by July 5, 1985.

C. Correction to Table 11

Table 11 to the preamble of the final rules displays a decision tree which identifies the various regulatory requirements for the different recycling activities and materials. See 50 *FR* 645. The second box in the left hand column of this table refers to § 261.6(a)(4). This is a misprint, and should refer to § 261.6(a)(3).

D. Correction to § 260.30(a)

In paragraph (a) to § 260.30, the Agency incorrectly referenced the section which defines "accumulated speculatively" as § 261.1(c)(8)(B). See 50 *FR* 661. The section reference should read § 261.1(c)(8); this typographical error is corrected by this notice.

E. Definition of Hazardous Waste

The final rule amended § 261.3(c)(2) to indicate generally that commercial products reclaimed from a hazardous waste are products, not wastes, and so are not subject to the RCRA Subtitle C provisions. When republishing amended § 261.3, however, EPA inadvertently

[1] The Hazardous and Solid Waste Amendments of 1984 (HSWA) amended Section 3010 of the Resource Conservation and Recovery Act (RCRA) to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance.

omitted from the rule a recent amendment to § 261.3(c)(2) indicating that lime neutralized waste pickle liquor sludge from iron and steel operations is not automatically a hazardous waste, even though it is derived from treating a hazardous waste. See 49 *FR* 23284, June 5, 1984. We, therefore, are correcting this technical error in this notice by reprinting § 261.3(c)(2) to reflect the June 5, 1984 amendment.

F. Regulation of Hazardous Waste-Derived Fuels Produced by Petroleum Refineries and Iron and Steel Industry Mills

Many refineries take oil-bearing, listed hazardous wastes from the petroleum refining process and re-introduce them into the refining process. Resulting fuels are defined as hazardous waste fuels both by the January 4 regulations and by RCRA amended section 3004(r). As we discussed in the preamble to the burning and blending rules proposed on January 11, 1985 (50 *FR* at 1684), EPA is currently evaluating whether such recycling of metal-bearing petroleum refining wastes significantly affects the concentration of metals in refinery fuel products. Until these evaluations are completed, we have indicated that it is inappropriate to subject these fuels to regulation. *Id.* at 1689–690.

However, as we discussed in the preamble to the January 4 rules, the transport and storage requirements apply to all hazardous waste fuels containing listed wastes and sludges, except for those produced by a person other than the generator of the waste (see 50 *FR* 632). Consequently, if a generator (*e.g.*, a refiner) of a listed hazardous waste or sludge blends or processes these wastes and sends them to a burner or fuel processor or distributor, the processed fuel is subject to regulation. Our concern was that without such a provision, all a person would have to do with their listed waste or sludge is process it minimally to evade regulation.

As indicated explicity in the January 11 proposed rules, however, we did not intend for the January 4th rule to regulate those fuel oils that are derived from a hazardous waste and are produced at a refinery. We reserved judgment on the need for regulation and raised it as an issue for comment in the January 11 proposal. See 50 *FR* at 1689–690. We believe that these fuels are produced from substantial processing (*i.e.*, petroleum refining) of reintroduced hazardous waste, and thus are *bona fide* waste-derived fuels more like the fuels that are produced by a waste fuel processor (which are currently exempt from regulation) than the wastes that may be processed minimally by other generators. In light of this, and to bring the January 4 rule into conformance with explicit preamble language of the January 11th proposal, we are clarifying this provision by adding a new paragraph (3) to § 266.30(b) to exempt (at this time) those fuel oils produced at a petroleum refinery that are derived from an indigenous petroleum refinery hazardous waste. The language of the exemption parallels RCRA section 3004(r) of the Hazardous and Solid Waste Amendments of 1984 and so applies to fuels produced when a petroleum refinery reintroduces indigenous petroleum refinery hazardous wastes (within the meaning of RCRA section 3004(r) (2) and (3)) to the refining process under the terms set out in those provisions.

EPA also is adding a new paragraph (4) to § 266.30(b) to clarify that hazardous waste-derived coke from the iron and steel industry is not subject to regulation when the only hazardous wastes used in the coke-making process are from iron and steel production. As stated in the preamble to the January 11 proposed regulations, the Agency does not intend to regulate this type of waste-derived coke, at this time. See 50 *FR* at 1690. As with waste-derived petroleum fuels, waste-derived coke is a *bona fide* fuel that has undergone processing, and so is unlike wastes that are processed minimally by a generator. (We note, however, that the coke is exempt only if wastes that are indigenous to the iron and steel making process are used in the coking process. The exemption would not apply, for example, if a steel mill were to take a spent solvent, or other non-indigenous waste, and use it in the coking process.)

G. Exclusion of Black Liquor

In the January 4 publication, EPA amended § 261.4(a) of the regulations to provide that black liquor, a type of spent chemical which is caustic and sometimes corrosive, which is typically reclaimed and reused in the pulpmaking process, is not a solid waste when so reclaimed and reused. The regulatory language limited the applicability of this exclusion to black liquor that is reclaimed and reused in one particular type of pulpmaking process, the Kraft process. Spent pulping liquors (of which black liquor is one type) in fact are generated, reclaimed, and reused in other types of pulpmaking processes as well,[2] and the Agency did not intend to restrict the exclusion solely to the Kraft process. See §260.10, definition of "industrial furnace," where EPA stated that "pulping liquor recovery furnaces" are industrial furnaces, and did not limit the definition to the Kraft pulpmaking process. See 50 FR at 661. Accordingly, we are making a technical correction by modifying this exclusion to make it clear that all spent pulping liquors that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process are to be included in the exclusion.

H. Omission From Small Quantity Generator Provision

The final rule excludes those hazardous wastes that are exempt from regulation when they are to be recycled from the small quantity generator calculation. See 50 FR 652. The rule also excludes spent lead-acid batteries that are to be reclaimed from the small quantity generator calculation (even though they are subject to some regulation) because they are not subject to regulation in the hands of the generator. Precious metal wastes, however, are to be included when making the small quantity generator calculation. See preamble footnote 43 at 50 FR 652.[3] Although this point is clear in the preamble, we inadvertently omitted the reference to precious metal wastes that are reclaimed in the rule. See amended §261.5. This technical error is being corrected in this notice by revising the second sentence in §261.5(c) to read as follows: "Hazardous waste that . . . and Subparts C, D, *and F* of Part 266 is included . . . . of this section." This revision is necessary in order to make it clear that precious metal wastes that are reclaimed are to be included when making the small quantity generator calculation.

I. Hazardous Waste Burned for Energy Recovery

The final rule exempts from regulation (for the time being) those transporters who transport hazardous waste fuel from a marketer to a burner. See § 266.33(b). However, as stated in both the preamble and the rule, generators may be marketers. In addition, as clarified in the preamble, the transport

[2] The various chemical-based pulping processes can be placed into four categories: sulfate (which is the Kraft process), sulfite (ammonia-, calcium-, sodium-, or magnesium-based), semi-chemical (including the neutral sulfite, ammonia carbonate and green liquor processes), and soda (which is similar to the Kraft process, but without sulfur).

[3] Footnote 43 states that although the precious metal wastes that are reclaimed are subject to a reduced set of standards, we believe they should be subject to the small quantity generator calculation since these wastes are subject to regulation in the hands of the generator.

and storage requirements apply to those hazardous waste fuels containing listed wastes and sludges that are shipped from the generator to a burner or blender. See 50 FR 632. If a generator of a listed hazardous waste or sludge blends or processes these wastes and sends them to a burner or a waste fuel processor, the blended waste fuels are subject to regulation until burned or reprocessed by the fuel processor (except as described earlier). Thus, there is a conflict in the regulation, because transporters taking hazardous waste fuels from generators to burners or waste fuel processors are regulated. See § 266.33(a). To correct this conflict, we are revising paragraph (b) of § 266.33 to read as follows: "Transporters of hazardous waste fuel are not presently subject to regulation when they transport hazardous waste fuel from marketers, who are not also the generators, to burners or other marketers."

J. Regulatory Status of Non-Listed Commercial Chemical Products

Under the final rules, commercial chemical products and intermediates, off-specification variants, spill residues, and container residues listed in 40 CFR 261.33 are not considered solid wastes when recycled except when they are recycled in ways that differ from their normal use—namely, when they are burned for energy recovery or used to produce a fuel. A number of questions have been raised as to the regulatory status of commercial chemical products that are not listed in § 261.33 but exhibit one or more of the hazardous waste characteristics (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity).

Although we do not directly address non-listed commercial chemical products in the rules, their status would be the same as those that are listed in § 261.33—That is, they are not considered solid wastes when recycled except when they are recycled in ways that differ from their normal manner of use. This is the same relationship that exists between discarded commercial chemical products that are listed in § 261.33, and those that exhibit a characteristic of hazardous waste. We believe this point is implicit in the rules, as it is implicit in existing §§ 261.3 and 261.33.

K. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirements of a Regulatory Impact Analysis. Since this notice simply makes typographical and technical corrections and does not change the previously approved final rule, this rule is not a major rule and, therefore, no Regulatory Impact Analysis was conducted.

List of Subjects

40 CFR Part 260

Administrative practice and procedure, Hazardous materials, Waste treatment and disposal.

40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

40 CFR Part 266

Hazardous materials.

Dated: April 2, 1985.

Jack W. McGraw,

Assistant Administrator.

For the reasons set out in the preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT SYSTEM: GENERAL

1. The authority citation for Part 260 reads as follows:

Authority: Secs. 1006, 2002(a), 3001 through 3007, and 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921 through 6927, and 6930].

2. In § 260.30, paragraph (a) is revised to read as follows:

§ 260.30 Variances from classification as a solid waste.

* * * * *

(a) Materials that are accumulated speculatively without sufficient amounts being recycled (as defined in § 261.1(c)(8) of this chapter);

* * * * *

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

3. The authority citation for Part 261 reads as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

4. Section 261.3 is amended by revising paragraph (c)(2) to read as follows:

§ 261.3 Definition of hazardous waste.

* * * * *

(c) * * *

(2)(i) Except as otherwise provided in paragraph (c)(2)(ii) of this section, any solid waste generated from the treatment, storage, or disposal of a hazardous waste, including any sludge, spill residue, ash, emission control dust, or leachate (but not including precipitation run-off) is a hazardous waste. (However, materials that are reclaimed from solid wastes and that are used beneficially are not solid wastes and hence are not hazardous wastes under this provision unless the reclaimed material is burned for energy recovery or used in a manner constituting disposal.)

(ii) The following solid wastes are not hazardous even though they are generated from the treatment, storage, or disposal of a hazardous waste, unless they exhibit one or more of the characteristics of hazardous waste: (A) Waste pickle liquor sludge generated by lime stabilization of spent pickle liquor from the iron and steel industry (SIC Codes 331 and 332).

* * * * *

5. Section 261.4 is amended by revising paragraph (a)(6) to read as follows:

§ 261.4 Exclusions.

(a) * * *

(6) Pulping liquors (*i.e.*, black liquor) that are reclaimed in a pulping liquor recovery furnace and then reused in the pulping process, unless it is accumulated speculatively as defined in § 261.1(c) of this chapter.

* * * * *

6. Section 261.5 is amended by revising the second sentence in paragraph (c) to read as follows:

§ 261.5 Special requirements for hazardous waste generated by small quantity generators.

* * * * *

(c) * * * Hazardous waste that is subject to the requirements of § 261.6 (b) and (c) and Subparts C, D, and F of Part 266 is included in the quantity determination of this section and is subject to the requirements of this section.

* * * * *

PART 266—STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE MANAGEMENT FACILITIES

7. The authority citation for Part 266 reads as follows:

Authority: Secs. 1006, 2002(a), and 3004 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), and 6924].

8. In § 266.30, paragraphs (b) (3) and (4) are added to read as follows:

§ 266.30 Applicability.

* * * * *

(b) * * *

(3) Hazardous waste fuels that are exempt from the labeling requirements of RCRA Section 3004(r).

(4) Coke from the iron and steel industry that contains hazardous waste from the iron and steel production process.

* * * * *

9. Section 266.33 is amended by revising paragraph (b) to read as follows:

§ 266.33 Standards applicable to transporters of hazardous waste fuel.

* * * * *

(b) Transporters of hazardous waste fuel are not presently subject to regulation when they transport hazardous wastes fuel from marketers, who are not also the generators of the waste, to burners or other marketers.

* * * * *

[FR Doc. 85-8585 Filed 4-10-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 201

[FIRMR Temp. Reg. 12]

Establishing Integrated Records Management Provisions for the Federal Information Resources Management Regulation (FIRMR)

AGENCY: Office of Information Resources Management, GSA

ACTION: Temporary regulation.

SUMMARY: This regulation establishes FIRMR Parts 201-22, Records Management Programs, and 201-45, Management of Records. This regulation consists of those provisions of Federal Property Management Regulations (FPMR) Part 101-11, Records Management, for which GSA will continue to be responsible after April 1, 1985, when the National Archives and Records Service (NARS) becomes an independent agency to be known as the National Archives and Records Administration (NARA). The subject matter includes the management of mail, files, records, directives, forms, reports, micrographics, copy, correspondence, and records equipment and supplies. Regulations governing records disposition and adequacy of documentation are not included in this temporary regulation since NARA will be responsible for those areas, effective April 1, 1985. Except as noted no substantive changes have been made in authorities, policies, or procedures from those contained in FPMR Part 101-11, from which these provisions are derived.

DATES: *Effective date:* April 1, 1985. *Expiration date:* December 31, 1986. *Comments are due:* April 30, 1985.

ADDRESS: Comments should be submitted to the General Services Administration, Office of Information Resources Management, Policy Branch (KMPP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: David R. Mullins, Policy Branch (KMPP), telephone (202) 566-0194 or FTS, 566-0194.

SUPPLEMENTARY INFORMATION: (1) Public Law 98-497, the National Archives and Records Administration Act of 1984, was signed on October 19, 1984. Under the act, NARS will become an independent agency known as The National Archives and Records Administration (NARA), effective April 1, 1985. As a result, responsibility for the administration of the provisions now contained in FPMR Part 101-11 will be divided between GSA and NARA. This regulation incorporates into the FIRMR those provisions of FPMR Part 101-11 which promote economy and efficiency in records management. NARA intends to establish a regulation in 36 CFR XII that will include the FPMR provisions that address records disposition and adequacy of documentation. A subsequent FPMR amendment will rescind the provisions now in FPMR Part 101-11.

(2) The FIRMR was initially established effective April 1, 1984 (49 FR 20994 May 17, 1984). The integrated text, consisting of the provisions governing ADP and telecommunications procurement and management previously contained in FPMR Subpart 101-35, 36, and 37, and Federal Procurements Regulations (FPR) Subparts 1-4.11, 1-4.12, and 1-4.13, was published in the **Federal Register** on January 30, 1985. This issuance integrates the third IRM component (records management) for which GSA is responsible into the FIRMR text.

(3) The intent of this regulation is to reformat the FPMR provision into the FIRMR format and numbering system and to make editorial changes to accurately reflect the current organizational structure within GSA's Office of Information Resources Management and the division of responsibilities between NARA and GSA. Otherwise, substantive changes from the text now appearing in the FPMR are contained only in § 201-45.104, Forms management; Subpart 201-45.5, Standard and Optional Forms Management Programs; and Subpart 201-45.6, Interagency Reports Management Program. These provisions represent the reconciled versions of proposed FPMR amendments that were previously circulated for public comments. Due to the enactment of Public Law 98-497 and its April 1, 1985, effective date, the proposed changes were not issued as FPMR amendments and are included in this temporary regulation.

(4) Pursuant to section 22(d) of the Office of Federal Procurement Policy Act (section 302(a) of Pub. L. 98-577), the publication of proposed rules has been waived because of the necessity to implement Pub. L. 98-497 effective April 1, 1985.

(5) However, notice of proposed rulemaking regarding this action (as a FIRMR amendment) was published in the **Federal Register** (50 FR 6970, February 19, 1985) with comments due by March 21, 1985. Comments received on the amendment are being reconciled, and a FIRMR amendment is being prepared to replace this temporary regulation. Although the deadline for comments on the amendment has passed any comments on this temporary issuance received before April 30, 1985, will be considered to the maximum practicable extent in preparation of the final amendment.

(6) This regulation was developed in coordination with the Archivist of the United States in accordance with § 201-1.201(a).

(7) The General Services Administration has determined that this rule is not a major rule for 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.

(8) *Derivation Tables for Individual Parts.*

FIRMR sections	FPMR sources
Derivation Table for Part 201-22	
201-22.000	101-11.000
201-22.001	101-11.101
201-22.001-1	101-11.101-1
201-22.001-2	101-11.101-2
201-22.001-3	None
201-22.001-4	101-11.103-1
	101-11.104
201-22.002	101-11.102
201-22.002-1	101-11.102-1
201-22.002-2	101-11.102-2
201-22.002-3	101-11.102-3

FIRMR sections	FPMR sources
201-22.002-4	101-11.102-4
201-22.002-5	101-11.102-6
201-22.003	101-11.103
201-22.003-1	101-11.103-2
201-22.003-2	101-11.103-3
201-22.003-3	101-11.103-4

Derivation Table for Part 201-45

201-45.100	101-11.200
201-45.101	101-11.201
201-45.101-1	101-11.201-1
201-45.102	101-11.206
201-45.102-1	101-11.206-1
201-45.102-2	101-11.206-3
201-45.102-3	101-11.206-4
201-45.103	101-11.207
201-45.103-1	101-11.207-1
201-45.103-2	101-11.207-3
201-45.103-3	101-11.207-4
201-45.104	101-11.208
201-45.104-1	None
201-45.104-2	None
201-45.104-3	101-11.208-1
201-45.104-4	None
201-45.104-5	101-11.208-3
	101-11.208-4
201-45.105	101-11.209
201-45.105-1	101-11.209-1
201-45.105-2	101-11.209-2
201-45.105-3	101-11.209-4
201-45.105-4	101-11.209-5
201-45.105-5	101-11.209-6
201-45.106	101-11.210
201-45.106-1	101-11.210-1
201-45.106-2	101-11.210-3
201-45.106-3	101-11.210-4
201-45.201	101-11.301
201-45.201-1	101-11.301-1
201-45.201-2	101-11.301-2
201-45.202	101-11.302
201-45.202-1	101-11.302-1
201-45.202-2	101-11.302-2
201-45.202-3	101-11.302-4
201-45.202-4	101-11.302-5
201-45.203	101-11.304
201-45.203-1	101-11.304-1
201-45.203-2	101-11.304-3
201-45.203-3	101-11.304-4
201-45.204	101-11.305
201-45.204-1	101-11.305-1
201-45.204-2	None
201-45.204-3	101-11.305-3
	101-11.305-4
201-45.205	101-11.306
201-45.205-1	101-11.306-1
201-45.205-2	101-11.306-3
	101-11.306-4
201-45.300	101-11.500
201-45.301	101-11.501
201-45.302	101-11.503
201-45.303	101-11.504
201-45.304	101-11.505
201-45.401	101-11.603
201-45.401-1	101-11.603-1
201-45.401-2	101-11.603-3
201-45.401-3	101-11.603-4
201-45.401-4	101-11.603-5
201-45.401-5	101-11.603-6
201-45.401-6	101-11.603-7
201-45.401-7	101-11.603-8
201-45.401-8	101-11.603-9
201-45.401-9	101-11.603-10
201-45.401-10	101-11.603-11
201-45.401-11	101-11.603-12
201-45.401-12	101-11.603-13
201-45.401-13	101-11.603-14
201-45.401-14	101-11.603-15
201-45.500	101-11.800
201-45.500-1	101-11.800-1
201-45.501	101-11.801
201-45.502	101-11.803
201-45.503	101-11.804
201-45.504	101-11.805
201-45.504-1	101-11.805-1
	101-11.805-2
201-45.504-2	101-11.805-1
	101-11.805-2
201-45.505	101-11.806-8
201-45.505-1	None
201-45.506	101-11.806-7
201-45.507	101-11.806-6
201-45.508	101-11.806-6
201-45.509	101-11.806-1
201-45.510	101-11.806-1
201-45.510-1	101-11.806-1
201-45.510-2	101-11.806-1
201-45.510-3	None
201-45.511	101-11.808
201-45.512	101-11.606-3
201-45.513	None
201-45.514	101-11.807
201-45.600	101-11.1100
201-45.601	101-11.1101
201-45.602	101-11.1100-1
201-45.603	101-11.1103
201-45.604	101-11.1105-1
201-45.605	101-11.1105-3
201-45.606	101-11.1105-2
201-45.607	101-11.1106-3
201-45.608	101-11.1106-2
201-45.609	101-11.1107
201-45.609-1	101-11.1107-1
201-45.609-2	101-11.1107-2
201-45.609-3	101-11.1107-5
201-45.610	None
201-45.610-1	101-11.1107-6
	101-45.1107-7
201-45.610-2	101-11.1107-8
201-45.611	101-11.1108
201-45.700	101-11.4900
201-45.701	101-11.4912
201-45.702	101-11.4913
201-45.703	101-11.4914
201-45.704	101-11.4915
201-45.705	101-11.4916
201-45.706	None
201-45.707	101-11.4920
201-45.708	101-11.4922
201-45.800	101-11.1000
201-45.801	101-11.1001
201-45.802	101-11.1002
201-45.803	101-11.1003
201-45.804	101-11.1004
201-45.805	101-11.1005

(9) *Distribution Table.*

In the following tables the designation, "NARA," means that the cited FPMR material is the responsibility of the National Archives and Records Administration under Pub. L. 98-497.

FPMR sources	FIRMR sections

Distribution Table for Part 201-22

101-11.000	201-22.000
101-11.001	201-22.001
101-11.101-1	201-22.001-1
101-11.101-2	201-22.001-2
101-11.101-3	201-2.001
101-11.101-4	201-22.001-4
101-11.101-5	Deleted
101-11.102	201-22.002
101-11.102-1	201-22.002-1
101-11.102-2	201-22.002-2
101-11.102-3	201-22.002-3
101-11.102-4	201-22.002-4
101-11.102-5	NARA
101-11.102-6	201-22.002-5
101-11.103	201-22.003
101-11.103-1	201-22.001-4
101-11.103-2	201-22.003-1
101-11.103.3	201-22.003-2
101-11.103-4	201-22.003-3
101-11.104	201-22.001-4

Distribution Table for Part 201-45

101-11.200	201-45.100
101-11.201	201-45.101
101-11.201-1	201-45.101-1
101-11.202	NARA
101-11.202-1	NARA
101-11.202-2	NARA
101-11.203	NARA
101-11.203-1	NARA
101-11.203-2	NARA
101-11.204	Deleted
101-11.205	Deleted
101-11.206	201-45.102
101-11.206-1	201-45.102-1
101-11.206-2	201-45.001
101-11.206-3	201-45.102-2
101-11.206-4	201-45.102-3
101-11.207	201-45.103
101-11.207-1	201-45.103-1
101-11.207-2	201-45.001
101-11.207-3	201-45.103-2
101-11.207-4	201-45.103-3
101-11.208	201-45.104
101-11.208-1	201-45.104-1
101-11.208-2	201-45.104-2
101-11.208-3	201-2.001
101-11.208-4	201-45.104-3
101-11.208-5	201-45.104-4
101-11.208-6	201-45.104-5
101-11.209	201-45.105
101-11.209-1	201-45.105-1
101-11.209-2	201-45.105-2
101-11.209-3	201-2.001
101-11.209-4	201-45.105-3
101-11.209-5	201-45.105-4
101-11.209-6	201-45.105-5
101-11.210	201-45.106
101-11.210-1	201-45.106-1
101-11.210-2	201-2.001
101-11.210-3	201-45.106-2
101-11.210-4	201-45.106-3
101-11.301	201-45.201
101-11.301-1	201-45.201-1
101-11.301-2	201-45.201-2
101-11.302	201-45.202
101-11.302-1	201-45.202-1
101-11.302-2	201-45.202-2
101-11.302-3	201-2.001
101-11.302-4	201-45.202-3
101-11.302-5	201-45.202-4
101-11.303	None
101-11.304	201-45.203
101-11.304-1	201-45.203-1
101-11.304-2	201-45.001
101-11.304-3	201-45.203-2
101-11.304-4	201-45.203-3
101-11.305	201-45.204
101-11.305-1	201-45.204-1
101-11.305-2	201-45.001
101-11.305-3	201-45.204-3
101-11.305-4	201-45.204-3
101-11.306	201-45.205
101-11.306-1	201-45.205-1
101-11.306-2	201-2.001
101-11.306-3	201-45.205-2
101-11.320-4	201-45.205-2
101-11.320	NARA
101-11.321	NARA
101-11.322	NARA
101-11.323	NARA
101-11.324	NARA
101-11.325	NARA
101-11.326	NARA
101-11.327	NARA
101-11.328	NARA
101-11.329	NARA
101-11.401	NARA
101-11.402	NARA
101-11.403	NARA
101-11.404	NARA
101-11.405	NARA
101-11.406	NARA
101-11.407	NARA
101-11.408	NARA
101-11.409	NARA
101-11.410	NARA
101-11.411	NARA
101-11.412	NARA
101-11.500	201-45.300
101-11.501	201-45.301
101-11.502	201-2.001
101-11.503	201-45.302
101-11.504	201-45.303
101-11.505	201-45.304
101-11.506	NARA
101-11.507	NARA
101-11.508	NARA
101-11.509	NARA
101-11.510	NARA
101-11.601	Deleted
101-11.602	Deleted
101-11.603	201-45.401
101-11.603-1	201-45.401-1
101-11.603-2	201-45.401-2
101-11.603-3	201-2.001
101-11.603-4	201-45.401-3
101-11.603-5	201-45.401-4
101-11.603-6	201-45.401-5
101-11.603-8	201-45.401-7
101-11.603-9	201-45.401-8

FPMR sources	FIRMR sections
101-11.603-10	201-45.401-9
101-11.603-11	201-45.401-10
101-11.603-12	201-45.401-11
101-11.603-13	201-45.401-12
101-11.603-14	201-45.401-13
101-11.603-15	201-45.401-14
101-11.701	NARA
101-11.701-1	NARA
101-11.701-2	NARA
101-11.701-3	NARA
101-11.701-4	NARA
101-11.701-5	NARA
101-11.701-6	NARA
101-11.800	201-45.500
101-11.800-1	201-45.500-1
101-11.801	201-45.501
101-11.802	201-2.001
101-11.803	201-45.502
101-11.804	201-45.503
101-11.805	201-45.504
101-11.805-1	201-45.504-1 201-45.504-2
101-11.805-2	201-45.504-1 201-45.504-2
101-11.806	Deleted
101-11.806-1	201-45.509 201-45.510-1 201-45.510-2
101-11.806-2	Deleted
101-11.806-3	201-45.512
101-11.806-4	Deleted
101-11.806-5	Deleted
101-11.806-6	201-45.507
101-11.806-7	201-45.506
101-11.806-8	201-45.505 201-45.505-1
101-11.807	201-45.514
101- 1.808	201-45.511
101-11.9	Deleted
101-11.1000	201-45.800
101-11.1001	201-45.801
101-11.1002	201-45.802
101-11.1003	201-45.803
101-11.1004	201-45.804
101-11.1005	201-45.805
101-11.1100	201-45.600
101-11.1100-1	201-45.602
101-11.1101	201-45.601
101-11.1102	201-45.001
101-11.1102-1	201-2.001
101-11.1102-2	201-2.001
101-11.1102-3	201-2.001
101-11.1102-4	201-2.001
101-11.1102-5	201-2.001
101-11.1102-6	201-2.001
101-11.1102-7	201-2.001
101-11.1103	201-45.603
101-11.1104	201-45.604
101-11.1105	Deleted
101-11.1105-1	201-45.604
101-11.1105-2	201-45.606
101-11.1105-3	201-45.605
101-11.1106	Deleted
101-11.1106-1	Deleted
101-11.1106-2	201-45.608
101-11.1106-3	201-45.607
101-11.1107	201-45.609
101-11.1107-1	201-45.609-1
101-11.1107-2	201-45.609-2
101-11.1107-3	Deleted
101-11.1107-4	Deleted
101-11.1107-5	201-45.609-3
101-11.1107-6	201-45.610-1
101-11.1107-7	201-45.610-1
101-11.1107-8	201-45.610-2
101-11.1107-9	Deleted
101-11.1108	201-45.611
101-11.1109	Deleted
101-11.12	(1)
101-11.13	NARA
101-11.4900	201-45.700
101-11.4901	NARA
101-11.4902	NARA
101-11.4903	NARA
101-11.4904	NARA
101-11.4905	NARA
101-11.4906	NARA
101-11.4907	NARA
101-11.4908	NARA
101-11.4909	NARA
101-11.4910	NARA
101-11.4911	None
101-11.4912	201-45.701
101-11.4913	201-45.702
101-11.4914	201-45.703
101-11.4915	201-45.704
101-11.4916	201-45.705
101-11.4917	Deleted
101-11.4918	Deleted
101-11.4919	Deleted
101-11.4920	201-45.707
101-11.4921	NARA
101-11.4922	201-45.708
101-11.4930-248	NARA
101-11.4930-248-A	Deleted
101-11.4930-249	Deleted
101-11.4930-249-A	Deleted
101-11.4930-250	Deleted
101-11.4930-252	NARA
101-11.4931	NARA
101-11.4932	NARA

[1] To be rescinded (see 41 CFR 101-6.10).

List of Subjects

41 CFR Part 201-2

Government procurement, Government property management, Government records management.

41 CFR Part 201-22

Government records management.

41 CFR Part 201-45

Government records management.

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

FIRMR Temporary Regulation 12

April 1, 1985.

To: Heads of Federal agencies.

Subject: Establishing integrated records management provisions for the FIRMR

1. *Purpose:* This regulation establishes FIRMR Parts 201-22, Records Management Programs, and 201-45, Management of Records. This regulation consists of those provisions of Federal Property Management Regulations (FPMR) Part 101-11, Records Management, for which GSA will continue to be responsible after April 1, 1985, when the National Archives and Records Service (NARS) becomes an independent agency to be known as the National Archives and Records Administration (NARA). The subject matter includes the management of mail, files, records, directives, forms, reports, micrographics, copy, correspondence, and records equipment and supplies. Regulations governing records disposition and adequacy of documentation are not included in this temporary regulation since NARA will be responsible for those areas, effective April 1, 1985. Except as noted no changes have been made in authorities, policies, or procedures from those contained in FPMR Part 101-11, from which these provisions are derived.

2. *Effective date:* This regulation is effective April 1, 1985.

3. *Expiration date:* This regulation expires December 31, 1986.

4. *Background:*

a. Public Law 98-497, the National Archives and Records Administration Act of 1984, was signed on October 19, 1984. Under the act, NARS will become an independent agency known as The National Archives and Records Administration (NARA), effective April 1, 1985. As a result, responsibility for the administration of the provisions now contained in FPMR Subpart 101-11 will be divided between GSA and NARA. This regulation incorporates into the FIRMR those provisions of FPMR Subpart 101-11 which promote economy and efficiency in records management. NARA intends to establish a regulation that will include the FPMR provisions that address records disposition and adequacy of documentation. A subsequent FPMR amendment will rescind the provisions now in FPMR Subpart 101-11.

b. The FIRMR was initially established effective April 1, 1984 (49 FR 20994 May 17, 1984). The integrated text, consisting of the provisions governing ADP and telecommunications procurement and management previously contained in FPMR Subparts 101-35, 36, and 37, and Federal Procurements Regulations (FPR) Subparts 1-4.11, 1-4.12, and 1-4.13, was published in the **Federal Register** on January 30, 1985. This issuance integrates the third IRM component (records management) for which GSA is responsible into the FIRMR text.

c. The intent of this regulation is to reformat the FPMR provisions into the FIRMR format and numbering system and to make editorial changes to accurately reflect the current organizational structure within GSA's Office of Information Resources Management and the division of responsibilities between NARA and GSA. Otherwise, substantive changes from the text now appearing in the FPMR are contained only in § 201-45.104, Forms management; Subpart 201-45-5, Standard and Optional Forms Management Program; and Subpart 201-45-6, Interagency Reports Management Program. These sections represent the reconciled versions of proposed FPMR amendments that were previously circulated for public comments. Due to the enactment of Pub. L. 98-497 and its April 1, 1985, effective date, the proposed changes were not issued as FPMR amendments and are included in this temporary regulation.

5. *Explanation of changes.*

PART 201-2—[AMENDED]

a. Section 201-2.001 is amended by adding (alphabetically) definitions as follows:

§ 201-2.001 Definitions.

* * * * *

"ADP records management" means maintaining a current file-by-file inventory of machine-readable records and the accompanying documentation for each file and maintaining these files in a facility in conformance with § 201-34.006-3 while carrying out periodic checks to verify readability. Documentation of ADP records consists of functional and operational flow charts, physical file characteristics, recording mode information including basic coding structure (code books), recording system information, record layouts, printout plans (formats), and basic run instructions (run books).

* * * * *

"Computer output microfilm (COM)"—see "Microfilm terms."

* * * * *

"Continuation sheet"—see "Stationery terms."

* * * * *

"Copier" means a machine that creates paper copies directly without requiring the creation of an intermediate master for each original.

"Copy" means a duplicate of a document previously created.

"Copying" means the making of copies whether by copier or duplicator.

"Correspondence" means letters, form letters, telegrams, memoranda, endorsements, summary sheets, postal cards, memo routing slips, and other written communications.

* * * * *

"Directive" means a written communication that initiates or governs action, conduct, or procedure. Directives are often issued as circulars, notices, regulations, orders, and handbooks, and include materials usually issued to multiple addressees in multiple copies for insertion in policy, administrative, or operations manuals. News releases, program announcements, catalogs, price lists, training materials, and correspondence are not included.

"Directives management" means the effective and efficient development of controlled directives and their distribution, use, maintenance, and disposition.

"Duplicator" means a machine that produces paper copies through the use of an intermediate master.

* * * * *

"Exception" means GSA approval for an agency to change the content, format or printing specifications of a Standard or Optional form. (Exceptions are not waivers.) Content exceptions apply to Standard forms only, while format and printing exceptions apply to both Standard and Optional forms.

(a) Content exceptions are changes to the data elements of a form (i.e., additions, deletions, or revisions).

(b) Format exceptions are changes made by rearranging the data elements or spacing of entries on a form without change to the data elements.

(c) Printing exceptions are changes in the printing specifications of a form (e.g., changes to paper, including size, and the establishment of sets and marginally punched constructions) that result in no changes in content or format.

* * * * *

"External directive" means officially prescribed guidance issued to a primary audience outside the originating agency.

* * * * *

"Facility"—see "Microfilm terms."

"File" means an arrangement of records. The term is used to denote papers, photographs, photographic copies, maps, machine-readable information, or other recorded information regardless of physical form or characteristics, accumulated or maintained in filing equipment, boxes, or machine-readable media, or on shelves, and occupying office or storage space.

* * * * *

"Flat"—see "Stationery terms."

"Form" means a fixed arrangement of captioned spaces designed for entering and extracting prescribed information, including ADP systems forms. (See definition of non-form item.) Examples of ADP systems forms are:

(a) Paper forms designed to collect data for computer input; and

(b) Form layouts that are:

(1) Preprinted on continuous feed computer paper;

(2) Contained on overlays used to generate formatted computer outputs; or

(3) Programed by a Federal agency and printed by a computer.

"Format" means a guide, table, sample, or exhibit that illustrates a predetermined arrangement or layout for presenting data.

"Foundry type fonts"—see "Stationery terms."

* * * * *

"Interagency Report" means a reporting requirement imposed by an agency on one or more other agencies. Operating documents are excluded.

"Interagency reports coordinator" means the official appointed by the agency senior official designated under the Paperwork Reduction Act of 1980 to—

(a) Serve as the liaison between agency offices, components, other agencies, and GSA on interagency reporting matters;

(b) Clear and evaluate each request for a new, revised, or extended interagency report before signing and submitting Standard Form 360, Request for Clearance of an Interagency Reporting Requirement (§ 201-45.4922);

(c) Coordinate the agency response to requests from other agencies for cost estimates of new or revised interagency reports; and

(d) Maintain the official agency records on interagency reports.

* * * * *

"Internal directive" means an officially prescribed intra-agency policy or procedure, delegation of authority, or assignment of responsibility.

* * * * *

"Internal reporting requirement" means any requirement that involves reports prepared and used solely within a department or agency covered by Title 44, United States Code.

* * * * *

"Letterhead"—see "Stationery terms."

"Lettersize envelopes"—see "Stationery terms."

"Mail" means letters, telecommunications, memoranda, post cards, documents, packages, publications, and other communications received for distribution or dispatch.

* * * * *

"Manifold carbon tissue set"—see "Stationery terms."

* * * * *

"Microfilm"—see "Microfilm terms."

"Microfilm terms" include—

(a) "Computer Output Microfilm (COM)" means microfilm containing data produced by a recorder from computer generated signals.

(b) "Facility" means an area set aside for equipment and operations required in the production or reproduction of microforms either for internal use or for the use of other organizational elements of the Federal Government.

(c) "Microfilm" means (1) Raw (unexposed and unprocessed) film with characteristics that make it suitable for use in micrographics;

(2) The process of recording microimages on film; and

(3) A fine grain, high resolution photographic film containing an image greatly reduced in size from the original.

(d) "Microform" means a term used for any form containing microimages.

(e) "Micrographics" means the science and technology of document and

information microfilming and associated microform systems.

(f) "Microimage" means a unit of information, such as a page of text or a drawing, that has been made too small to be read without magnification.

(g) "Micrographic system" means a configuration of equipment and procedures for the production, reproduction, maintenance, storage, retrieval, display, or use of microforms. A micrographic system may involve one or more, but not necessarily all, of the functions listed above.

"Microfilm"—see "Microfilm terms."

"Micrographic system"—see "Microfilm terms."

"Micrographics"—see "Microfilm terms."

"Microimage"—see "Microfilm terms."

* * * * *

"Non-form item" means a printed product without spaces for entering information. Such items (instruction sheets and bulletins, pamphlets, notices, contract clause sheets, placards, certain tags and labels, pattern letters, guide letters, and form letters, etc.) may be assigned form numbers and controlled through the forms management program for referencing, printing, stocking, and distributing, but are excluded from statistical reporting of forms, and are identified as non-form or other items.

"Operating document" means a completed form or other document used to facilitate, accomplish, or provide a description or record of a transaction, function, or event. The information in an operating document may provide data (or input) for a report, but that is not its primary purpose. Examples are application forms, purchase orders, bills of lading, personnel actions, inspection or audit reports, and reports that involve direct command and control of military forces or cryptological activities related to national security.

"Optional form" means a form developed by a Federal agency for use in two or more agencies and approved by GSA for nonmandatory Government-wide use.

* * * * *

"Overprinting" means the printing of pertinent identical entries (e.g., agency name and address, accounting codes and organization codes) in a captioned area on a Standard or Optional form. Overprints are not exceptions.

* * * * *

"Promulgating agency" means any Federal agency that develops a Standard form as defined in this § 201-2.001 and prescribes the mandatory Government-wide use of that form in a regulation.

* * * * *

"Records, as used in Parts 201-22 and 201-45", means all books, papers, maps, photographs, machine readable materials, or other documentary materials, regardless of physical forms or characteristics, made or received by an agency of the United States Government under Federal law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Government or because of the informational value of the data in them. Library and museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of processed documents are not included (44 U.S.C. 3301).

"Records equipment and supplies, as used in Part 201-45" means file cabinets, shelf files, mail handling equipment, visible files, mechanized files, file guides, folders, jackets, wallets, microfilm, microfiche, magnetic tape, magnetic disks, and similar items used in the creation and maintenance of records and in mail handling. A program for managing equipment and supplies should also include desk-top office computers and dictating equipment.

"Records management" means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations (44 U.S.C. 2901(2)).

* * * * *

"Report" means data or information which is transmitted for use in determining policy; planning, controlling, and evaluating operations and performance; making administrative decisions or preparing other reports. The data or information may be in narrative, statistical, graphic, or other form and may be on paper, magnetic tapes, or other media.

"Report form" means a special category of form that is designed for collecting identical information from persons or organizations either inside or outside the collecting agency.

"Reporting" means the process by which data or information for a report is collected, organized, transmitted, and retained.

* * * * *

"Sponsoring agency" means any Federal agency that develops an Optional form as defined in this § 201-2.001.

"Standard form" means a form prescribed by a Federal agency, pursuant to its authority, and approved by GSA for mandatory Government-wide use.

* * * * *

"Stationery"—see "Stationery terms."

"Stationery terms" include—

(a) "Continuation sheet" means the second or succeeding page of a letter.

(b) "Flat" envelope, also called "oversize" envelope, means a rectangular envelope that exceeds one or more of the maximum dimensions for lettersize envelopes, but does not exceed 15 inches in length, or 12 inches in height, or .75 inches in thickness.

(c) "Foundry type fonts" means those fonts readily available at no additional cost for printing stationery.

(d) "Letterhead" means paper, showing agency identification, used for official correspondence. Identification includes name, acronym, logo, seal, code, and/or address affixed by printing, engraving, embossing, typing, stamping, or other labeling.

(e) "Lettersize envelopes" means rectangular envelopes with minimum dimensions of 5 inches in length, 3.5 inches in height, and .007 inches in thickness and maximum dimensions of 11.5 inches in length, 6.125 inches in height, and .25 inches in thickness.

(f) "Manifold carbon tissue set" means a tissue sheet attached to a one-time carbon sheet and is commonly called "tissue."

(g) "Stationery" means paper products used in correspondence, such as letterhead, continuation sheets, manifold carbon tissue sets, carbon paper, carbonless paper, memorandums, post cards, and envelopes.

* * * * *

b. Part 201-22 is added to read as follows:

PART 201-22—RECORDS MANAGEMENT PROGRAMS

Sec.

Sec.
201-22.002 Agency responsibilities.
201-22.002-1 Authority.
201-22.002-2 Program content.
201-22.002-3 Creation of records.
201-22.002-4 Organization, maintenance, and use of records.
201-22.002-5 Liaison offices.
201-22.003 Agency program evaluation.
201-22.003-1 Evaluation by GSA.
201-22.003-2 Agency internal evaluation.
201-22.003-3 Agency evaluation review and followup procedures.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-22.000 Scope and objectives of part.

(a) This part prescribes policies and promulgates standards, procedures, and techniques for the economical and efficient management of Federal agencies' records.

(b) This part is intended to promote economy and efficiency in records creation, maintenance, and use, and to help achieve the information resources management goals of the Paperwork Reduction Act of 1980 to:

(1) Reduce the paperwork burden the Federal Government imposes on the public;

(2) Reduce the cost to executive agencies of collecting, managing, and disseminating information;

(3) Maximize the usefulness of information collected by executive agencies;

(4) Make Federal information policies and practices uniform; and

(5) Ensure that the collection, maintenance, use, and dissemination of information by the Federal Government is consistent with applicable laws relating to confidentiality, including the Privacy Act.

§ 201-22.001 General provisions.

§ 201-22.001-1 Authority.

The regulations in this part are pursuant to the authority contained in the records provisions of 44 U.S.C. 2904.

§ 201-22.001-2 Applicability.

The regulations in this part apply to all Federal agencies as defined in § 201-2.001.

§ 201-22.001-3 Responsibility for records management programs.

Public Law 98-497 (effective April 1, 1985) amends the records management statutes to divide records management responsibilities between the Administrator of General Services and the Archivist of the United States as head of the National Archives and Records Administration (NARA). Under the Act, the Administrator of General Services remains responsible for promoting economy and efficiency in records management. The Archivist is responsible for records disposition and adequacy of documentation. GSA regulations are in this Part 201-22 and in Part 201-45. NARA regulations are in 36 CFR XII. Agency heads are responsible for records programs which must be in compliance with regulations promulgated by both NARA and GSA.

§ 201-22.001-4 GSA responsibilities.

(a) Section 2904 of Title 44, United States Code requires the Administrator of General Services to provide guidance and assistance to Federal agencies to ensure economical and effective records management by agencies. In providing such guidance and assistance, the Administrator shall have the responsibility to:

(1) Promote economy and efficiency in the selection and use of space, staff, equipment, and supplies for records management;

(2) Promulgate standards, procedures, and guidelines with respect to records management and records management studies;

(3) Conduct research with respect to the improvement or records management practices and programs;

(4) Collect and disseminate information on training programs, technological developments, and other activities relating to records management;

(5) Establish such interagency committees and boards as necessary to provide an exchange of information among Federal agencies with respect to records management;

(6) Direct the continuing attention of Federal agencies and the Congress on the need for adequate policies governing records management;

(7) Conduct records management studies and designate the heads of executive agencies to conduct records management studies with respect to establishing systems and techniques designed to save time and effort in records management;

(8) Conduct inspections or surveys of the records and the records management programs and practices within and between Federal agencies; and

(9) Report to the Congress and to the Director of the Office of Management and Budget each year, and at such time or times as the Administrator may deem desirable, on the results of the foregoing activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by the Administrator, and to the extent practicable, estimates of costs to the Government resulting from the failure of agencies to implement such recommendations.

(b) Section 3513 of Title 44 of the United States Code (The Paperwork Reduction Act of 1980, Pub. L. 96-511) requires the Administrator of General Services to assist the Director of the Office of Management and Budget in selectively reviewing at least once every 3 years, the information management activities of each executive agency.

§ 201-22.002 Agency responsibilities.

§ 201-22.002-1 Authority.

Section 3102 of Title 44 of the United States Code requires the head of each Federal agency to establish and maintain an active, continuing program for the economical and efficient management of agency records.

§ 201-22.002-2 Program content.

Agency programs shall, among other things, provide for:

(a) Effective controls over the creation, the organization, maintenance and use of all agency records.

(b) Cooperation with GSA in developing and applying standards, procedures, and techniques designed to improve the management of records and ensure the maintenance and security of records.

(c) Compliance with the provisions of Title 44 of the United States Code and with the regulations issued thereunder.

§ 201-22.002-3 Creation of records.

Adequate records management controls over the creation of agency records shall be instituted to ensure that agency functions are adequately and properly documented; that routine operational paperwork is kept to a minimum; and that the accumulation of unnecessary files is prevented. Effective techniques to be applied in this area include the application of systems for the control of correspondence, forms, directives and issuances, and reports; the minimizing of duplicate files, and the disposal without filing of transitory material that has no value for record purposes.

§ 201-22.002-4 Organization, maintenance, and use of records.

Provision shall be made for the continued analysis and improvement of such matters as mail handling and routing, record classification and indexing systems, the use of filing equipment and supplies, the reproduction and transportation of records, and work production standards relating thereto, to insure that records are maintained economically and

efficiently and in such a manner that their maximum usefulness is attained.

§ 201-22.002-5 Liaison offices.

An office or offices within each Federal agency shall be assigned specific responsibility for the development of the records management program. The office to which the major responsibility is assigned shall be reported to the General Services Administration (KL), Washington, DC 20405.

§ 201-22.003 Agency program evaluation.

§ 201-22.003-1 Evaluation by GSA.

Agency programs for controlling the creation, maintenance, and use of current records will be inspected periodically by GSA (see also § 201-22.001-4(b)). The objectives of these inspections are to:

(a) Determine agency compliance with the regulations set forth in this Part 201-22 and Part 201-45.

(b) Evaluate the effectiveness of agency records management programs and practices.

§ 201-22.003-2 Agency internal evaluation.

Each agency should periodically inspect the records management programs within the agency, with the frequency and depth permitted by the agency's resources. These inspections should have objectives similar to those listed in § 201-22.003-1, and should be designed to complement the inspections performed by GSA. Criteria for agency self-inspection are available from GSA (KL), Washington, DC 20405.

§ 201-22.003-3 Agency evaluation review and followup procedures.

(a) A Federal agency has a maximum of 60 calendar days to comment on the factural content of a draft evaluation report.

(b) A Federal agency shall submit an action plan to the Assistant Administrator for Information Resources Management implementing the recommendations in an evaluation report not later than 90 calendar days after the date of transmittal of the final report to the agency. The agency action plan shall include:

(1) Specific action(s) the agency plans to take on each evaluation report recommendation. If an agency does not plan to implement a recommendation, the rationale for not acting shall be documented in the action plan; and

(2) Proposed month and year for completing each planned action.

(c) A Federal agency shall submit an action plan implementation progress report every 6 months to the Assistant Administrator for Information Resources Management, GSA, until the agency action plan is implemented. Interagency report control number 0153 GSA AR has been assigned to this report in accordance with Subpart 201-45.6.

(d) GSA will: (1) Analyze the adequacy of the agency action plan to implement recommendations contained in the evaluation report;

(2) Provide comments to the agency on the plan within 60 calendar days; and

(3) Notify an agency when progress reports are no longer required.

c. Part 201-45 is added to read as follows:

PART 201-45—MANAGEMENT OF RECORDS

Sec.

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

§ 201-45.000 Scope of part. [Reserved]

Subpart 201-45.1—Creation of Records

§ 201-45.100 Scope of subpart.

(a) Chapters 29 and 31 of the Title 44, United States Code, gives the Administrator of General Services and the heads of Federal agencies responsibility for the development and implementation of standards and programs for the economical and efficient management of Federal records. Specifically, each Federal agency is required to provide for effective controls over the creation of records.

(b) Effective controls over records creation must encompass all types of records at all levels of organization, central office and field. Specifically, there are four types of records which require continuing attention. These types—correspondence, reports, forms, and directives—are common to all agencies. Generally these records are created on paper, but they may also appear on punch cards, film, tape, and other media.

§ 201-45.101 General provisions.

§ 201-45.101-1 Agency action.

(a) The head of each Federal agency, in meeting the requirements of section 3102 of Title 44, United States Code for controlling the creation of records, is expected to observe the program responsibilities and standards set forth in this Subpart 201-45.1 and regulations issued by NARA in 36 CFR XII. These responsibilities and standards are basic to the Government-wide control of records creation; however, the application of the program responsibilities by individual agencies may be influenced by factors such as agency size, organization, mission and paperwork activity.

(b) Each Federal agency is expected to: (1) Assign to an office(s) of the agency the responsibility for the development and implementation of agencywide programs for the management of correspondence, reports, forms, ADP records, micrographics, mail, files, and directives. When organization arrangement, size, or complexity requires, actual control may be established at bureau, service, or office level. Programs at these control points will operate within the framework of the overall agency plan.

(2) Issue a directive(s) establishing program objectives, responsibilities, and authorities. A copy of each directive issued (and subsequent amendments or supplements) should be readily available for inspection by the Office of Information Resources Management, GSA.

§ 201-45.102 Correspondence-agency program responsibilities.

§ 201-45.102-1 Correspondence management function.

The objectives of correspondence management are to limit correspondence to essential requirements, to improve the quality of necessary correspondence, and to provide for its creation in an economical and efficient manner.

§ 201-45.102-2 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency correspondence (§ 201-45.101-1). The program will:

(1) Prescribe the types of correspondence to be used in official agency communications.

(2) Establish and implement agency standards concerning the number and kind of copies required and their distribution and purpose.

(3) Implement the correspondence standards set forth in the U.S. Government Correspondence Manual and in pertinent GSA Records Management Handbooks, with such modifications as may be necessary for specialized agency practices.

(4) Implement the Government-wide standards issued by GSA for the procurement and use of letterheads, manifold paper, memorandum forms, and envelopes.

(5) Review, on a continuing basis, agency correspondence practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency correspondence management program are to be in published form, designed for easy reference and revision. They should be readily available to those who write, review, sign, type, and file correspondence.

§ 201-45.102-3 Program implementation.

The following actions are basic to a correspondence management program.

(a) Prepare only necessary correspondence and essential copies.

(b) Use form letters to the maximum extent possible and use guide letters and paragraphs when practical following the standards, guides, and principles set forth in the GSA handbook, Form and Guide Letters.

(c) Originate letters that are carefully planned, easily read and understood, and responsive to the needs of the recipient by applying the standards.

guides, and principles set forth in the GSA Records Management Handbook, Plain Letters.

(d) Prepare correspondence that is consistent in style and format, neat and attractive in appearance, and editorially correct by applying the standards, guides, and principles set forth in the U.S. Government Correspondence Manual.

(e) Develop and implement procedures that expedite the clearance and handling of correspondence.

(f) Provide for periodic spotchecks of agency correspondence to determine compliance with standards.

§ 201–45.103 Reports-agency program responsibilities.

§ 201–45.103–1 Reports management function.

The effective management of reports requires an organized and continuous effort to improve the quality and economy of reporting to ensure that agency management officials are provided with the exact information needed in the right place, at the right time, and in the format most useful to them for informed decision making. The reports management function includes the output (report) of agency systems or procedures as well as the reporting systems themselves. The report management function is also concerned with interagency reports management (Subpart 201–45.6) and with the clearance of public reporting and recordkeeping requirements under the Paperwork Reduction Act of 1980 and OMB regulations in 5 CFR Part 1320.

§ 201–45.103–2 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of its internal reporting requirements (§ 201–45.101–1). The program shall:

(1) Establish and implement standards and procedures for identifying management information needed for planning, controlling, and evaluating.

(2) Establish and implement standards and procedures for designing management information systems, including the design of reports used in those systems.

(3) Establish and implement standards and procedures for initiating, identifying, reviewing, approving, preparing, and distributing internal reporting requirements.

(4) Provide essential management information concerning the number and types of reports in use and, for reports which require a significnt amount of manpower and other resources, the estimated costs of development, operation, and use (§ 201–45.103–1(c)).

(5) Provide for the periodic review of approved reports for need, adequacy, design, and economy of preparation and use.

(6) Ensure that all applicable laws and statutes (e.g., Freedom of Information Act (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), Federal Information Processing Standards (FIPS) (40 U.S.C. 759(f); 15 CFR Part 6)) and regulations issued by NARA (36 CFR XII) are considered in the development of internal reporting requirements.

(b) Standards, guides, and instructions developed for the reports management program are to be published and designed for easy reference and revision. They shall be readily available to reports originators and users and to GSA for periodic review as part of the GSA records management evaluation program as prescribed in § 201–22.103, Agency program evaluation.

(c) Approval, modification, or disapproval of internal agency reporting requirements (§ 201–45.103–2(a)(3)) shall be based on an objective cost effectivness evaluation in accordance with costing guidelines issued by the Office of Office Information Systems (KL), GSA, unless reporting is exempted in accordance with § 201–45.103–2(d). Cost estimates of internal reporting requirements shall cover the same reporting costs defined for interagency reports (§ 201–45.606–1) and be based on the same costing alternatives specified for interagency reports (§ 201–45.606–2).

(d) The following external reporting requirements are exempted from the provisions of this subpart (however, internal agency reporting requirements that may be developed by an agency in order to respond to an exempted external reporting requirement are subject to the provisions of this subpart):

(1) Legislative branch requirements in statutes or congressional committee requests;

(2) Judicial branch requirements in court orders or other judicial determinations;

(3) Presidential requirements in Presidential directives; and

(4) OMB budgetary, program review and coordination, and legislative clearance requirements.

(e) If an agency determines that it cannot comply with all provisions of this subpart for a specific internal reporting requirement, selected program requirements may be waived by an appropriate agency program authority. As a minimum, all internal reporting requirements granted such waivers shall be assigned a summary cost estimate (§ 201–45.609–2) by the agency program authority.

§ 201–45.103–3 Program implementation.

The following actions are basic to a reports management program:

(a) Establish and maintain an inventory of internal and external recurring reports.

(b) Develop the kinds of reporting systems that best serve management.

(c) Analyze all reports inventoried and all reports submitted for approval to determine that:

(1) The information is adequate, necessary, meaningful, and useful;

(2) The information is obtained from the best available source and in the simplest manner;

(3) The reporting frequency is consistent with the time the information is actually needed; and

(4) The estimated cost of gathering the information does not exceed its management value.

(d) Require that each request for a new or revised report explain how the report will be used.

(e) Require that each report be supported by a directive setting forth instructions for preparation and submission.

§ 201–45.104 Forms management.

§ 201–45.104–1 Scope of section.

Section 201–45.104 provides policies and guidelines for managing, administering, and implementing Federal agency forms management programs.

§ 201–45.104–2 Relationship to other directives.

(a) Subpart 201–45.5 set forth the scope, objectives, goals, and procedures required to manage and operate the Standard and Optional Forms Program.

(b) Part 201–8 contains guidance regarding Federal Information Processing Standards applicable to forms management, particularly regarding the use of data standards applicable to the interchange of machine processable data between and among agencies. (See § 201–8.1307–1.)

§ 201–45.104–3 Objectives of forms management.

Each Federal agency's forms management program shall:

(a) Eliminate unnecessary forms by justifying the need for existing and proposed forms;

(b) Reduce systems' operating costs and increase systems' efficiency by developing forms that are easy to fill-in, read, transmit, process, and retrieve;

(c) Reduce reproduction costs and improve productivity by appropriately designing and printing forms; and

(d) Periodically evaluate agency forms for continuing effectiveness and improvement.

§ 201-45.104-4 GSA assistance.

GSA will guide and assist Federal agencies in creating, maintaining, and using records, including forms. The Office of Information Resources Management, GSA provides standards, guidelines, and training materials regarding forms management for all Federal agencies. Specific advice and assistance may be obtained by contacting the General Services Administration, Office of Office Information Systems (KL), Washington, DC 20405.

§ 201-45.104-5 Agency responsibilities.

Each Federal agency shall establish and maintain a forms management program for those forms with an annual use of 100 copies or more as part of a continuing records management effort and shall assign responsibility to a specific official or office that will:

(a) Develop program objectives; define responsibilities and authorities; issue directives; and establish procedures for submitting, reviewing, approving, and identifying agency forms, including ADP systems forms;

(b) Use forms analysis and design standards described in pertinent GSA records and information management handbooks;

(c) Train persons who analyze, design, coordinate, and manage forms;

(d) Review the forms management program regularly to determine the adequacy of the system and its effectiveness in meeting agency needs;

(e) Ensure compliance with agency forms management policies and procedures;

(f) Review all requests for new forms and all reprints or revisions of existing paper forms to ensure that:

(1) All forms efficiently collect data necessary to the agency's mission;

(2) Forms meet all requirements of applicable statutes, standards, and regulations;

(3) Each form is supported by a directive setting forth instructions for preparing, submitting, and using the form (not applicable to self-explanatory forms used by a single organizational element such as an office, division, or region);

(4) Paper forms are designed for economical printing, stocking, and distributing; and

(5) An adequate supply of paper forms is procured.

(g) Review at least annually the most frequently used forms and those forms that create a significant burden for preparation for continued need and possible improvement;

(h) Assign a title, a form number, an edition date, and a department/agency/bureau identification to each form;

(i) Classify and group all forms by function and subject to aid in systems analysis, cross-referencing, and combining or eliminating forms;

(j) Maintain a historical case file for each controlled form, including information on each form's purpose, use, disposition, development, clearance, and (if appropriate) publication;

(k) Compile and maintain developmental and operational costs for public-use and interagency report forms using the format and instructions contained in Standard Form 335, Summary Worksheet for Estimating Forms Costs (as described in FIRMR Bulletin 18);

(l) Use the costing format and instructions contained in Standard Form 335 when the agency chooses to compile cost data on its internal forms;

(m) Maintain a list of current forms the agency uses;

(n) Encourage testing of forms and procedures to collect information economically and efficiently; and

(o) Promote forms management concepts, benefits, and training within the agency.

§ 201-45.105 Directives management.

§ 201-45.105-1 Scope of section.

Section 201-45.105 provides Federal agencies with standards and guidelines for establishing and managing effective directives systems. Small or temporary agencies may modify these regulations to meet their specific requirements.

§ 201-45.105-2 Authority.

As required by Chapter 29 of Title 44, United States Code, the Administrator of General Services will provide guidance and assistance to Federal agencies on the creation, maintenance, and use of records consistent with NARA regulations in 36 CFR XII.

§ 201-45.105-3 Objectives.

Directives management objectives are to provide agency managers with the means to effectively and efficiently convey written instructions to users and to document agency policies and procedures.

§ 201-45.105-4 Agency responsibilities.

Each Federal agency, to provide for effective, continuing directives management, shall:

(a) Assign to all agency managers the responsibility for preparing and maintaining directives needed to carry out their assigned responsibilities.

(b) Assign overall responsibility for planning, organizing, and controlling the directives management program to an office at the department or agency level, and delegate directives management functions, as needed, to lower organizational levels.

(c) Issue a directive[s] that states the purpose, responsibilities, authorities, policies, standards, and procedures of the agency's directives program.

(d) Organize agency directives systematically so that they are readily available to users by:

(1) Developing an integrated directives system that includes all agency policies and procedures;

(2) Classifying directives by subject so that all directives on any subject can be readily identified;

(3) Maintaining current indexes of existing directives and other finding aids, as necessary, so users may easily locate the directives they need;

(4) Establishing distinctive formats for directives so recipients can recognize them as authoritative agency instructions;

(5) Differentiating between permanent and temporary directives and ensuring that temporary directives carry expiration dates; and

(6) Maintaining directives in a form, such as looseleaf binders, where obsolete or revised materials may be easily removed or inserted.

(e) Ensure that directives are clearly written by:

(1) Establishing and implementing writing standards for directives; and

(2) Identifying the audience for each directive, and writing so that the intended readers can easily understand it.

(f) Ensure that directives are useful by:

(1) Providing users with only necessary information;

(2) Keeping directives current by issuing changes as needed; and

(3) Providing for the issuance of supplemental directives. This permits overall agency direction to be adapted to local conditions by field and other organizational components, provided that supplemental directives are consistent with the intent of the originals.

(g) Review each proposed directive to ensure that it is necessary, accurate, complete, and understandable.

(h) Coordinate and clear each proposed directive to avoid issuing conflicting policies or procedures.

(i) Establish and publish effective and efficient procedures for the timely reproduction and distribution of directives.

(j) Furnish copies of directives only to those who need them by:

(1) Requiring originators to identify those with a "need to know" or a "need to act" for each new directive for the purpose of developing accurate distribution lists;

(2) Annually reviewing and updating distribution lists for directives; and

(3) Periodically distributing checklists of current directives so users can determine whether they have received relevant directives.

(k) Require originators to biennially review each directive for need and currentness, and require originators to certify whether to continue, revise, or cancel each directive.

(l) Conduct training, or provide written guidance, as follows:

(1) For managers, on the importance of using the directives system to provide written instructions for accomplishing the agency's objectives;

(2) For directives originators, on the writing style and proper format for directives; and

(3) For users, on how to use the directives system.

(m) Evaluate the effectiveness and cost of the directives system, as follows:

(1) Maintain essential management information on the operation of directives systems. Examples of this information are data on the cost and time required to prepare, clear, and distribute directives; and annual workload data on the number of pages of directives issued, revised, and canceled. This information may be collected on a sampling basis;

(2) Annually review high-cost or high-volume directives activities to find opportunities for improvement;

(3) Evaluate annually the operating performance of the directives system. For example, select a sample of agency directives to find out if the intended recipients (i) received the directive, (ii) received it before its effective date, (iii) needed it, and (iv) understood it and acted correctly; and

(4) Evaluate the appliction of technologies, such as automatic data processing (including word processing), micrographics, photocomposition, and facsimile transmission, as means of improving the efficiency and effectiveness of the directives system.

§ 201-45.105-5 Additional information.

For more details on managing a directives system, refer to GSA's handbook, Communicating Policy and Procedures. For instructions on preparing external issuances for publication in the **Federal Register**, consult the "Document Drafting Handbook," 1980 edition, available from the U.S. Government Printing Office.

§ 201-45.106 Automatic data processing records; agency program responsibilities.

§ 201-45.106-1 ADP records management function.

The objectives of ADP records management are to ensure efficient and economic automatic data processing by: using proper recording and preservation techniques of machine instructions and operating procedures; establishing standards for proper maintenance, storage, and disposition of machine-readable records; developing optimum procedures for computer rooms and related support areas; and reviewing these recordkeeping practices on a continuing basis to find opportunities for improvement. Preservation and disposition of machine-readable records shall in accordance with regulations issued by NARA in 36 CFR XII.

§ 201-45.106-2 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of ADP records. The program will:

(1) Prescribe the types of records to be used and maintained for the proper documentation and preservation for ADP operation.

(2) Prescribe the types of machine readable records, together with the necessary classification, labeling, recording, and filing standards.

(3) Review, on a continuing basis, agency ADP recordkeeping practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency ADP records management program are to be in published form, designed for easy reference and revision.

§ 201-45.106-3 Program implementation.

Each agency shall establish standards for ADP records management and issue instructions and guidelines in the form of handbooks or manuals in acccordance with the appropriate standards. Specifically, these standards shall include:

(a) Identifying ADP records through classification and labeling;

(b) Filing and controlling methods for finding ADP records;

(c) Preserving machine-readable records through the use of disposition schedules, proper media storage facilities, and maintenance techniques (see 36 CFR XII);

(d) Issuing forms and formats for recording machine programs (instructions), functional and operational flow charts, record layouts, record coding structure (code books), printout plans, and basic machine run instructions (run books).

Subpart 201-45.2—Organization, Maintenance, and Use of Current Records

§ 201-45.201 General provisions.

§ 201-45.201-1 Authority.

Section 3102 of the Title 44, United States Code, requires that the head of each Federal agency "shall establish and maintain an active, continuing program for the economical and efficient management of the records of the agency. Such program shall, among other things, provide for effective controls over the * * * maintenance and use of records in the conduct of current business * * *".

§ 201-45.201-2 Agency action.

Each Federal agency is expected to:

(a) Assign to an office(s) of the agency the responsibility for the development and implementation of agencywide management programs for mail, files, and records equipment and supplies. When organization arrangement, size, or complexity requires, actual control may be established at bureau, service, or office level. Programs at these control points will operate within the framework of the overall agency plan.

(b) Issue a directive(s) establishing program objectives, responsibilities, and authorities. A copy of each directive (and subsequent amendments or supplements) should be readily available for inspection by the General Services Administration.

§ 201-45.202 Copy management.

§ 201-45.202-1 Scope of section.

Section 201-45.202 sets forth the copy management responsibilities of the General Services Administration and other Federal agencies. It provides guidance to Federal agencies on managing copying practices and copying equipment. It does not apply to the reproduction of micrographic, photographic, or machine readable records or to associated equipment.

§ 201-45.202-2 Authority.

As required by Chapter 29 of Title 44, United States Code, the Administrator of General Services shall provide guidance and assistance to Federal agencies regarding the reproduction of

records and the selection and use of equipment and supplies associated with the copying of records. As provided by section 5 of Pub. L. 94–575, this regulation does not limit or supersede the authority or responsibility of the Joint Committee on Printing (JCP) or the Government Printing Office under chapters 1 through 19 of title 44 U.S.C.; nor does this regulation relieve Federal agencies of their responsibilities under Chapters 1 through 19 of title 44 U.S.C., or the Government Printing and Binding Regulations as published by the JCP.

§ 201–45.202–3 Agencies' responsibilities.

To ensure good copying practices and proper equipment management, each agency shall:

(a) *Determine availability of common centralized services.* Before agencies consider purchase or rental of copying equipment, they shall first determine the availability of common centralized services, such as GSA print plant and copy centers, to ensure that the required copying capability cannot be met economically and efficiently through the use of centralized services (see also FPMR Subpart 101–5.2, Centralized Field Duplicating Services).

(b) *Match equipment to copying needs.* (1) Whenever purchase or rental of copying equipment is planned, agencies shall determine the users' copying requirements. The following kinds of information are needed:

(i) Average number of copies needed per month;

(ii) Physical characteristics of materials routinely copied (e.g., copy size, individual sheet or bound volumes, etc.);

(iii) Average number of pages per document;

(iv) Average number of copies per page;

(v) How the copies are used; and

(vi) How quickly they are needed.

Each piece of copying equipment shall be used according to its operating characteristics and limitations. Equipment that is used in excess of its rated capacity is likely to suffer from frequent breakdowns, and equipment that is used at levels significantly below its rated capacity is not economical.

(2) When deciding on the types of equipment to be procured, agencies shall consider both direct and indirect costs of copying. Direct costs include such items as the lease or purchase price of equipment, the cost of maintenance and supplies, and the salaries of full-time equipment operators. Indirect costs include such items as overhead and the amount of time consumed by personnel in seeking and obtaining copying services. Copying service contracts, ranging from the provision and maintenance of equipment and supplies to complete copying services, are offered by private companies. An agency shall decide to contract for copying services if contracting is more economical than using its own resources. (See Office of Management and Budget Circular A–76 for guidance on acquiring commercial products and services.)

(c) *Maintain records.* To determine the proper use and most cost effective and economical placement of equipment, agencies shall establish inventory records for each machine. Records shall include the following information:

(1) Equipment brand, model number or name, and serial number;

(2) Type of procurement (lease, purchase, or lease-with-option-to-purchase) and installation date;

(3) Essential provisions of the lease plan or, if owned, the purchase price and essential elements of the maintenance plan, if any;

(4) Number of copies produced by month;

(5) Equipment characteristics, such as production speed, significant accessories or special features, and special electrical requirements;

(6) A record of repairs and maintenance; and

(7) Information on the operating environment, such as machine location, organizations served, and whether access to the machine is unrestricted, restricted to a full-time operator, or otherwise limited.

(d) *Review equipment requests.* Requests for equipment shall be reviewed by offices with authority to ensure economical procurement and placement of equipment. Reviews shall include:

(1) Study of the current copying needs of the requesting office;

(2) Consideration of projected copying needs of the requesting office;

(3) Analysis of the present use of equipment by the requesting office;

(4) Consideration as to whether the requesting office should share existing equipment, acquire its own, upgrade existing equipment, or use some combination of these alternatives;

(5) A determination of whether alternate reproduction methods are practical;

(6) A cost/benefit analysis of any feasible equipment alternatives, including a determination of whether purchase of lease would be more economical (see FPMR Subpart 101–25.5, Guidelines for Making Purchase or Lease Determinations); and

(7) Study to determine the best location for the equipment.

(e) *Review supply procurement policy.* Agencies shall review at least annually, procurement methods and sources for supplies, such as paper, toner, ink, and duplicating masters. Options, such as blanket purchase agreements, bulk purchasing, and procurement under General Services Administration contracts, may offer lower costs.

(f) *Review copy management efforts.* Agencies shall conduct periodic reviews to determine whether improvements are necessary. Practices shall be audited to determine whether they can be improved. Records shall be reviewed to identify areas of potential improvements in equipment management.

§ 201–45.202–4 GSA responsibilities.

To assist Federal agencies in planning, developing, and evaluating copy management programs, the General Services Administration will:

(a) Provide guidelines on developing and maintaining a copy management program. These will consist of handbooks, guides for evaluating agency programs, and other publications.

(b) Provide advice and assistance in carrying out copy management studies and in program management.

(c) Periodically review agency programs to determine what improvements can be made.

§ 201–45.203 Mail-agency program responsibilities.

§ 201–45.203–1 The mail management function.

The objective of mail management is to provide rapid handling and accurate delivery of mail throughout the agency at minimum cost. To do this processing steps are kept to a necessary minimum; sound principles of work flow are applied, modern equipment, supplies, and devices are used; and, in general, operations are kept as simple as possible, so as to increase efficiency.

§ 201–45.203–2 Program requirements.

(a) Each Federal agency, in providing for effective controls over the creation of records, is expected to establish an appropriate program for the management of agency mail (§ 201–45.201–2). The program will:

(1) Establish and implement standards and procedures for the receipt, delivery, collection, and dispatch of mail.

(2) Implement the mail management standards set forth in the GSA handbook, Managing the Mail.

(3) Provide essential management information concerning the volume and types of mail processed and time

requirements for internal delivery and mailing.

(4) Review, on a continuing basis, agency mail practices and procedures to find opportunities for improvement and simplification.

(b) Standards, guides, and instructions developed for the agency mail management program are to be in published form, designed for easy reference and revision. They should be readily available to those concerned with mail and messenger operations. In addition, pertinent information for users of mail and messenger services should be given the widest possible dissemination.

§ 201-45.203-3 Program implementation.

The following actions are basic to a mail management program:

(a) Deliver mail to the action office within shortest possible time after receipt. (Objective should be 4- to 6-hour delivery.)

(b) Establish realistic time limits for replying to White House and Congressional mail, and to public correspondence. Limit preparing letters of a purely acknowledgment nature to cases in which a considerable time may be needed for a substantive reply.

(c) Limit mail followup control to security mail or mail important because of its source or content.

(d) Make maximum and proper use of the services and facilities of the U.S. Postal Service.

(e) Develop and install procedures that expedite and limit mail clearance, reviews, and signing.

(f) Provide central control with established schedules for messenger services.

§ 201-45.204 Files management.

§ 201-45.204-1 The files management function.

The objectives of files management are to cost effectively organize agency files so that needed records can be found rapidly, to ensure that records are complete, to facilitate the selection and retention of records of archival value, and to accomplish the prompt disposition of noncurrent records.

§ 201-45.204-2 GSA responsibilities.

GSA is responsible for furnishing guidance on filing systems to agencies. Filing systems include classification and filing schemes, file locations, filing procedures, file retrieval procedures, chargeout procedures, and refiling procedures for records on paper, microfilm, and electronic media. Such filing system guidance will be compatible with regulations issued by the National Archives and Records Administration (36 CFR XII).

§ 201-45.204-3 Agency program implementation.

Each Federal agency, in providing for effective controls over the creation of records and the management of agency files (See § 201-45.201-2) shall:

(a) Establish and implement standards and procedures for classifying, indexing, and filing records set forth in GSA handbooks;

(b) Formally specify official file locations;

(c) Standardize reference service procedures for finding, chargeout, and refiling of agency records;

(d) Standardize, to the extent possible, the equipment and supplies used in filing and reference service operations by using standard items stocked by GSA's Office of Federal Supply and Services;

(e) Make available to all employees published standards, guides, and instructions designed for easy reference and revision; and

(f) Review the program periodically to determine the adequacy of the filing system and its effectiveness in providing records requested.

§ 201-45.205 Records equipment and supplies—agency program responsibilities.

§ 201-45.205-1 Managing records equipment and supplies.

The objectives of a records equipment and supplies management program are to ensure that Federal agencies obtain equipment and supplies that are necessary and suitable to agency records operations, and that such equipment and supplies are available and are used properly.

§ 201-45.205-2 Agency program requirements.

Each Federal agency in providing for effective control over the creation of records, shall establish a program to manage agency records equipment and supplies (see § 201-45.201-2) by:

(a) Standardizing records equipment and supplies as much as possible;

(b) Reviewing requests for the purchase of records equipment and supplies for essentiality and standardization;

(c) Purchasing standard equipment and supplies listed in Federal Supply Schedules;

(d) Reviewing new developments in the field of records equipment and supplies; and

(e) Reviewing currently owned and rented equipment to determine that it is needed, properly used and maintained, and updated as required.

Subpart 201-45.3—Micrographics

§ 201-45.300 Scope of subpart.

This subpart provides (a) standards and guidelines for using micrographics technology in the creation, use, storage, and retrieval of Federal Government records. Additional guidance on the use of micrographics is available in GSA records and information management handbooks, Micrographics Systems Analysis, Microfilming Records, and Computer Output Microfilm. Guidance on the use of microforms is contained in 36 CFR XII.

§ 201-45.301 Authority.

As provided in 44 U.S.C. Chapter 29 of Title 44, United States Code, the Administrator of General Services is authorized to develop and promote standards to improve the management of records.

§ 201-45.302 Agency program responsibilities.

Each agency shall:

(a) Issue internal regulations and procedures for the submission, review, and approval or disapproval of proposed micrographic systems and applications;

(b) Issue procedures for evaluating the continued efficiency and effectiveness of micrographic systems and applications;

(c) Review ongoing micrographic systems periodically for conformance to established policies, procedures, and standards;

(d) Develop and maintain a complete and accurate inventory of micrographic production and reproduction equipment within the agency; e.g., cameras, processors, duplicators, and COM recorders, for the purpose of resource management. The inventory shall, as a minimum, include: type of equipment, name of manufacturer, model and serial number, date of acquisition, location, and purchase or rental status;

(e) Disseminate all publications containing micrographics standards and guidelines and other current information concerning the advantages and limitations of micrographic systems to managers and operating officials involved in the development or operation of micrographic systems;

(f) Assign responsibility for the review and approval of all micrographic systems to a specific office or official. The responsible office or official shall establish procedures for the review and approval of ongoing and proposed systems and application requests to ensure that they are complete and

contain the information shown in § 201–45.304; and

(g) Ensure that agency directives issued in accordance with § 201–45.302 (a), (b), and (f) are readily available for inspection by the General Services Administration.

§ 201–45.303 GSA responsibilities.

GSA shall:

(a) Disseminate to agencies the standards and criteria necessary for developing, evaluating, and operating micrographic systems. This includes:

(1) Information to acquaint potential users with micrographics technology and its various applications;

(2) Methods and procedures for conducting feasibility studies;

(3) Criteria for estimating cost and guidelines for comparing existing and proposed systems with alternative approaches;

(4) Standards for microforms and formats, and guidelines for selecting appropriate micrographic systems for specific types of applications; and

(5) Standards and guidelines for evaluating the continuing efficiency and effectiveness of micrographic systems;

(b) Analyze Government-wide practices through research projects and inspections to determine areas in which the application of micrographics will improve efficiency and effectiveness in the creation and use of documents and information;

(c) Conduct periodic inspections of agencies' micrographics programs as part of the GSA records and information management program evaluation prescribed in § 201–22.103, Agency program evaluation; and

(d) Coordinate with the Government Printing Office (GPO) on matters involving micropublishing; with the National Bureau of Standards (NBS) on Federal Information Processing Standards concerning micrographics; and with the National Archives and Records Administration (NARA) on micrographics systems relating to information of continuing value.

§ 201–45.304 Micrographic systems analysis.

(a) A systems analysis including a cost/benefit analysis shall be conducted by the agency prior to the decision to establish a micrographic system. The cost/benefit analysis shall include a comparative cost analysis in accordance with Office of Management and Budget (OMB) Circular A–76, if it meets the guidelines described therein.

(b) The systems analysis shall contain the following items:

(1) An examination of the current operating system to evaluate the need for the documents or information and the use to which they are put.

(2) A consideration of the alternatives to micrographics including such measures as:

(i) Revising records control schedules to provide for the disposition of paper records by disposal, by transfer of inactive paper records to the Federal records centers, or by offer of permanently valuable paper records to the National Archives and Records Administration (NARA) (36 CFR Chapter XII); and

(ii) Improving current retrieval and distribution procedures using paper records.

(3) A consideration of all feasible alternative methods of creating the microform records, such as:

(i) Purchase, lease, or lease-purchase of equipment already in the agency.

(ii) Sharing micrographic production equipment already in the agency.

(iii) Using the micrographic facility of another agency.

(iv) Contracting for NARA reimbursable micrographic services.

(v) Contracting with a non-Government commercial services firm.

(vi) Other alternatives identified in the analysis.

(4) An analysis of the workload and staffing requirements to ensure sufficient trained personnel to operate and maintain the micrographic system.

(5) An examination of the information needs of the user when determining reduction ratio, format, quality control procedures, viewing equipment, and user training.

(6) A review to ensure compatibility of microforms used within the agency and those used to transmit information to other agencies and the public.

(7) A determination of the availability and cost of specialized space requirements; i.e., temperature, humidity control, or plumbing.

(8) A review to ensure adherence to NARA standards for the photographic and micrographic production and reproduction of records.

(c) The chosen alternative shall be the most cost effective and efficient system unless overriding intangible benefits necessitate an alternate decision.

(d) Procurement of COM equipment is subject to those FIRMR provisions governing ADP (see particularly Subparts 201–24, 201–30, and 201–32).

(e) Procurement of equipment for micropublishing is subject to the provisions of the Government Printing and Binding Regulations published by the Joint Committee on Printing, United States Congress.

Subpart 201–45.4—Records Equipment and Supplies

§ 201–45.401 Stationery standards.

§ 201–45.401–1 General provisions.

(a) Section 201–45.401 prescribes mandatory standards for selection and use of blank and printed stationery paper, including the format designs of formal letters and informal letters (memoranda). Also prescribed are formal standards for the Optional Form 10, U.S. Government Memorandum; Optional Form 41, Routing and Transmittal Slip; Standard Form 63, Memorandum of Call; Standard Form 65, U.S. Government Messenger Envelope; and Optional Form 27, United States Government 2-Way Memo.

(b) Nothing in this subpart shall supersede, in any manner, the provisions of the "Government Paper Specification Standards" and the "Government Printing and Binding Regulations" issued by the Congressional Joint Committee on Printing (JCP) or any applicable U.S. Postal Service (USPS) regulation.

§ 201–45.401–2 Standard stationery specifications.

Government stationery standard specifications are set forth in the "Table of Standard Specifications" as follows:

BILLING CODE 6820-25-M

TABLE OF STANDARD SPECIFICATIONS

Item	Color		Size		Paper quality shall not exceed		
					Substance[1]		
	Paper	Printing	Inches (width x length)	Millimeters[2] (width x length)	Grade[3]	Pounds[4]	Grams[5] (g/m^2)
Stationery							
Letterhead stationery designed for window envelopes	White	One Color	8.5 x 11	216 x 279	50 percent rag or 25 percent rag	16 / 20	60 / 75
			8.5 x 7.3	216 x 185			
			8.5 x 5.5	216 x 140			
Continuation sheets	Match agency letterhead.	None	8.5 x 11	216 x 279	50 percent rag or 25 percent rag	16 / 20	60 / 75
Manifold (tissue) letterhead	White	Match agency letterhead.	8.5 x 11	216 x 279	25 percent rag	9	34
Manifold (tissue)	Yellow and White[6]	None					
Memorandum stationery designed for window envelopes	White	Match agency letterhead.	8.5 x 11	216 x 279	CW (writing) or 25 percent rag	20 / 16	75 / 60
			8.5 x 7.3	216 x 185			
			8.5 x 5.5	216 x 140			
Continuation sheets	Match memo stationery.	None	8.5 x 11	216 x 279	CW (writing) or 25 percent rag	20 / 16	75 / 60
Manifold (tissue)	Yellow and White[6]	None	8.5 x 11	216 x 279	25 percent rag	9	34

TABLE OF STANDARD SPECIFICATIONS - CONTINUED

Item	Color		Size		Paper quality shall not exceed		
					Substance[1]		
	Paper	Printing	Inches (width x length)	Millimeters[2] (width x length)	Grade[3]	Pounds[4]	Grams[5] (g/m^2)
Envelopes	White	Match agency letterhead color and style.	Use smallest possible		Determined by Federal Supply Service	24	90
	Brown	Black ink in agency letterhead style or Green ink in agency style when diamond borders are used.	Use smallest possible		Kraft	28	105
United States Government Memorandum (OF 10)	White	Black	8.5 x 11	216 x 279 ...	CW (writing)	20	75
			8.5 x 5.5 ...	216 x 140 ...			
Memorandum of Call [OF 63 (pads)]	At discretion of GPO		4 x 5.2 ...	102 x 132 ...	At discretion of GPO		
U.S. Government Messenger Envelope:							
(SF 65A)	Brown	Dark Brown ...	4.25 x 9.5 ...	108 x 241 ...	Kraft	24	90
(SF 65B)			9.5 x 12	241 x 305 ...			
(SF 65C)			12 x 16	305 x 406 ...			
Routing and Transmittal Slip (OF 41)	At discretion of GPO		8 x 5.25 ..	203 x 133 ...	At discretion of GPO		
United States Government 2-Way Memo (OF 27)	White/ Yellow/Pink	Black	8.5 x 11	216 x 279 ...	Chemical transfer	9	32

[1]Joint Committee on Printing, Government Paper Specification Standards.
[2]Joint Committee on Printing sizes rounded to whole millimeter.
[3]CW = Chemical Wood.
[4]Weight per 500, 17" x 22" sheets.
[5]Weight, per sheet, per square meter.
[6]Other colors may be used but paper quality shall not exceed 25 percent rag, 9 lbs (34 grams per square meter).

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§ 201-45.401-3 Procurement and stocking.

Agencies shall:

(a) Procure stationery through normal supply channels;

(b) Procure Standard and Optional forms, prescribed in §§ 201-45.401-9 through 201-45.401-13, from the Office of Federal Supply and Services, General Services Administration.

(c) Establish procedures to ensure that stationery inventories are economically maintained at levels consistent with need;

(d) Maintain economical levels and distribute stationery to avoid unneeded storage costs; stock loss due to deterioration; and obsolescence due to geographical, organizational, name, and design changes. Generally, agencies should limit stationery stock levels to a 1 year's supply;

(e) Limit stationery styles and sizes to the minimum needed to ensure efficient and effective program operations;

(f) Not change stationery designs without written justification, approved by the head of the agency, or if so delegated, the senior official for information resources management, documenting improved program operations; and

(g) Ensure that all reasonable, orderly, and economical means are used to deplete obsolete stationery.

§ 201-45.401-4 Printing of letterhead stationery.

Agencies may design letterhead stationery subject to the following conditions:

(a) The design provides for economical printing and efficient letter preparation;

(b) JCP regulations are followed;

(c) Requirements of § 201-45.401-2, are followed;

(d) The letterhead design is across the 8.5-inch top edge, supports the economical use of labor and materials, and does not prevent the proper use of window envelopes;

(e) Standard foundry type fonts are used;

(f) The letterhead of agencies with a unique 5-digit ZIP Code is limited to the agency's full name and return address (city, State, and ZIP Code). For example:

Public Service Agency
Washington, DC 00000

The head of the agency or, if so delegated, the senior official for information resources management may grant written exceptions only to major bureaus, offices, and services, provided the cost to print, distribute, stock, and use additional letterhead is less expensive than the clerical cost to type titles, etc.;

(g) The letterhead of agencies having more than one location where mail is received directly from USPS, or having offices that require other address block data to aid in return mail delivery, may also contain the street address or other identifying address, in addition to the items listed in paragraph (f) of this section; for example:

Public Service Agency
Region 00
Anytown, OK 00000

Public Service Agency
Service Building, Room 000
Anytown, MO 00000

(h) No other printing occurs below the letterhead, except as required in this section and except for non-letterhead printing of form letters;

(i) The head of the agency or, if so delegated, the senior official for information resources management determines that Optional Form 10 will not adequately serve an agency's needs for informal letterhead;

(j) End-of-text marks, fold marks, and marks to align the address block in a window envelope are to be preprinted on all letterhead stationery, but the head of the agency, or, if so delegated, the senior official for information resources management may grant a written exception to preprinted marks on formal letterhead;

(k) In the left margin, below agency designed informal letterhead (memorandum), are printed, in this order and flush with the left typing margin: Date, Reply to Attention of (or From), Subject, and To. For additional information, see the U.S. Government Correspondence Manual, Part 1, Chapter 1.

§ 201-45.401-5 Preparing and using letterhead stationery.

Agencies shall ensure that formal letterhead and informal letterhead (memorandum) stationery is prepared by the most economical use of labor and materials, including the style, format and other efficient steps prescribed in the United States Government Correspondence Manual (See § 201-45.102-2(a)(3)). Informal letterhead (memorandum) shall be the principal letterhead used in written, intra- and interagency correspondence.

§ 201-45.401-6 Manifold (tissue) sheets.

Agencies shall create copies only when need has been determined and shall use tissues to make them. A substitute for tissue sheets is permitted, provided (a) equal or better copy quality is maintained and (b) labor and material costs to produce the substitution are no greater than those for tissue preparation. (See § 201-45.401-2.) Agencies shall use yellow tissues for official file copies if the record copy is to be filed in paper form. White tissues shall be used for all other purposes, unless color will aid in processing, identification, or disposition. Letterhead tissues may only be used for formal letters to addressees outside the originating agency who specifically request letterhead copies.

§ 201-45.401-7 Envelopes.

Agencies shall ensure that:

(a) Except for self-mailers, no printing is done on the inside of envelopes;

(b) Envelopes are sent using the most economical service consistent with delivery needs;

(c) The material-plus-postage cost of "flat" envelopes, made from material other than that specified in § 201-45.401-2, is more economical for mailing than the material-plus-postage cost of kraft envelopes;

(d) Envelopes and post cards that will be processed by USPS meet mailing requirements and are eligible for the most economical mail service; and

(e) Use of lettersize window envelopes is specifically prescribed in written agency policy requiring maximum possible use, except for mailing material that:

(1) Involves national security,

(2) Is highly confidential to the agency or the addressee,

(3) Is uneconomical to mail in window envelopes, or

(4) Is sent to high level officials in Government or the private sector.

§ 201-45.401-8 Envelopes and post cards.

(a) Agencies shall ensure that printed items on envelopes and post cards are arranged and located according to USPS specifications. Printed envelopes and post cards shall contain the agency's full name and return address, the USPS-required penalty statement, and the "official business" designation. When an agency pays the return postage, agency-supplied return envelopes and post cards must bear either prepaid postage or "Business Reply."

(b) Except for USPS-required items, no other printed, stamped, or affixed marking or design shall be placed on envelopes or on the front of post cards unless it has been determined in each instance that use of a given marking or design will either:

(1) Reduce the agency's costs,

(2) Expedite mail delivery or handling,

(3) Aid in the delivery of services to the public, or

(4) Promote a program or activity having major national impact. The use of each marking or design must be approved in writing by heads of

agencies. The approval authority may only be delegated to the senior official for information resources management.

§ 201-45.401-9 Optional Form 10, U.S. Government Memorandum.

This form is designed to aid informal, intra-agency or interagency correspondence preparation and is designed for use with window envelopes. (See the U.S. Government Correspondence Manual.) Standard spaces are provided for the date, addressee, subject matter, and sender. It may be overprinted with the agency's name and address at the top. It is intended for use by agencies whose needs are met by a single format and whose identification and data requirements, if any, do not justify agency-designed letterhead.

§ 201-45.401-10 Optional Form 41, Routing and Transmittal Slip.

This form is design to transmit brief informal messages and/or documents and not for use as a record of approvals, concurrences, disposals, clearances, or similar actions. Spaces are provided for routing, addressee initials, and the date.

§ 201-45.401-11 Standard Form 63, Memorandum of Call.

This form is designed to record telephone numbers, messages, or visits for personnel who are not available at the time of the call or visit.

§ 201-45.401-12 Standard Form 65, U.S. Government Messenger Envelope.

This form is designed as a reusable envelope and is available in three sizes as SF 65A (preferred), SF 65B, and SF 65C. (See § 201-45.401-2.) It is designed to transmit correspondence and other matter between agencies if not used as the outer cover for mail tendered to USPS. Any agency component may use SF 65 internally if it is processed only by agency messengers. Consecutively arranged spaces are provided on the front and back of the envelope for the name or title of the addressee, organization, and mail stop number. SF 65 is the ony authorized messenger envelope, and agencies may not procure another type. SF 65 may not be used to transmit unenveloped materials covered by the Privacy Act.

§ 201-45.401-13 Optional Form 27, United States Government 2-Way Memo.

This form is a 3-part carbonless set for informal communications. The message and reply are placed on the same page in brief informal language. It can be sent and returned in a window envelope, if an envelope is necessary.

§ 201-45.401-14 Waivers.

Agencies seeking a waiver of any provision of this Subpart 201-45.4 shall submit a written request to the Director of Office Information Systems, Office of Information Resources Management (Mailing address: General Services Administration (KL), Washington, DC 20405). Requests should include a statement of justification, pertinent specifications, and, if appropriate, scaled sample designs.

Subpart 201-45.5—Standard and Optional Forms Management Program

§ 201-45.500 Scope of subpart.

This subpart sets forth procedures for Federal agencies to follow in obtaining both the approval and cancellation of Government-wide Standard and Optional forms. It also provides agencies' responsibilities for developing, promulgating, sponsoring, and managing Government-wide forms through the Standard and Optional Forms Management Program. This subpart supplements § 201-45.104, Forms management.

§ 201-45.500-1 Objectives.

The objectives of the Standard and Optional Forms Management Program are to provide for:

(a) Simplified Government-wide procedures;

(b) Cost-effective practices and procedures for creating, stocking, distributing, and using Standard and Optional forms;

(c) The creation of Standard and Optional forms based on a valid need and in compliance with applicable laws and regulations, including the Freedom of Information Act (FOIA) (5 U.S.C. 552), the Privacy Act of 1974 (5 U.S.C. 552a), and Federal Information Processing Standards (40 U.S.C. 759) implemented by GSA (41 CFR 201-8.1).

(d) The reduction of unnecessary forms;

(e) Close coordination of the program with the other information resources management activities within an agency; and

(f) Improved office productivity through the application of appropriate design, construction, and reproduction standards and guidelines.

§ 201-45.501 Authority.

The Standard and Optional Forms Management Program was developed and operated by the Office of Management and Budget (OMB) consistent with the authorities prescribed by the Budget and Accounting Act of 1921. GSA assumed responsibility for the program on May 29, 1967, through agreement with OMB.

§ 201-45.502 Agency responsibilities.

Each agency shall:

(a) Establish and issue internal procedures for the clearance and use of Standard and Optional forms.

(b) Designate an agency-level Standard and Optional forms liaison representative and alternate, and notify GSA in writing of such designees names, titles, mailing addresses, and telephone numbers. (Changes in designations shall be submitted to GSA within 30 calendar days after a new designation is made. All communications concerning designees shall be addressed to the General Services Administration (KLSO), Washington, DC 20405.)

(c) Ensure that new and revised Standard and Optional forms developed increase systems' efficiency and do not duplicate forms already available under the Standard and Optional Forms Management Program.

(d) Develop new and revised Standard and Optional forms in accordance with the provisions of this subpart; the agency's mission, responsibilities, and regulatory authority; applicable laws and regulations (201-45.500-1(c)); and GSA forms analysis and design guidelines.

(e) Coordinate the development, revision, or cancellation of Standard and Optional forms with users agencies.

(f) Prepare a supporting statement for each Standard and Optional form developed, revised, or canceled and for each request for exception to an existing Standard or Optional form. The supporting statement shall include an assessment of the effect on the process which the form supports and the anticipated increase or decrease in the cost of that process.

(g) Obtain GSA approval for each new, revised, and canceled Standard and Optional form as prescribed in § 201-45.504.

(h) Reply to GSA written information requests in a timely manner and review printing proofs within 15 workdays.

(i) Review existing Standard and Optional forms which the agency has promulgated, sponsored, or received an exception to determine and implement possible forms improvement, consolidation, and cancellation, at least annually.

(j) Maintain records documenting all agency Standard and Optional forms actions.

(k) Submit such information as may be requested by GSA in order to manage the program.

(l) Compile and maintain developmental and operational costs using Standard Form 335, Summary Worksheet for Estimating Forms Costs, for all Standard and Optional forms developed or revised by the agency and that are also used for collections of information from the public or are interagency report forms (see § 201–45.104–5(k)).

(m) Assist GSA in developing (i.e., collecting information and designing and testing) new Standard and Optional forms.

(n) Make available for local reproduction those promulgated or sponsored Standard and Optional forms with an anticipating or actual annual use of 5,000 or less. (Full size illustrations of these forms must be included in the prescribing regulation or form announcement, or must otherwise be made available to users, and must be clearly annotated, "AUTHORIZED FOR LOCAL REPRODUCTION".)

(o) Standardize exception requests at the highest organizational level possible.

(p) Print and stock those exceptions approved for individual agency use. (See FPMR § 101–26.302.)

§ 201–45.503 GSA responsibilities.

GSA shall:

(a) Promote the simplification of Government-wide procedures and improve office productivity through the development of new and revised Standard and Optional forms.

(b) Analyze and approve or disapprove all requests for new or revised Standard and Optional forms and exceptions to the use of Standard and Optional forms.

(c) Maintain and distribute to all agencies a current list of approved Standard and Optional forms and agency liaison representatives.

(d) Coordinate with the Office of Management and Budget (OMB) on the approval of new and/or revised Standard and Optional forms that are within OMB's clearance jurisdiction.

(e) Promulgate or sponsor new Standard or Optional forms when a need is demonstrated and when it is in the best interest of the Government.

(f) Ensure that all proposed Standard and Optional forms are in conformance with applicable laws and regulations (see § 201–45.500–1(c)).

(g) Issue information on current Standard and Optional forms clearance actions.

(h) Coordinate the printing of Standard and Optional forms with the U.S. Government Printing Office.

(i) Develop and issue updates to the Standard and Optional Forms Facsimile Handbook.

(j) Maintain records documenting activities of the Standard and Optional Forms Management Program.

(k) Conduct use-audits of Standard and Optional forms.

(l) Collect information and issue reports on the Standard and Optional Forms Management Program.

§ 201–45.504 Approval, disapproval, and cancellation procedures.

§ 201–45.504–1 Approval and disapproval of Standard and Optional forms.

The promulgating or sponsoring agencies and GSA have specific responsibilities in the process for forms approval.

(a) Each promulgating or sponsoring agency shall:

(1) Request approval for new and revised Standard and Optional forms by submitting to GSA (KLSO, Washington, D.C. 20405) three copies of each of the following: (i) A Standard Form 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms; (ii) a supporting statement (see § 201–45.502(f)); (iii) the draft form; (iv) a list of the names, titles, and organizations of persons with whom the form was coordinated and a summary of any major problems on which agreement could not be reached; (v) a list of potential user agencies and their projected annual usage; and (vi) a draft announcement of the issuance of the form for inclusion in the appropriate directive or regulatory system and/or the **Federal Register.**

(2) Ensure that draft announcements include implementing instructions that address the following information: (i) Purpose; (ii) form title; (iii) form number; (iv) a sample or reduced facsimile of the form, if possible; (v) preparation instructions; (vi) obligation for use (i.e., mandatory or optional); (vii) frequency of use; (viii) number of copies required; (ix) guidance on use and disposition of present stocks; and (x) supply source.

(3) Ensure that the following appear on all approved new and revised Standard and Optional forms: (i) The Standard or Optional form number assigned by GSA; (ii) the edition date; (iii) the name of the promulgating or sponsoring agency; (iv) a citation of the agency regulation that requires mandatory use of the form (for Standard forms only); (v) the OMB approval number as applicable (see § 201–45.507); and (vi) the interagency report control number, as appropriate. Normally the form number and edition date will be located on the first page of the form in the lower right corner. The OMB number must appear in the upper right corner of the form.

(4) Announce the issuance of approved new or revised Standard or Optional forms by publishing a change in the appropriate directive or regulatory system and/or a notice in the **Federal Register.** In addition to implementing instructions, announcements shall include: (i) Approximate availability date, if known; (ii) the interagency report control number, if the form is used as an interagency report; and (iii) the OMB approval number, if the form is used to collect information from the public. A copy of the change and/or notice must be submitted to GSA, KLSO, Washington, DC 20405.)

(5) Announce that new or revised forms with an anticipated or actual annual use of 5,000 or less are available for local reproduction by user agencies. (See § 201–45.502(n).)

(b) GSA shall: (1) Analyze agency requests to approve new and revised forms to: (i) Verify that the form fulfills a need; (ii) ensure that approval will not result in duplicate forms; (iii) assess the impact on users; and (iv) ensure that the form conforms to GSA forms design and cost-effectiveness standards and guidelines.

(2) For approved requests: (i) Assign an edition date and, if required, a form number; (ii) notify the requesting agency of the decision on the returned Standard Form 152; and (iii) enter the approved form in the Standard and Optional Forms Inventory. Edition dates, once assigned by GSA, may not be changed by an agency.

(3) For requests that are disapproved, notify the requesting agency of the decision on the returned Standard Form 152.

§ 201–45.504–2 Cancellation of Standard and Optional forms.

The promulgating or sponsoring agencies and GSA have specific responsibilities in the process for forms cancellation.

(a) When a promulgating or sponsoring agency believes a Standard or Optional form is no longer needed, the agency shall:

(1) Request cancellation of the form to GSA by submitting a Standard Form 152, a supporting statement (see § 201–45.502(f)), and a draft of the proposed cancellation notice.

(2) Notify the using agencies of the cancellation, when approved by GSA, by publishing a cancellation notice in the appropriate directive or regulatory system and/or in the **Federal Register.** A copy of each notice must be submitted to GSA, KLSO, Washington, DC 20405.

(b) When a promulgating or sponsoring agency submits a request for cancellation to GSA, GSA shall:

(1) Analyze the request to: (i) Verify that the form is no longer necessary; (ii) ensure that cancellation will not result in the proliferation of replacement forms; (iii) assess the impact on users; and (iv) ensure that disposition of existing stock is cost-effective.

(2) Approve or disapprove the request and notify the promulgating or sponsoring agency of the decision on the returned Standard Form 152.

§ 201-45.505 Interagency Committee on Medical Records (ICMR) responsibilities.

The Interagency Committee on Medical Records (ICMR) is responsible for reviewing all health care related Standard forms to ensure quality, uniformity, and adequacy of health care records of the Federal government. The ICMR is responsible for developing new and revised medical Standard forms and requesting cancellation of and exceptions to existing medical Standard forms. GSA is responsible for promulgating and approving medical Standard forms.

§ 201-45.505-1 Clearance of medical Standard forms.

The ICMR chairperson shall initiate, sign, and submit requests for the approval of medical Standard forms to: GSA, Forms and Records Management Branch (ATRAR), Washington, DC 20405. ATRAR shall forward the request to GSA/OIRM for processing in accordance with § 201-45.504-1.

§ 201-45.506 Standard and Optional forms coordination with interagency reporting approved by GSA.

As provided in Subpart 201-45.6, GSA is responsible for approving interagency reporting requirements. When an agency develops or revises a Standard or Optional form in conjunction with an interagency reporting requirement, the agency shall submit to GSA a Standard Form 360, Request for Clearance of an Interagency Reporting Requirement, in addition to other clearance requirements prescribed by this subpart.

§ 201-45.507 Standard and Optional forms used for collections of information from the public.

(a) Under 5 CFR Part 1320, Standard and Optional forms that also require approval by OMB (44 U.S.C. 3501-3513) because they are to be used to collect information from the public or State and local governments, or are the basis of general purpose statistics, shall be submitted by the promulgating or sponsoring agency to OMB through GSA. Agencies shall submit a Standard Form 83, Request for OMB Review and necessary attachments, in addition to other clearance requirements prescribed by this Subpart when developing, revising, canceling or requesting exception to a Standard or Optional form requiring OMB clearance.

(b) Requests for extension of OMB clearance of Standard and Optional forms will be initiated by the promulgating or sponsoring agency and will be sent to OMB through GSA using Standard Form 83, in addition to the Standard Form 152 and accompanying documentation. If the request results in no changes to the affected form, Standard Form 152 and the accompanying documentation may be omitted.

§ 201-45.508 Reporting requirements.

Agencies shall submit to GSA, Office of Information Resources Management (KLSO), Washington, DC 20405, 60 workdays before the close of each fiscal year a summary of the Standard and Optional forms used for collections of information covered by 5 CFR Part 1320. Instructions for preparing the report are on GSA Form 3515, Annual Report of Standard and Optional Forms Used for collections of Information Covered by 5 CFR Part 1320. Include in the report the actual number of forms used plus the estimated number for the remainder of the current fiscal year. This report is assigned Interagency Report Control Number 0309-GSA-AN. Separate reports shall be submitted for each department or comparable independent organizational unit.

§ 201-45.509 Overprinting of Standard and Optional forms.

Overprinting of Standard and Optional forms is at each agency's discretion but should be limited to quantities that are cost-effective. Overprinting of forms is ordered through GSA/WFSI, Washington, DC 20407.

§ 201-45.510 Exceptions to Standard and Optional forms.

§ 201-45.510-1 Policy.

(a) Exceptions to Standard and Optional forms shall be requested only when an agency can demonstrate that the deviation in the content, format, and/or printing specifications of the form is cost-effective.

(b) Reproduction and stocking of approved exceptions is the responsibility of the requesting agency. (See FPMR § 101-26.302.)

(c) Content and format exceptions become void when the affected Standard or Optional form is revised or canceled by the promulgating agency, or when the exception is altered.

(d) Printing exceptions become void when the affected Standard or Optional form is canceled, when a usable construction that meets user needs is stocked by GSA's Office of Federal Supply and Services, or when the form is revised unless the agency certifies in writing that there is a continued need for the printing exception. This certification of continued need must be received by GSA, KLSO within 60 workdays of the revision of the Standard or Optional form. GSA will notify agencies with printing exceptions of the need for certification.

§ 201-45.510-2 Clearance procedures for exceptions.

(a) Agencies shall submit exception requests to GSA, including three copies of the proposed form, Standard Form 152, the supporting statement, and if appropriate, the printing requisition. The supporting statement shall explain the reasons for the request including conclusive evidence that the Standard or Optional form can not be used as prescribed in the existing format or construction or is not economical; the proposed alteration(s) or deviation(s); the resultant cost benefits; and shall include an estimate of the number of forms expected to be used in one year.

(b) Exceptions shall be reviewed by GSA to limit unnecessary variations of the form, assess the need for additional standardized constructions, and economy of application; and shall be sent to the promulgating agency for a signed recommendation of approval or disapproval. When the clearance action is returned, GSA will analyze both the exception request and the promulgator's recommendation. GSA will notify the requesting agency of its decision to approve, modify, or disapprove the request.

(c) Approved exceptions must bear the following on the first page, below or near the form number element: (1) "Department (abbreviation)—Major component (abbreviation) Exception to (form number) approved by GSA/OIRM (Month and Year)", and (2) when appropriate, citation of the internal directive.

(d) When an exception is approved, GSA/OIRM will forward a copy of the approval and the printing requisition, if included in the request package, to GSA/WFSI, Standard Forms Management Section for processing. The approved exception notifies WFSI to deduct the order quantity from their standard form stock level because the agency will no longer use the form as stocked.

§ 201-45.510-3 Review of exceptions.

(a) GSA shall periodically review and analyze exceptions to specific forms and recommend form content, format, and printing changes to the promulgating agency.

(b) The promulgating agency shall implement the recommended changes through revisions of the Standard or Optional form or provide GSA with acceptable reason(s) for non-implementation, within 60 workdays.

§ 201-45.511 Program review.

Periodically GSA shall review agency implementation of the Standard and Optional Forms Management Program in order to assess the effectiveness of the program and the agency's conformity to this regulation.

§ 201-45.512 Employee suggestions.

In accordance with Federal Personnel Manual Chapter 451, employee suggestions that propose changes in the format, content, construction, or use of a Standard or Optional form shall be sent from the suggester (through the suggestion program) to the promulgating or sponsoring agency for evaluation. New and revised Standard and Optional forms created as a result of employee suggestions shall be processed in accordance with procedures provided in § 201-45.504-1 of this subpart.

§ 201-45.513 Acquisition of forms.

Supplies of Standard Form 152 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office that provides support for the requesting activity. The national stock number is 7540-00-935-4084. Standard Form 335 may be obtained by the same method using national stock number 7540-01-178-6722.

§ 201-45.514 Procurement of stocks of Standard and Optional forms.

General procedures for procuring stocks of Standard and Optional forms are in FPMR § 101-26.302, Standard and Optional forms.

Subpart 201-45.6—Interagency Reports Management Program

§ 201-45.600 Scope of subpart.

This subpart states procedures for agencies to follow in seeking approval of interagency reports.

§ 201-45.601 Authority.

The provisions of this subpart implement 44 U.S.C. Chapters 29 and 31, recognizing OMB functions under 44 U.S.C. 3504(e) and OMB implementation under 5 CFR 1320.16 (48 FR 13696, March 31, 1983.)

§ 201-45.602 Objectives.

The purpose of this program is to ensure that interagency reports are based on need, are cost-effective, and comply with laws and regulations; e.g., Freedom of Information Act (5 U.S.C. 552); the Privacy Act of 1974 (5 U.S.C. 552a); and Federal Information Processing Standards (40 U.S.C. 759(f)) implemented by GSA (Part 201-8).

§ 201-45.603 Agency responsibilities.

Each agency shall:

(a) Issue internal procedures for submitting, reviewing, and approving or disapproving interagency reports;

(b) Appoint officials to serve as interagency report coordinator and alternate;

(c) Submit the names, titles, locations, and telephone numbers of the interagency reports coordinator and alternate to the General Services Administration, Interagency Operating Programs Branch (KLSO), Washington, DC 20405. (Any change in the person appointed must be sent to GSA within 30 calendar days);

(d) Develop new and revised interagency reporting requirements under this subpart;

(e) Obtain GSA approval for each new, revised, or extended interagency reporting as soon as possible;

(f) Review the GSA Inventory of Approved Interagency Reports to decide if a proposed report can be met by an existing report;

(g) Review existing interagency reports for possible improvements when submitting requests to extend clearances;

(h) Provide responding agencies the opportunity to comment on each proposed new or revised interagency reporting requirement;

(i) Obtain GSA approval to collect test information from other Federal agencies to do a pilot test of the system if the estimated cost for a new or substantially revised report exceeds $500,000;

(j) Reply within 30 calendar days to other agencies' written requests cost estimates of the cost of responding to existing or proposed interagency reports;

(k) Respond to approved interagency reports as specified in instructions; and

(l) Refrain from responding to interagency reporting requirements not approved by GSA and inform GSA of the requirements.

§ 201-45.604 Establishing or revising interagency reporting requirements.

(a) The requiring agency shall consult with GSA (KLSO) on proposed new or revised interagency reporting requirements before submitting Standard Form 360, Request for Clearance of an Interagency Reporting Requirement. Following the discussion with GSA, the agency shall justify the need for the report and estimate the reporting costs, under §§ 201-45.607 and 201-45.608. The agency shall then send to GSA (KLSO) an original and one copy of Standard Form 360 with supporting documents through the agency's interagency reports coordinator. Upon receipt of the Standard Form 360, GSA will review the proposal for demonstrated need, cost effectiveness, systems design, and coordination with other clearance authorities, and will ensure that the report does not duplicate existing interagency reports.

(b) If GSA approves the report, it will assign an interagency report control number and an expiration date, return the Standard Form 360 to the agency's interagency reports coordinator, and enter the report in the GSA Inventory of Approved Interagency Reports.

(c) The requiring agency shall notify responding agencies of approved reports by directive or by correspondence. The directive publishing the requirement shall include the following information: (1) Purpose; (2) report title; (3) whether it is mandatory or voluntary; (4) interagency report control number; (5) report format; (6) preparation instructions; (7) responding agencies; (8) frequency of use; (9) number of copies; (10) mailing address; (11) due date; (12) name and telephone number of contact person; and (13) for mandatory reports, whether it requires a negative response.

(d) If a form is needed to collect data, the agency shall place the interagency report control number in the upper right corner of the form.

(e) When GSA rejects an agency's request for a report, GSA will advise the agency, in writing of the reasons for the rejection.

§ 201-45.605 Extending interagency reporting requirements.

GSA will notify agencies 90 calendar days in advance of the expiration date of a requirement. Agencies shall submit requests for extensions for new and revised reports at least 60 calendar days before the expiration date. (See § 201-45.604.)

§ 201-45.606 Discontinuing interagency reporting requirements.

If an interagency report is no longer needed, the agency shall notify GSA and responding agencies by directive or correspondence. GSA will discontinue the requirement on the expiration date unless it receives a request for an extension under § 201-45.605.

§ 201-45.607 Justifying interagency reporting requirements.

A justification statement, signed by the official who requested the reporting requirement, shall be attached to Standard Form 360. The justification shall:

(a) State why the report is needed and how it will be used;

(b) Describe the benefits (in dollar value if possible) expected from the information and assess the probability that the benefits will be achieved;

(c) Describe how the program will be affected if the information is not obtained;

(d) Identify any responding agencies that took part in designing, testing, and estimating the cost of the proposed report;

(e) Identify the agencies that agree or do not agree with the proposed report and summarize the reasons why;

(f) Explain how the reporting costs shown on the Standard Form 360 were derived (see § 201-45.608);

(g) Describe other reporting plans considered, including: (1) Frequency of reporting (2) use of exception reporting (3) use of sampling techniques, (4) selection of respondents, (5) obligation of respondents to comply, (6) amount of detail, (7) format of report, and (8) method of transmission.

§ 201-45.608 Cost estimates.

GSA needs cost estimates to decide if the expected value of the information is worth the cost of obtaining it. Agencies shall identify using the following costs alternative(s), the method(s) used to prepare the reporting cost estimate. Costing criteria for these costing alternatives are contained in the "Reports Management Handbook" issued by GSA. Supporting documentation and worksheets for all cost estimates must be available for GSA review. GSA review may include the appropriateness of the agency costing alternative selection.

Alternatives	Characteristics
(a) Pilot testing (estimate based on actual costs collected).	High cost reporting; full scale mechanized systems; data banks; large number of data elements; new data collection system; respondent cost may be needed for budget purposes.
(b) Factoring (estimate based on actual costs previously collected for a comparable report).	Medium to low cost reporting; revision of a previously costed report; high degree of experience with comparable reports made by the same (one or a limited number) responding agencies; cost easy to compare with actual cost for a similar report.
(c) Sampling (estimate based on a representative selection of responding agencies).	Low to high cost reporting; large number of respondents; new reports.
(d) Technical estimates (estimate based on experience).	Low cost reporting; more detailed costing waived by GSA; one-time reports; limited number of respondents.

§ 201-45.609 Special provisions.

§ 201-45.609-1 Exemptions.

(a) The following interagency reports requirements are exempted from Subpart 201-45.6: (1) Legislative branch reports, (2) Office of Management and Budget (OMB) and other Executive Office of the President reports, and (3) judicial branch reports required by court order or decree. However, interagency reports required by Federal agencies to respond to exempted requirements are subject to clearance under this subpart.

(b) Questions concerning the applicability of these exemptions shall be directed to GSA (KLSO).

§ 201-45.609-2 Waivers.

Agencies seeking a waiver from justifying and cost-estimating a report under §§ 201-45.607 and 201-46.608 shall send a written explanation of the need for the report and the waiver to GSA (KLSO). Waiver requests must include a summary cost estimate in item 9 of Standard Form 360.

§ 201-45.609-3 Classified reporting requirements.

Interagency reporting requirements for security classified information are exempt from this subpart. However, interagency reporting requirements for non-security classified information are not exempt from this subpart, even if such information is later given a security classification by the requesting agency.

§ 201-45.610 Coordination with other clearance authorities.

§ 201.45.610-1 Interagency/public reporting requirements.

Interagency reporting requirements that collect information from the public as well as from Federal agencies require approval by OMB under 5 CFR Part 1320. Agencies shall submit these interagency reporting requirements to OMB and GSA at the same time for clearance.

§ 201-45.610-2 Interagency reporting coordination with Standard and Optional forms approved by GSA.

As stated in Subpart 201-45.5, GSA is responsible for approving Standard and Optional forms. Therefore, when an agency plans to use a new or revised Standard or Optional form for a proposed interagency report, the agency shall also submit Standard Form 152, Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms.

§ 201-45.611 Obtaining forms.

The forms required by this subpart may be obtained by submiting a FEDSTRIP/MILSTRIP requisition to the GSA regional office that provides support for the requesting office.

Subpart 201-45.7—Forms

§ 201-45.700 Scope of subpart.

This Subpart 201-45.7 establishes forms used in connection with the regulations prescribed elsewhere in this Part 201-45. The following forms are established. Illustrations of the forms appear in Appendix E (FIRMR looseleaf Edition).

§ 201-45.701 Optional Form 10: United States Government Memorandum.

§ 201-45.702 Standard Form 63: Memorandum of Call.

§ 201-45.703 Standard Form 65: U.S. Government Messenger Envelope.

There are three versions of this form as follows:

(a) Standard Form 65-A (9½ by 4 inches);

(b) Standard Form 65-B (9½ by 12 inches); and

(c) Standard Form 65-C (12 by 16 inches).

§ 201-45.704 Optional Form 27: United States Government 2-Way Memo.

§ 201-45.705 "Guides to Simplified Informal Correspondence".

§ 201-45.706 Optional Form 41: Routing and Transmittal Slip.

§ 201-45.707 Standard Form 152: Request for Clearance, Procurement, or Cancellation of Standard and Optional Forms.

§ 201-45.708 Standard Form 360: Request for Clearance of an Interagency Reporting Requirement.

Subpart 201-45.8—Technical Assistance

§ 201-45.800 Scope of subpart.

This subpart contains information and procedures pertaining to the furnishing of technical assistance services to Federal agencies by the General Services Administration (GSA).

§ 201-45.801 Services available.

The following services are available to Federal agencies from GSA:

(a) Technical advice and assistance on agency records management programs and activities as described in this Part 201–45;

(b) Various types of studies and surveys in records management areas; and

(c) General paperwork systems studies.

§ 201–45.802 Technical advice and assistance on records management programs.

GSA provides technical advice and guidance to Federal agencies in the conduct of their records management activities. This includes assistance in the development of records management programs concerned with the creation, organization, maintenance, and use of agency records. Advice and guidance will be consistent with NARA regulations concerning records disposition and adequacy of documentation (36 CFR XII).

§ 201–45.803 Technical assistance involving studies and surveys.

At the request of Federal agencies, GSA will conduct studies and surveys for agencies involving any one or a combination of the records management areas described in this Part 201–45. These studies and surveys are normally on a reimbursable basis.

§ 201–45.804 General paperwork systems studies.

At the request of Federal agencies, and normally on a reimbursable basis, GSA also conducts general paperwork systems studies.

(a) A general paperwork systems study is defined as a systematic and detailed cost/benefit analysis which identifies and defines systems requirements for effective, efficient, and economical management and operation, and the alternative methods to satisfy these requirements; and recommends the optimum paper work systems arrangement for management approval. The general paperwork systems study covers all management and operating processes, whether or not electronic data processing equipment is involved. Where electronic data processing services are involved, the general paperwork systems study will include all (1) manual and machine steps from initiation of the process to prescription of output and the delivery of valid input to the computer center and (2) processes covering the adequacy of the output and its use.

(b) A general paperwork systems study is not concerned with the actions taken to convert input into automatic data processing equipment to prescribed computer outputs.

§ 201–45.805 Request for service.

Agencies desiring any of the services from GSA provided for in this Subpart 201–45.8 should communicate with the General Services Administration (KFM), Washington, DC 20405.

6. *Agency actions:* Pending the issuance of a permanent amendment of the FIRMR, agencies shall follow the policies and procedures in this temporary regulation.

7. *Information and assistance:* Inquiries concerning this regulation should be directed to David R. Mullins, Policy Branch (KMPP), Office of Information Resources Management, telephone (202) 566–0194 or FTS, 566–0194.

8. *Submission of comments.* The views of agencies and other interested parties regarding the effect or impact of the provisions in this regulation were requested via, **Federal Register** notices of proposed rulemaking of August 6, 1984, October 22, 1984, and February 19, 1985. Comments are currently being reconciled, and a FIRMR amendment is being prepared to replace this temporary regulation. Although the deadline for comments on the amendment has passed, any comments on this temporary issuance received before April 30, 1985, will be considered to the maximum practicable extent in preparation of the final amendment. Comments should be addressed to the General Services Administration, Office of Information Resources Management, Policy Branch (KMPP), Washington, DC 20405.

(Sec. 205(c), 64 Stat. 390; 40 U.S.C. 486(c))

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–8517 Filed 4–10–85; 8:45 am]

BILLING CODE 6820–25–M

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41 CFR Part 101–21

[FPMR Amdt. D–83]

Federal Buildings Fund, Reimbursable Services

AGENCY: Public Buildings Service, GSA.

ACTION: Final rule.

SUMMARY: General Services Administration (GSA) amends its regulations for incurring and collecting obligations for reimbursable services in excess of reimbursable work authorization estimates. Total obligations may be incurred against reimbursable work authorizations (RWAs) with a total authorization amount of $1,000 or less in an amount exceeding the authorized amount by up to $100. Total obligations may be incurred against RWA's with an authorized amount in excess of $1,000 by up to 10 percent of the amount or $1,000, whichever is less, unless such action would result in the estimated maximum costs exceeding $500,000 for which no specific congressional prospectus project approval or certification exempting funds from section 7 of the Public Buildings Act of 1959, as amended, exists. The changes are intended to clarify the policy and to satisfy circumstances where it would be impractical, infeasible or uneconomical to obtain another authorization from the agency to increase the authorized amount to cover all costs incurred. Failure of GSA to notify the agency that the obligations will exceed the authorized amount regardless of amount, does not relieve the agency of paying actual costs.

EFFECTIVE DATE: April 11, 1985.

FOR FURTHER INFORMATION CONTACT: James Marsden, Office of Buildings Management, (PB), 202–566–1563.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumer or others; or significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequence of this rule; had determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

The billing procedure for reimbursable services was revised from fixed-price billing in advance to quarterly billing in an amount equal to obligations accumulated for the billing period, for all except above-standard-level recurring reimbursable work. This procedure was published in the **Federal Register** on September 20, 1982 (47 FR 41361).

In reference to incurring obligations in excess of the estimate, the FPMR states in part:

GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of the estimate; however, failure of GSA to notify the agency that obligations will exceed the estimate

does not relieve the agency of paying actual costs.

The clause in the FPMR binding the agencies to pay actual cost was included in recognition of the fact that in a limited number of circumstances it would be impractical, infeasible or uneconomical to obtain another authorization from the agency to increase the estimate to cover all costs incurred. The following are examples of such circumstances.

(1) Costs associated with a particular RWA may be incurred and exceed the authorized amount before initial accounting information is received by the performing organization.

(2) The cost to obtain an amended RWA may exceed the total cost of a relatively low cost RWA or the cost of processing an RWA.

(3) Stopping work on an RWA before obtaining formal authorization for additional work required would be a serious inconvenience to the client agency or would substantially increase the cost of completing the RWA.

(4) The time frame of the reimbursable job is of extremely short duration.

The preceding are not intended to be all inclusive, but rather represent the types of circumstances which might exist which would make it impractical or infeasible to obtain another authorization from the client agency when obligations are incurred which would exceed the authorized amount.

GSA, in its efforts to improve the management of the reimbursable program, is proposing the following changes. GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of the estimate except when:

(1) Total obligations are incurred against RWAs with an authorized amount of $1,000 or less in an amount not exceeding the authorized amount by $100; and

(2) Total obligations are incurred against RWAs with an authorized amount in excess of $1,000 in an amount not exceeding the authorized amount by 10 percent or $1,000, whichever is the less amount. When the estimated maximum cost exceeds $500,000 GSA is required to get prior prospectus authorization from Congress. In lieu of this prospectus authorization, the agency can provide a certification that the funds are exempt from section 7 of the Public Buildings Act of 1959, as amended.

There may be circumstances, as discussed above, when GSA will not be able to notify an agency before incurring obligations in excess of the preceding parameters. This failure of GSA to notify the agency does not relieve the agency of paying actual costs, regardless of the dollar amount, and does not constitute a valid reason for chargeback or short paying the bill.

List of Subjects in 41 CFR Part 101–21

Federal buildings and facilities, Government property management.

PART 101–21—FEDERAL BUILDINGS FUND

1. The authority citation for Part 101–21 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).

Subpart 101–21.6—Billings, Payments, and Related Budgeting Information for Space and Services Furnished by the General Services Administration

2. Section 101–21.604 is amended by revising paragraph (e) to read as follows:

§ 101–21.604 Billing procedures for reimbursable charges.

* * * * *

(e) GSA Form 2957, Reimbursable Work Authorization, must be completed before reimbursable work is begun. This authorization must describe the work or services ordered and include an estimate of the cost of the work described. Work authorizations must be signed by a responsible official capable of authorizing the obligation and committing the agency to payment of the charges, must contain a citation to the appropriation or funds to be charged, and must have statement that funds in the amount of the stated estimate are available for immediate obligation for the requested work. GSA will make every effort to obtain approval and certification of additional funds before incurring any obligations in excess of the estimate except when:

(1) Total obligations are incurred against reimbursable work authorizations with a total authorized amount of $1,000 or less in an amount exceeding the authorized amount by up to $100 and;

(2) Total obligations are incurred against reimbursable work authorizations with an authorized amount in excess of $1,000 by up to 10 percent of the amount or $1,000, whichever is less, such action would result in the estimated maximum costs exceeding $500,000 for which no specific congressional prospectus project approval or certification exempting the funds from section 7 of the Public Buildings Act of 1959, as amended, exists. However, failure of GSA to notify the agency that obligations will exceed the authorized amount, regardless of the dollar amount, does not relieve the agency of paying full actual costs.

Dated: March 8, 1985.

Dwight A. Ink,

Acting Administrator of General Services.

[FR Doc. 85–8752 Filed 4–10–85; 8:45 am]

BILLING CODE 6820–23–M

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48 CFR Ch. 5

[APD 2800.12 CHGE 8]

General Services Administration Acquisition Regulation; Competition in Contracting

Correction

In FR Doc. 85–5461 beginning on page 10036 in the issue of Wednesday, March 13, 1985, make the following corrections:

1. On page 10036, in the third column, the text beginning with **SUPPLEMENTARY INFORMATION** up to the paragraph designated "5." should have appeared in the second column, immediately following the **FOR FURTHER INFORMATION CONTACT** paragraph.

514.407–74 [Corrected]

2. On page 10053, in the middle column, in 514.407–74(a)(1)(ii), the fifth line, "those" should read "this".

3. On page 10054, in the first column, the paragraph numbered "111" and the heading preceding it should have read:

515.406–5 [Removed]

111. Section 515.406–5 is removed.

BILLING CODE 1505–01–M

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48 CFR Parts 501 and 507

[APD 2800.12 CHGE 9]

General Services Administration Acquisition Regulation; Acquisition Planning

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Final rule.

SUMMARY: The General Services Administration Acquisition Regulation (GSAR) Chapter 5, is amended to add Subpart 507.1 to implement and supplement FAR 7.1 and to prescribe policies and procedures for acquisition planning. In addition, Section 501.103, Applicability, is revised to indicate that the new Subpart 507.1 applies to leases of real property. Section 507.307 is also added to implement FAR 7.307. The intended effect is to improve the regulatory coverage and to provide

uniform procedures for contracting under the regulatory system.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Harry Rosinski, Office of GSA Acquisition Policy and Regulations (VP), (202) 523-4768.

SUPPLEMENTARY INFORMATION:.

Background

On September 6, 1984, the General Services Administration published in the **Federal Register** (49 FR 35161) GSAR Notice No. 5-7 inviting comments from interested parties on these proposed change to the regulation and provided a 30-day comment period. No public comments were received. Comments received from various elements within GSA have been analyzed, reconciled, and incorporated, when applicable, into this GSAR final rule.

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempt certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. The General Services Administration certified in the original document (49 FR 35161, September 6, 1984) that this document would not have 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. This rule does not contain information collection requirements which require the approval of OMB under 44 U.S.C. 3501 et. seq.

List of Subjects in 48 CFR Ch. 5

Government procurement.

1. The authority citation for 48 CFR Chapter 5 reads as follows:

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

2. Subchapter B heading is relocated between Parts 504 and 505 and revised to read as follows:

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

PART 501—GENERAL SERVICES ADMINISTRATION ACQUISITION REGULATIONS SYSTEM

3. Section 501.103 is amended by revising paragraphs (a) and (b) to read as follows:

501.103 Applicability.

(a) The GSAR applies to all GSA contracts for property or services (including construction) for the use of the Federal Government through purchase or lease.

(b) Part 570 of the GSAR contains policies and procedures on the acquisition of leasehold interests in real property. Parts 501, 502, 503, 505, 506, 517, 533, 552, 553, and Subparts 504.70, 507.1, 509.4, 515.1, 532.8 and 543.1 include policies and procedures which generally apply to all contracts including leases of real property. Other GSAR provisions do not apply to leases of real property unless a specific cross reference is made to the provision in Part 570.

* * * * *

PART 507—ACQUISITION PLANNING

4. Part 507, Table of Contents, is amended to add new subpart and sections to read as follows:

Subpart 507.1 Acquisition Plans

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

5. Subpart 507.1 Acquisition Plans, Consisting of §§ 507.100 through 507.105-70, is added to read as follows:

Subpart 507.1—Acquisition Plans

507.100 Scope of subpart.

This subpart implements and supplements FAR Subpart 7.1 and prescribes policies and procedures for acquisition planning. The subpart is applicable to all elements of GSA with respect to the acquisition of personal property, nonpersonal services (including construction) and leasehold interests in real property.

507.101 Definitions.

(a) "Comprehensive acquisition plan" means a plan which encompasses the entire acquisition process beginning at the point when agency needs are established and including the description of requirements to satisfy agency needs, solicitation and selection of sources, award of contract(s), contract financing, contract performance, contract administration and those technical and management functions directly related to the process of fulfilling agency needs by contract. It applies to the acquisition of personal property, nonpersonal services (including construction) and leases of real property in those cases where it has been determined that the criteria for such a plan have been met. It requires the coordination of all persons involved in the acquisition including representatives of legal, fiscal, technical, engineering, and contracting offices. Policies and procedures for this type of plan are set forth in GSA Order, Comprehensive Acquisition Planning (APD 2800.13).

(b) "Limited acquisition plan" means a detailed acquisition plan beginning with receipt of a purchase request or other comparable document by the contracting office. If contracting begins without such a document, planning should begin as soon as the contracting office is aware of a contract need. It includes the solicitation and award phases of contracting.

507.102 Policy.

All proposed acquisitions which, in accordance with the requirements of GSA Order, Comprehensive Acquisition Planning (APD 2800.13), are determined by the senior program official involved to meet the criteria for comprehensive acquisition planning shall have such a plan prepared for them. By definition, a comprehensive acquisition plan includes the elements contained within the limited acquisition plan. Consequently, all proposed acquisitions in excess of $25,000, except those for which a comprehensive acquisition plan has been prepared, shall have a limited acquisition plan completed for them. The value of proposed options which will be priced and/or evaluated shall be added to the basic contract value for determining whether the dollar threshold has been met. Before an unpriced and/or unevaluated option exceeding $25,000 is exercised a plan shall be prepared in accordance with the requirements of this subpart. No solicitation shall be issued until either a comprehensive acquisition plan or a limited acquisition plan has been prepared for acquisitions described in GSAR 507.100 unless waived as authorized by this subpart or GSA Order, Comprehensive Acquisition Planning, (APD 2800.13). A contract shall not be entered without providing for full and open competition on the basis of a lack of acquisition planning or concerns related to the amount of funds available for acquisition.

507.104 General procedures.

(a) The contracting officer shall be responsible for preparing a limited acquisition plan. All such plans shall be reviewed and approved at least one level above the individual writing the plan. The head of the contracting activity (HCA) may require review and approval at a higher level.

(b) When requirements are received in the last month of the fiscal year and award is anticipated during the same month, the plan shall be reviewed and approved at a level no lower than the contracting director.

(c) All plans over $100,000 must be in writing, except as otherwise provided below. HCA's may authorize oral plans for acquisitions between $25,000 and $100,000. For oral plans, the file must be documented with the name of the individual who approved the plan.

(d) The contracting director may waive the requirement for a written limited acquisition plan when the Government's requirement must be met in cases of unusual or compelling urgency. The individual responsible for preparing the plan will present (at the minimum) an oral plan to at least the next higher level. The file must be documented to show: the nature of the urgency, the content of the oral plan, and the name of the individual who approved it. This document may be prepared after award when preparation prior to award would unreasonably delay the acquisition. The documentation segment may be included in the justification required by FAR 6.302–2(c).

(e) Acquisition plans for contracts expected to exceed $100,000 which propose using other than full and open competition must be coordinated with and concurred in by the cognizant competition advocate unless the proposed contract will be awarded under the authority at FAR 6.302–5 or will be awarded under a class justification approved by the Assistant Administrator for Acquisition Policy. HCA's may require coordination and concurrence for contracts equal to or less than $100,000. The cognizant competition advocate is—

(1) The contracting activity competition advocate, as defined in Subpart 502.1, for plans for contracts exceeding $100,000, but equal to or less than $10,000,000.

(2) The agency competition advocate, as defined in Subpart 502.1, for plans for contracts exceeding $10,000,000. The contracting activity competition advocate shall concur in all plans before submission to the agency competition advocate.

(f) The specific content of a plan will vary depending on the nature of the acquisition and the dollar value involved. A suggested, general limited plan outline is at GSAR 507.105–70. For specific programs HCA's may authorize: (1) Continued use of existing detailed plan outlines that generally meet the requirements of GSAR 507.105–70; (2) development of standard plan outlines meeting the needs of individual programs; (3) substitution of automated systems which adequately address individual plan elements for the written requirement; (4) modification of the suggested outline by deleting inapplicable elements or adding new ones as needed.

507.105 Contents of written acquisition plans.

507.105–70 Contents of a limited acquisition plan.

A suggested general limited acquisition plan outline follows. The items should be discussed as appropriate.

Limited Acquisition Plan

(a) *Analysis of the Requirement.* (1) Description of the Requirement—

(i) Commodity or Services: Briefly describe NSN or other identifying characteristics.

(ii) Number of line items: (If applicable).

(iii) Estimated dollar value: Total ——— Unit Price ———.

(iv) Contract period: ———.

(v) Buyers name: ———.

(2) History of previous acquisitions—

(i) Method of acquisition: Sealed bidding? Competitive proposals?

(ii) Competition:

(A) Full and open competition.

(B) Full and open competition after exclusion of sources.

(C) Other than full and open competition.

(iii) Type of contract:

(iv) Conditions peculiar to previous acquisitions:

(A) Minimum order limitation.

(B) Maximum order limitation.

(C) Delivery time.

(D) Prices Paid.

(E) Competition received.

(F) Set asides.

(G) Problems in evaluating offers.

(b) *Current considerations affecting the acquisition.* (1) Socio-Economic considerations.

(i) Small business set aside.

(ii) Labor surplus set aside.

(iii) Subcontracting provisions.

(2) Use of options.

(i) Evaluated.

(ii) Not evaluated.

(3) Market Survey/Pricing.

(i) Competition expected?

(ii) How can competition be enhanced?

(iii) Market Survey. If no survey, explain why.

(iv) Pricing data.

(v) System life costing feasibility?

(A) Cost data needed?

(B) Commercial sales/marketing price data needed?

(C) Audit report needed?

(4) Economic price adjustments?

(5) Support status.

(i) Backorders.

(ii) Delinquencies.

(iii) No coverage.

(6) Acquisition approach.

(i) New/changed acquisition methods?

(ii) Method of acquisition: Sealed bidding? Competitive proposals?

(iii) Contract type.

(iv) Evaluation method.

(c) *Milestone events.* *Date*

(1) Purchase request.

(2) Acquisition plan approval.

(3) Justification and approval for other than full and open competition and/or any required D&F approval.

(4) Issuance of synopsis.

(5) Issuance of solicitation.

(6) Evaluation of proposals, audit, other field pricing reports, and technical reports.

(7) Beginning and completion of negotiations.

(8) Contract preparation, review, clearance.

(9) Contract award.

6. Section 507.307 is added to read as follows:

507.307 Appeals.

Appeal procedures for informal administrative review of the initial cost comparison result are contained in GSA Order, GSA Appeal Procedure under OMB Circular A–76, Revised (ADM 5400.37).

Dated: March 29, 1985.

Allan W. Beres,

Assistant Administrator for Acquisition Policy.

[FR Doc. 85–8757 Filed 4–10–85; 8:45 am]

BILLING CODE 6820–61–M

Proposed Rules

Federal Register
Vol. 50, No. 70
Thursday, April 11, 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

Animal and Plant Health Inspection Service

9 CFR Part 51

[Docket No. 84-079]

Animals Destroyed Because of Brucellosis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the payment of indemnity for animals destroyed because of brucellosis to provide that claims to compensation for animals destroyed because of brucellosis shall not be allowed if the animals are from a "herd know to be affected" with brucellosis, if the animals were identified as brucellosis reactor animals subsequent to the classification of the herd as a "herd known to be affected," and if an "approved action plan or approved individual herd plan" is not in effect for the herd. It appears that this action is needed to help ensure that herd owners do not abuse the indemnity system by continuously making claims for compensation for animals destroyed because of brucellosis in those cases when the herd owners do not have a plan for taking adequate measures to eradicate brucellosis in the herd.

DATE: Written comments must be received on or before June 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Dr. Thomas J. Holt, Cattle Diseases Staff, VS, APHIS, USDA, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8711.

SUPPLEMENTARY INFORMATION:

Background

This document proposes to amend the "Animals Destroyed Because of Brucellosis" regulations in 9 CFR Part 51 (referred to below as the indemnity regulations) which contain provisions governing the payment of indemnity for cattle, bison, and breeding swine destroyed because of brucellosis. The proposed amendment to the indemnity regulations incorporates certain provisions of the "Brucellosis" regulations contained in 9 CFR Part 78 (referred to below as the brucellosis regulations). The brucellosis regulations govern the interstate movement of cattle, bison, and swine because of brucellosis, and are designed to help prevent the interstate spread of brucellosis.

Under the indemnity regulations indemnity is paid to an owner of such animals slaughtered because of brucellosis to encourage the owner to cooperate in the timely removal of infected animals from the herd or, in the case of herd depopulation, to remove a foci of infection and thereby prevent transmission of brucellosis to nearby susceptible herds. The indemnity regulations in §51.9 contain a list of circumstances under which claims for compensation for animals destroyed because of brucellosis shall not be allowed. It is proposed to expand this list of circumstances to provide that claims for compensation for animals destroyed because of brucellosis shall not be allowed if the animals are from a "herd known to be affected" as defined in §78.1(aaa) of the brucellosis regulations, if the animals were identified as reactors subsequent to the classifications of the herd as a "herd known to be affected," and if an "approved action plan or approved individual herd plan" as defined in § 78.1(xx) of the brucellosis regulations is not in effect for the herd.

Section 78.1(aaa) of the brucellosis regulations defines "herd known to be affected" as:

> Any herds in which any animal has been classified as a brucellosis reactor, and which has not been released from quarantine.

Section 78.1(xx) of the brucellosis regulations defines an "approved action plan or approved individual herd plan" (referred to below as an approved herd plan) as:

> (1) A herd management and testing plan which is designed by the herd owner, his veterinarian if so requested, and a veterinarian of the Cooperative Brucellosis Eradication Program to control and eventually eradicate brucellosis from an affected herd. Plans must be approved jointly by the State animal health official and the Veterinarian in Charge. A similar plan for determining the true status of suspects and preventing exposure to brucellosis within the herd is also within the meaning of the term "Individual Herd Plan" or "Approved Action Plan."
>
> (2) The plan must call for the most appropriate veterinary procedures and proven herd management procedures to control the spread of brucellosis within the herd and thereby eradicate the disease from the herd.

A herd in which any animal has been classified as a brucellosis reactor would be placed under a State or Federal quarantine because of a risk of the herd causing the spread of brucellosis. Even if all of the known reactors had been removed, the presence of a quarantine would indicate that there is a significant risk of animals in the herd harboring brucellosis in the incubation stage even though they had tested negative for brucellosis. When reactors are found in a herd, it would be helpful to the eradication effort to take immediate action to rid the herd of the reactors. It could take several weeks or more to develop an approved herd plan. Under these circumstances, it appears that the reactors found upon initial testing should be eligible for compensation regardless of whether a herd plan was in effect. However, it appears that claims for compensation for animals destroyed because of brucellosis should not be allowed if the animals are from a "herd known to be affected," if the animals were identified as reactors subsequent to the classification of the herd as a "herd known to be affected," and if an approved herd plan is not in effect for the herd. This would help ensure that herd owners do not abuse the indemnity system by continuously making claims for compensation for animals destroyed because of brucellosis in those cases where the herd owners do not have a plan for taking adequate measures to eradicate brucellosis in the herd.

Paperwork Reduction Act

In accordance with section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)), the information collection provisions that are included in this rule have been approved by the Office of Management and Budget (OMB) and have been given the OMB control number 0579-0064.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a "major rule." The Department has determined that this action would not have an effect on the economy of $100 million or more; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and would not have any adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The number of cattle, bison, and swine owners who receive indemnity in any given year is less than 1 percent of all cattle, bison, and swine owners in the United States, and the amount of indemnity paid out of all kinds is less than $10 million per year.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 51

Animal diseases, Bison, Cattle, Hogs, Indemnity payments, Brucellosis.

PART 51—ANIMALS DESTROYED BECAUSE OF BRUCELLOSIS

Accordingly, it is proposed to amend the "Animals Destroyed Because of Brucellosis" regulations contained in 9 CFR Part 51 by adding a new paragraph (i) in § 51.9 to read as follows:

§ 51.9 Claims not allowed.

* * * * *

(i) If the animals are from a "herd known to be affected" as defined in § 78.1 of this chapter, if the animals were identified as brucellosis reactor animals subsequent to the classification of the herd as a "herd known to be affected," and if an "approved action plan or approved individual herd plan" as defined in § 78.1 of this chapter is not in effect for the herd.

Authority: Secs. 3, 4, 5, 11, and 13, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; sec. 3, 33 Stat. 1265, as amended; sec. 3, 76 Stat. 130; 21 U.S.C. 111-113, 114, 114a, 114a-1, 120, 121, 125, 134b; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC., this 8th day of March, 1985.

K.R. Hook,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85-6177 Filed 4-8-85; 4:46 pm]

BILLING CODE 3410-34-M

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Ch. III

Review of Regulations

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of regulations selected for review.

SUMMARY: This notice is made pursuant to a requirement of the Regulatory Flexibility Act to publish a list of regulations selected for review during the succeeding 12 months. The Federal Deposit Insurance Corporation (the "FDIC") has selected seven regulations for review by the staff during 1985 and invites comments concerning these regulations.

ADDRESS: Comments may be mailed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

FOR FURTHER INFORMATION CONTACT: John Keiper, Paperwork and Regulation Control Coordinator, Office of the Executive Secretary, (202) 389-4351.

SUPPLEMENTARY INFORMATION: The Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 601-612) requires each agency to periodically review its rules which have a significant economic impact upon a substantial number of small entities. All such rules existing on January 1, 1981, must be reviewed within ten years of that date and all such rules adopted after January 1, 1981, must be reviewed within ten years of publication of such rules as the final rule. The FDIC will satisfy this requirement by following the more stringent requirements of its statement of policy entitled "Development and Review of FDIC Rules and Regulations" (44 FR 31007, May 30, 1979; 44 FR 32353, June 6, 1979; 44 FR 76858, December 28, 1979; 49 FR 7288, February 28, 1984), which prescribes the review of each rule (whether or not it has a significant economic impact on a substantial number of small entities) at least every five years.

Reviews will address all relevant issues, including whether the regulations should be continued, revised, or rescinded. Any change to a regulation as a result of a review will be published in the **Federal Register** in accordance with the requirements of the Administrative Procedure Act, as either a proposed rulemaking action subject to public comment or as a final rulemaking action. Each review will evaluate:

(a) The continued need for the regulation;

(b) Alternative methods of accomplishing the purpose of the regulation;

(c) The type and number of complaints or suggestions received;

(d) The need to minimize the burden imposed on those affected by the regulation, especially small banks;

(e) Possible simplification or clarification of the regulation;

(f) The need to eliminate overlapping, duplicative and conflicting regulations; and

(g) The length of time since the regulation was last evaluated and the extent to which technology, economic conditions, and other factors have changed in the area affected by the regulation.

The regulations of the FDIC are set forth in the several parts which constitute chapter III of title 12 of the *Code of Federal Regulations*. During 1985 was FDIC will made reviews of the following:

PART 303—APPLICATIONS, REQUESTS, SUBMITTALS, DELEGATIONS OF AUTHORITY, AND NOTICES OF ACQUISITION OF CONTROL

Legal basis: 12 U.S.C. 1815, 1816, 1817(j), 1818, 1819; 12 U.S.C. 1607.

Description and need: Part 303 sets forth the requirement and procedures to be followed by State nonmember banks in making application to the FDIC on such matters as obtaining deposit insurance, establishing a branch or moving a main office or branch, establishing remote service facilities, merging or consolidating, extending corporate or charter powers, reducing or retiring capital, providing notice of change in bank control, and various other matters. The regulation also describes the authority delegated by the FDIC Board of Directors to certain officials and committees of the Corporation to act on such matters as applications, notices of acquisition of control, requests for relief from

reimbursement, and other related matters.

PART 304—FORMS, INSTRUCTIONS, AND REPORTS

Legal basis: 12 U.S.C. 1819.

Description and need: Part 304 identifies the forms and reports used for submitting information to the FDIC, describes the circumstances under which a particular form or report should be used, identifies sources for obtaining preprinted forms, and prescribes the required contents of a report for which there is no preprinted form. The forms and reports serve various supervisory functions.

PART 308, SUBPART B—RULES OF PRACTICE GENERALLY

Legal basis: 12 U.S.C. 1819; 15 U.S.C. 78w; 12 U.S.C. 1972; 5 U.S.C. 504

Description and need: Subpart B to Part 308 prescribes rules of practice and procedures followed by the FDIC in hearings pursuant to the provisions of the Federal Deposit Insurance Act or other applicable law pertaining to involuntary termination of the insured status of any bank; issuance of cease-and-desist orders against any insured nonmember bank or its official; assessment of civil penalties against a bank or its official; issuance of orders that remove or suspend from office a director or officer of an insured nonmember bank; disapproval of a proposed acquisition of control of an insured nonmember bank; and imposition of sanctions upon a municipal securities dealer or a person associated with such a dealer.

PART 309—DISCLOSURE OF INFORMATION

Legal basis: Sec. 2(9) "Seventh" and "Tenth," Pub. L. 797, 64 Stat. 881, as amended by Title III; sec. 309, Pub. L. 95-630, 92 Stat. 3677 (12 U.S.C. 1819 "Seventh" and "Tenth"); § 309.5, also issued under 5 U.S.C. 552.

Description and need: This Part sets forth the basic policies of the Federal Deposit Insurance Corporation regarding information it maintains and the procedures for obtaining access to such information.

PART 311—RULES GOVERNING PUBLIC OBSERVATION OF MEETINGS OF THE CORPORATION'S BOARD OF DIRECTORS

Legal basis: 5 U.S.C. 552b and 12 U.S.C. 1819.

Description and need: This part implements the policy of the "Government in the Sunshine Act," Section 552b of Title 5, United States Code, which is to provide the public with as much information as possible regarding the decision-making processes of certain Federal agencies, including the Federal Deposit Insurance Corporation, while preserving the rights of individuals and the ability of the agency to carry out its responsibilities.

PART 329—INTEREST ON DEPOSITS

Legal basis: 12 U.S.C. 1819, 1828, 1832.

Description and need: The provisions of Part 329 apply to the advertisement and payment of interest or dividends on deposits in insured nonmember banks and insured State branches of foreign banks.

PART 330—CLARIFICATION AND DEFINITION OF DEPOSIT INSURANCE COVERAGE

Legal basis: 12 U.S.C. 1813, 1817, 1821, 1822.

Description and need: Part 330 provides for determination by the FDIC of the insured depositors of an insured bank and the amount of their insured deposit accounts. It sets forth the rules for determining the insurance coverage of deposit accounts maintained by depositors.

Dated: March 28, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-8758 Filed 5-10-85; 8:45 am]

BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 120

Business Loan Policy

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to repeal § 120.101-2(b)(1)(v), the broadcasting and cable TV exception to the general rule that SBA will grant no financial assistance to media applicants, *i.e.*, ". . . if the applicant is engaged in the creation, origination, expression, dissemination, propagation or distribution of ideas, values, thoughts, opinions or similar intellectual property . . . ." This rule will hereafter be referred to as SBA's media policy. The rule now permits SBA financial assistance to commercial broadcasters (radio and television) and cable TV systems under the regulatory jurisdiction of the Federal Communications Commission (FCC) or to a cable TV franchise granted in conformity with FCC standards.

DATES: Comments must be submitted on or before June 10, 1985.

ADDRESS: Written comments, in duplicate, are to be addressed to the Associate Administrator for Finance and Investment, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Charles Hertzberg, telephone 202-653-6574.

SUPPLEMENTARY INFORMATION: The present rule excepting broadcasters and cable TV operators from the general prohibition against granting financial assistance to media applicants was published and effective on January 27, 1978 (43 FR 3701).

In publishing the final rule, SBA explained its exception from the general rule in relevant part as follows:

> The premise underlying SBA's general policy of denying financial assistance to 'opinion molders' is set forth in 13 CFR 120.2(d)(4), which is quoted hereafter. The rationale for the exception created today in favor of broadcasters and cable TV operators is that these industries are already subject to Government regulations. In the case of broadcasters, the regulation is by the FCC; in the case of cable TV operators, regulations is by local franchising authorities operating under FCC guidelines. Participants in these industries are subject to 'equal time' and 'fairness' rules and each participant holds its license or franchise only so long as it operates in the public interest. No such restrictions apply to other opinion molders such as publishers and producers of 'audio visual materials' (*id.*).

In 1981 the Supreme Court upheld an FCC Policy Statement that the public interest is best served by market forces. *FCC v. WNCN Listeners Guild*, 450 U.S. 582. The Court concluded that governmental efforts to improve the broadcast market have led to distortions of programming, and that the costs of government instrusion into the market place outweigh the benefits. Accordingly, it does not appear that SBA's 1978 reasoning is now valid.

For these reasons, it is hereby proposed to repeal § 120.101-2(b)(1)(v) in its entirety.

Regulatory Impact

For purposes of E.O 12291, SBA certifies that this amendment, if adopted, would not be a major rule since it would not have an annual economic effect of $100 million or more. In this connection, we note that during FY 1984 SBA approved 70 loan applications averaging $248,861 from radio and TV broadcasters, cable systems and related industries

[Standard Industrial Classification Manual 1972, Nos. 4832/3). The amendment will not result in a cost increase for anyone or have an adverse effect on competition or employment anywhere.

For purposes of Regulatory Flexibility Act, 5 U.S.C. *et seq.*, it may have a significant economic impact on a substantial number of small entities. Consequently, the following information is offered:

1. This amendment is proposed to adapt SBA's media policy to changed conditions in the broadcasting industry. The legal basis is found in Sections 4(d) [as amended by Reorganization Plan No. 4 of 1965 [30 FR 9353)], and 5(b)(6) of the Small Business Act [15 U.S.C. 633(d) and 634(b)(6)] which authorize the Administrator of SBA to establish loan policies and promulgate implementing regulations.

2. Description of small entities to which the amended rule would apply. The amendment would apply to operators of commercial broadcasting stations and cable TV systems under FCC jurisdiction falling within the size standard of 13 CFR Part 121. It is not possible to estimate the number of small entities that will be affected by this amendment. However, during FY 1984 SBA approved 70 loan applications for the two classes of industries (SIC Nos. 4832 and 4833) which, besides radio and TV stations and cable systems, include related industries such as those furnishing program material and services.

3. There is no reporting or recordkeeping requirement contained in this amendment.

4. This amendment does not overlap, duplicate or conflict with any Federal rule.

5. The only significant alternatives to this rule would be to leave the rule unamended, or to remove all the restrictions of SBA's media policy. The reason against the first alternative has been stated above. The second alternative is one of the options SBA will consider when the media policy is reviewed in its entirety.

6. There are no monetary costs or other adverse effects inherent in this amendment.

Since this amendment carries no recordkeeping or reporting requirement, it is not subject to the Paperwork Reduction Act of 1980, Pub. L. 98–551.

List of Subjects in 13 CFR Part 120

Loan Programs—Business, Small Businesses.

PART 120—[AMENDED]

§ 120.101–2 [Amended]

Accordingly, pursuant to sections 4(d) and 5(b)(6) of the Small Business Act, 15 U.S.C. 633(d) and 634(b)(6), SBA hereby proposes to repeal § 120.101–2(b)(1)(v) of Part 120, Chapter I of Title 13, Code of Federal Regulations.

(Catalog of Federal Domestic Assistance No. 59.012 Small Business Loans)

Dated: January 24, 1985.

James C. Sanders,

Administrator.

[FR Doc. 85–8659 Filed 4–10–85; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79–76–245 (Colorado-40 Addition)]

High-Cost Gas Produced From Tight Formations; Proposed Rulemaking

AGENCY: Federal Energy Regulatory Commission, DOE.

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 State of Colorado that the Niobrara Formation be designated as a tight formation under § 271.703(d).

DATE: Comments on the proposed rule are due on May 23, 1985.

Public Hearing: No public hearing is scheduled in this docket as yet. Written requests for a public hearing are due on April 23, 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 Victor Zabel, (202) 357–8616.

Notice of Proposed Rulemaking by Director, OPPR

In the matter of High-Cost Gas Produced from Tight Formations; Docket No. RM79–76–245, (Colorado-40 Addition).

Issued: April 8, 1985.

I. Background

On February 25, 1985, the State of Colorado Oil and Gas Conservation Commission (Colorado) submitted to the Commission a recommendation, in accordance with § 271.703 of the Commission's regulations (18 CFR 271.703 (1983)), that the Niobrara Formation located in Adams and Weld Counties, Colorado, be designated as a tight formation. This Notice of Proposed Rulemaking is issued under § 271.703(c)(4) to determine whether Colorado's recommendation that the Niobrara Formation be designated a tight formation should be adopted.[1] Colorado's recommendation and supporting data are on file with the Commission and are available for public inspection.

II. Description of Recommendation

The Niobrara Formation is located in Adams County, Colorado, in Township 1 South, Range 67 West, Sections 1 through 36; Township 1 South, Range 68 West, Sections 25 through 36; and in Weld County, Colorado, in Township 1 North, Range 67 West, Section 32 S/2, 6th P.M. No federal acreage is included in the recommended area and the area contains 48½ square miles.

The Niobrara Formation underlies the Pierre Shale and overlies the Codell Sandstone. Shales, mudstones, limestones, and dolomites comprise the Niobrara Formation. The top of the Niobrara Formation averages 7,500 feet in depth. The Niobrara Formation varies in thickness from 250 to 450 feet and the formation is of Cretaceous age.

III. Discussion of Recommendation

Colorado claims in its submission that evidence gathered through information and testimony presented at a public hearing in Cause No. NG–45 convened by Colorado on this matter demonstrates that:

(1) The average *in situ* gas premeability throughout the pay section

[1] Certain new tight formation gas wells will be deregulated as of January 1, 1985, in accordance with Commission Order Nos. 406 and 406–A.

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 formation, 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 formation is expected to produce more than five (5) barrels of oil per day.

Colorado further asserts that existing State and Federal Regulations assure that development of this formation 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 Colorado that the Niobrara Formation, as described and delineated in Colorado's recommendation as filed with the Commission, be designated as a tight formation 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 23, 1985. Each person submitting a comment should indicate that the comment is being submitted in Docket No. RM79–76–245 (Colorado-40 Addition), 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 the 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 person 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 23, 1985.

List of Subjects in 18 CFR Part 271

Natural gas, Incentive price, Tight formation.

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 Colorado'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, 15 U.S.C. 3301–3432; Administrative Procedure Act, 5 U.S.C. 553.

2. Section 271.703 is amended by revising paragraph (d)(210) to read as follows:

§ 271.703 Tight formations.

* * * * *

(d) *Designated tight formations.* * * *

* * * * *

(210) *Niobrara Formation in Colorado.* RM79–76–245 (Colorado-40 Addition).

(i) *Delineation of formation.* The Niobrara Formation is located in Adams County, Colorado, in Township 1 South, Range 67 West, Sections 1 through 36; Township 1 South, Range 68 West, Sections 25 through 36; and in Weld County, Colorado, in Township 1 North, Range 67 West, Section 32 S/2, 6th P.M.

(ii) *Depth.* The average depth to the top of the Niobrara Formation is 7,500 feet. The Niobrara Formation varies in thickness from 250 to 450 feet.

[FR Doc. 85–8666 Filed 4–10–85; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 175

Receipt of Domestic Interested Party Petition Concerning Tariff Classification of Certain Fuel Grade Ethanol

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of receipt of domestic interested party petition; solicitation of comments.

SUMMARY: Customs has received a petition submitted on behalf of several domestic interested parties with respect to Customs determination that certain fuel grade ethanol imported from several Caribbean Basin countries may qualify for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA). The petitioners contend that the ethanol is currently incorrectly classified under the CBERA as being eligible for duty-free entry into the U.S. They believe that the beverage grade ethanol transformed to fuel grade ethanol in the Caribbean Basin countries is not subjected to a "substantial manufacturing process" and does not produce a "new or different article of commerce". Therefore, they believe the duty prescribed for ethanol in the tariff schedules should be collected. This document invites comments addressing the correctness of the current classification.

DATE: Comments must be received on or before June 10, 1985.

ADDRESS: Comments (preferably in triplicate) may be submitted to the Commissioner of Customs, Attention: Regulations Control Branch, Room 2426, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–8237).

FOR FURTHER INFORMATION CONTACT: Harold Singer, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202–566–2938).

SUPPLEMENTARY INFORMATION:

Background

Pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516), a domestic interested party petition has been filed with respect to Customs determination that certain fuel grade ethanol imported from several Caribbean Basin countries may qualify for duty-free entry under the Caribbean Basin Economic Recovery Act (CBERA; 19 U.S.C. 2701). The product at issue, ethyl alcohol (ethanol) imported for use as a fuel, is classified under item 901.50, Tariff Schedules of the United States (TSUS; 19 U.S.C. 1202), at a rate of duty of 60¢ per gallon. (This 60¢ per gallon duty is in addition to a 3% ad valorem duty on ethanol for nonbeverage purposes from item 427.88, TSUS). However, some ethanol may enter the U.S. free of duty since Customs has ruled that the transformation of beverage grade ethanol from a non-beneficiary country to motor fuel ethanol in a beneficiary country through azeotropic distillation is sufficient to make the motor fuel ethanol a product of the beneficiary country for purposes of the CBERA.

The petitioners contend that fuel grade ethanol is not a new or different

article of commerce from beverage grade ethanol as the only significant difference in the composition of the two is their water content. It is argued that azeotropic distillation is not a substantial manufacturing process. The azeotropic method of distillation involves adding benzene or some other chemical to 190 proof ethanol and then heating the mixture so that the benzene will vaporize and carry away most or all of the water in the mixture. This results in ethanol of a higher proof.

The possibility that importers will import ethanol free of duty is the result of two previous Customs ruling letters. In Customs letter CLA-2 CO:R:CV:V, 553209 HS, September 12, 1984, it was stated that an article is substantially transformed for tariff and related purposes when, as a result of a substantial manufacturing or processing operation, a new or different article of commerce emerges having a name, character, or use which is distinct from the article or material from which it is transformed. Applying this definition, it was determined that azeotropic distillation is a substantial processing operation and fuel grade ethanol was a different product from beverage grade ethanol.

In Customs letter CLA-2 CO:R:CV:VS, 071693 TL, January 3, 1984, it was determined that General Headnote 3(a), TSUS, would afford duty-free entry to 199+ proof alcohol that had been produced from 180-190 proof alcohol after azeotropic distillation performed in the U.S. Virgin Islands.

Comments

Pursuant to § 175.21(a), Customs Regulations (19 CFR 175.21(a)), before making a determination on this matter, Customs invites written comments from interested parties on the classification issue.

The domestic interested party petition, as well as all comments received in response to this notice, will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.6, Treasury Department Regulations (31 CFR 1.6), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), between the hours of 9:00 a.m. and 4:30 p.m. on normal business days, at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

Authority

This notice is published in accordance with § 175.21(a), Customs Regulations (19 CFR 175.21(a)).

Drafting Information

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

William von Raab,

Commissioner of Customs.

Approved April 2, 1985.

John M. Walker, Jr.,

Assistant Secretary of the Treasury.

[FR Doc. 85-8709 Filed 4-10-85; 8:45 am]

BILLING CODE 4820-02-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Part 635

[FHWA Docket No. 85-17]

Contract Procedures; Advertising for Bids; Noncollusion Affidavit

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects a proposed rule on contract procedures regarding advertising for bids that appear at page 12037 in the **Federal Register** on Wednesday, March 27, 1985 (50 FR 12037). The action is necessary to correct a typographical error in the docket number given under the **"ADDRESS"** heading to read as "Docket No. 85-17."

DATE: Comments on the proposed rule must be submitted on or before May 28, 1985.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 85-17, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 and 4:15 p.m., ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. P. E. Cunningham, Chief, Construction and Maintenance Division, (202) 426-0392, or Mr. Hugh T. O'Reilly, Office of the Chief Counsel, (202) 426-0780. Office hours are from 7:45 to 4:15 p.m., ET, Monday through Friday.

In FR Doc. 85-7212 appearing on page 12037 in the issue of March 27, 1985, under the heading of **"ADDRESS"** the docket number "84-14" is corrected to read as "85-17."

Issued on: April 3, 1985.

Dowell H. Anders,

Acting Chief Counsel, Federal Highway Administration.

[FR Doc. 85-8699 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-22-M

23 CFR Part 650

[FHWA Docket No. 85-21]

Navigational Clearances for Bridges

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA requests comments on a proposal to issue regulations for the coordination and development of Federal-aid highway projects which effect navigation. The regulations will summarize existing policies and procedures regarding the construction of bridges over navigable waterways. The purposes of this document is to strengthen and improve the coordination between highway interests and waterway interests, and to achieve cost-effective designs. The regulation will be issued as a part of a comprehensive effort by FHWA to streamline and accelerate the planning and developmental processes on Federal-aid highway projects under the "one stop" processing concept.

DATE: Comments must be received on or before July 10, 1985.

ADDRESS: Submit written comments, preferably in triplicate, to FHWA Docket No. 85-21, Federal Highway Administration, Room 4205, HCC-10, 400 7th Street, SW., Washington, D.C. 20590. All comments received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday, except legal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Philip L. Thompson, Office of Engineering (HNG-31), (202) 472-7690, or Mr. Michael Laska, Office of the Chief Counsel (HCC-10), (202) 426-0762, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA's directive on bridge clearances for navigation (Federal-Aid Highway Program Manual 6-7-1-1-) has not been revised since 1971 although there have been changes in legislative requirements and project development procedures

since that time. The operating procedures for determining bridge clearances and obtaining bridge permits have been issued by FHWA in a variety of forms including memorandums to regional administrators, Technical Advisories, Notices, and a FHWA/U.S. Coast Guard (USCG) Memorandum of Understanding (MOU). This distribution of recommended operating procedures through different channels of communication has been a source of confusion for State highway agencies as well as for FHWA personnel.

The proposed regulation corrects this deficiency by summarizing the existing legislative requirements and established operating procedures, and by referencing appropriate guidance material.

The proposed regulations will clearly define FHWA and USCG responsibilities relative to navigation clearances which are provided for the construction of Federal-aid highway bridges. The FHWA policy is to be involved in navigation clearance determinations, to meet the reasonable needs of navigation with fixed birdges, wherever practicable, and to provide for reasonable protection from ship collisions.

The proposed regulations will provide the coordination procedures for Federal-aid highway bridges which require navigational clearances. Bridges over waterways which do not require a USCG permit represent 99 percent of the bridges over waterways processed by FHWA. For example, in calendar year 1983, FHWA authorized the construction or rehabilitation with Federal funds of approximately 5,900 bridges over waterways which did not require a USCG permit. During the same period, the USCG issued permits for about 60 bridges to be constructed with Federal funds.

For bridges not requiring a USCG permit, the FHWA through its division offices has the responsibility to determine that a USCG permit is not required, through consultation if necessary; to assure that the reasonable needs of local navigation are met; and to notify the USCG if navigation lights and signals are required.

For bridges requiring a USCG permit, the FHWA has agreed to process projects according to step-by-step procedures detailed in Appendix A of the proposed regulation and to coordinate environmental review of projects in accordance with the MOU in Appendix B of the proposed regulation. In addition to these procedures, a requirement has been included that sufficient preliminary design shall be accomplished during the environmental phase of project development to determine horizontal and vertical navigational clearances that are acceptable to the FHWA and the USCG for further project development.

The FHWA encourages fixed bridges wherever practicable so that highway and waterway traffic can be best served. While this decision usually has to be made on the basis of a benefit cost analysis, a higher initial cost can often be justified to save future operating costs.

In addition to the proposed regulations, the FHWA has already published the following non-binding guidance for navigation clearances which will continue as guidance under the proposed regulations:

(1) The HA should consider the river geometry, currents and velocities; present and future barge and tow traffic, distribution and sizes; clearances at bridges upstream and downstream and navigational problems at those locations; and the history of problems with ice, lock sizes and other problems unique to the bridge site. An analysis using methods in FHWA Technical Advisory T 5140.2,[1] Navigation Channel Widths in Bends, dated February 17, 1978, can be used in making an enginerring study of navigational clearances needs. In addition, Bridge sites can be modeled to assure that no undue navigational hazards will be created at the bridge. Also, controlled time lapse photography of barge traffic moving through the river reach can be used to determine the width of stream actually occupied by a tow in passing through the bridge site.

(2) The HA should use information on the increment of highway bridge costs and on the increased motor vehicle operating costs due to navigational needs in the early coordination with the USCG and the subsequent development of bridge plans to provide adequate navigational clearances at a reasonable cost to the Federal aid highway project. The USCG has the primary responsibility for decisions governing navigational clearances for bridges; however, the FHWA has a coordinate responsibility to assist in obtaining information regarding the costs to highway users associated with the navigational clearances.

The FHWA has determined that this document contains neither a major rule under Executive Order 12291 nor a significant regulation under DOT regulatory policies and procedures. The anticipated economic impact of this proposed regulation is minimal since its main purpose is to summarize and emphasize current policies and procedures. Therefore, a full regulatory evaluation is not required. For these reasons and under the criteria of the Regulatory Flexibility Act, it is certified that this action will not have a significant economic impact on a substantial number of small entities.

(Catalog of Fedeal Domestic Assistance Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

List of Subjects in 23 CFR Part 650

Bridges, Grant programs—transportation, Highways and roads

Issued on: April 3, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

In consideration of the foregoing, and under the authority of section 124(a) of the Surface Transportation Assistance Act of 1978 (Pub. L. 95–599, 92 Stat. 2702), 23 U.S.C. 144(h), 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*, 49 CFR 1.48(b), the FHWA proposes to amend Part 650 of Title 23, Code of Federal Regulations, by adding a new Subpart H as set forth below.

PART 650—BRIDGES, STRUCTURES, AND HYDRAULICS

Subpart H—Navigational Clearances for Bridges

Sec.

Authority: Sec. 124(a), Pub. L. 95–599, 92 Stat. 2702; 23 U.S.C. 144(h), 315; 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*; 49 CFR 1.48(b)

Subpart H—Navigational Clearances for Bridges

§ 650.801 Purpose.

The purpose of this regulation is to establish policy and to set forth coordination procedures for Federal-aid highway bridges which require navigational clearances.

[1] Federal Highway Administration internal directives are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D.

§ 650.803 Policy.

It is the policy of FHWA:

(a) To assist in determining the navigational clearance for bridges,

(b) To provide clearances which meet the reasonable needs of navigation and provide for cost-effective highway operations,

(c) To provide fixed bridges wherever practicable, and

(d) To provide appropriate protective and warning systems on bridges subject to ship collisions.

§ 650.805 Bridges not requiring a USCG permit.

(a) The FHWA through its division offices has the responsibility to determine that a USCG permit is not required for bridge construction. This determination shall be made at an early stage of project development so that any necessary coordination can be accomplished during environmental processing.

(b) A USCG permit shall not be required if the FHWA Division Administrator or Division Engineer for Direct Federal projects determines that the proposed contstruction, reconstruction, or replacement of the federally aided or assisted bridge is over waters which are neither tidal nor used or susceptible to use for interstate or foreign commerce.

(c) The highway agency (HA) shall assess the need for a USCG permit or navigation lights or signals for proposed bridges. The HA shall consult the appropriate District Offices of the U.S. Army Corps of Engineers if the susceptibility to improvement for navigation of the water of concern is unknown and of the USCG if the navigability of the waters is in question.

(d) Where the HA believes that a USCG permit is not required, it shall include a statement to that effect in the appropriate environmental review document or with the categorical exclusion determination. The statement shall be supported by adequate documentation so that the Division Administrator or Engineer can make a determination that a USCG permit is not required.

(e) Since construction is waters exempt from a USCG permit continues to be subject to other USCG authorizations, such as approval of navigation lights and signals and timely notice to local mariners of waterway changes, the Division Administrator or Engineer shall notify the USCG ehenever it is determined that the proposed action may substantially affect local navigation.

§ 650.807 Bridges requiring a USCG permit.

(a) The USCG has the responsibility to determine whether a USCG permit is required for the improvement or construction of a bridge over navigable waters except for the exemption exercised by FHWA in §650.805.

(b) A USCG permit shall be required when a bridge crosses waters which are: (1) Tidal or (2) used as a means of transport for substantial interstate or foreign commerce or are susceptible to improvement for this use. If it is determined that a USCG permit is required, the project shall be processed in accordance with the following procedures.

(c) The HA shall initiate coordination with the USCG at an early stage of project development and provide opportunity for the USCG to be involved throughout the environmental review process in accordance with 23 CFR Part 771. Additional guidance is provided in the following procedures: The USCG/FHWA Procedures for Handling Projects which Require a USCG Bridge Permit (Appendix A) and the U.S. Coast Guard/Federal Highway Administration Memorandum of Understanding on Coordinatng the Preparation and Processing of Environmental Documents (Appendix B).

(d) The HA shall accomplish sufficient preliminary design during the environmental phase of project development to determine horizontal and vertical navigational clearances acceptable to the FHWA and the USCG for further project development and to determine the feasibility of any proposed movable bridge.

(e) The HA shall consider hydraulic, safety and navigational needs along with highway costs when designing a proposed waterway crossing.

(f) For bridges where the risk of ship collision is significant, HA's shall consider the need for pier protection and warning systems as outlined in FHWA Technical Advisory 5140.19, Pier Protection and Warning Systems for Bridges Subject to Ship Collisions, dated February 11, 1983.

(g) Special navigational clearances shall normally not be provided for accommodation of floating construction equipment of any type that is not required for navigation channel maintenance. If the navigational clearances are influenced by the needs of such equipment, the HA shall prepare a finding of fact to accompany the USCG permit application which identifies the equipment by type and ownership, and by expected frequency of movement of equipment in the area of the bridge.

(h) The permit application shall be submitted to the USCG only after the bridge concept and clearances are agreed upon by the HA or land management agency, whichever is applicable, and by FHWA. For projects which require FHWA approval of plans, specifications and estimates; preliminary bridge plans shall be approved at the appropriate level by FHWA for structural concepts, hydraulics, and navigation clearances.

(i) If the HA presents alternative designs for bids, then the permit application shall be prepared in sufficient detail so that all alternatives can be evaluated by the USCG. If appropriate, the USCG will issue a permit for all alternatives. Within 30 days after award of the construction contract, the USCG shall be notified by the HA of the alternate which was selected. The USCG procedure for evaluating permit applications which contain alternates is presented in its Bridge Administration Manual (COMDT INST M16590.5).[3] The FHWA policy on alternates, Alternate Design for Bridges; Policy Statement, was published at 48 FR 21409 on May 12, 1983.

§ 650.809 Movable span bridges.

A fixed bridge shall be selected whenever practicable. If there are social, environmental or engineering reasons which favor the selection of a movable bridge, a benefit-cost analysis to support the need for the movable bridge shall be prepared as a part of the preliminary plans.

[3] United States Coast Guard internal directives are available for inspection and copying as prescribed in 49 CFR Part 7, Appendix B.

APPENDIX A.—USCG/FHWA PROCEDURES FOR HANDLING PROJECTS WHICH REQUIRE A USCG BRIDGE PERMIT

Federal Highway Administration	U.S. Coast Guard (USCG) activities
1. System Planning Activities.	
2. Project Initiation Activities.	
3. Preliminary Environmental/Location Studies.	
(a) Data gathering.	
(b) Determine if a USCG permit is required.	
(c) If a permit is required, initiate coordination with USCG, and request USCG (District) to be cooperating agency as per CEQ Regulations.	
(d) Assess navigation needs in cooperation with USCG; provide information to USCG if preliminary notice is to be issued; i.e., plans, clearances, description of project, etc. Clarify environmental review scoping responsibilities as necessary.	3(d) Assess navigational needs and assist FHWA/State with draft EIS or EA; consider, as appropriate, preliminary public notice of project location(s) and evaluation of possible effects on waterway. Advise FHWA/State whether the proposed project meets the reasonable needs of navigation or is controversial.
(e) Advise the USCG district ASAP of proposed Programmatic section 4(f).	
4(a) Issue draft EIS or EA and include discussion of navigation needs and potential highway impacts; continue coordination with Coast Guard.	4(a) Comment on navigational and environmental aspects of draft EIS or EA, concentrating on the bridge(s) and approaches, with particular emphasis on adequacy of proposed clearances.
4(b) Consider joint FHWA/State and Coast Guard public notice and hearing(s), especially in controversial cases.	4(b) Participate in joint public notice and hearing(s): (1) Where requested by FHWA/State, (2) When sufficient information is available on a given bridge to avoid separate USCG hearing.
5. Select highway location and prepare final EIS or FONSI; respond to comments received on navigation and environmental aspects of highway bridges. If the USCG has not provided comments on the navigation aspects, contact the USCG and obtain their views on the adequacy of the proposed clearances.	5. Upon request, assist in preparing responses to any navigational issues received on environmental document.
6. Furnish preliminary final EIS or FONSI to USCG for review, as appropriate.	6. Review preliminary final EIS or FONSI and comment, as appropriate.
7. Whenever practicable submit application for USCG permit. (Permit application(s) may include alternate bridge designs.) Resolve any outstanding issues.	7. When permit application is included, review for completeness and issue formal public notice.
8. FHWA approval of final EIS or FONSI. Complete submission for permit application as required. If Programmatic section 4(f) is used, provide USCG with the supporting information for determining its applicability including alternatives, mitigation measures, and FHWA/SHPO agreement.	
9. If permit has not been previously submitted, apply for permit as soon as practicable after design work commences.	9(a) For applications submitted after approval of final EIS or FONSI, District reviews application and issues formal public notice.
	9(b) District concurs in resolution of any outstanding issues; forwards permit application with recommendation to Washington Headquarters or acts on permit application where appropriate.
10. Complete bridge design. If alternate designs submitted, notify USCG of alternate selected within 30 days of bid award.	

Appendix B.—USCG/FHWA Memorandum of Understanding on Coordinating the Preparation and Processing of Environmental Documents

I. Purpose

The purpose of this Memorandum of Understanding (MOU) is to avoid unnecessary duplication of effort by the Coast Guard and the Federal Highway Administration (FHWA), both agencies of the Department of Transportation (DOT), in the preparation and processing of environmental documents pursuant to section 102(2)(C) of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4332(2)(c)) and other Federal environmental statutes and orders for bridge projects requiring approvals of both the FHWA and Coast Guard. The NEPA requires the Secretary of Transportation to make explicit analyses of environmental consequences of proposed major Federal actions under DOT jurisdiction and prepare detailed statements which analyze and consider the impact of these proposed actions upon the environment. The procedures set forth in this MOU will be utilized to strengthen the early coordination between the Coast Guard and the FHWA prior to and during the developing of the highway section and environmental processing.

II. Definitions

The definitions contained in the Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500–1508) are applicable to this MOU as well as the following:

1. *Bridge:* The term "bridge and its approaches," as used in 33 CFR 114.05, should be defined in each case by applying proper engineering sense to the facts of the case. The term may be defined generally as including all work integral to the structure itself. For example, if a bridge deck's grade is the same as the grade of the highway approach to it, the point where the abutment terminates would be considered the limit of the bridge. In a case where the bridge deck is at a higher elevation than the approach highway leading up to it, with a change in grade required to reach that elevation, the point where a change in grade in the approach highway occurs would be considered the limit of the bridge. Other bridges, whether highway, railroad, industrial conveyors, pipelines, etc., excepting aerial transmission lines, which are reconstructed, removed, relocated, or otherwise involved in the Federal assistance project requiring approval of the location and plans by the Commandant, U.S. Coast Guard, are included in this definition.

2. *Bridge Permit:* The approval of location and plans of a bridge, pursuant to the provisions of 33 U.S.C. 401, 491 *et seq.*, 511 *et seq.*, 525 *et seq.*, and 535, and Acts of Congress authorizing the construction of bridges, including international bridges.

3. *Coast Guard:* This shall mean the Commandant of the Coast Guard; Chief, Office of Navigation; Chief, Bridge Administration Division; or Commander of a Coast Guard District to the extent of the authority delegated. However, throughout section IV and V of this MOU, unless otherwise stated, Coast Guard shall mean the Commander of a Coast Guard District.

4. *FHWA:* This shall mean the Administrator, Federal Highway Administration; the Regional Federal Highway Administrator; or Division Administrator (Division Engineer for Direct Federal highway projects) to the extent of the authority delegated. However, throughout sections IV and V of this MOU, unless otherwise stated, FHWA shall mean the Division Administrator.

5. *Highway Agency (HA):* The agency with the primary responsibility for initiating and carrying forward the planning, design, and construction of bridges and highways. For bridges and highways financed with Federal-aid highway funds, the HA will normally be the appropriate State highway department. For bridges and highways financed with other funds, such as National Forest, and National Park roads and highways, etc., the HA will be the appropriate Federal or State agency.

6. *Federally Aided Highway Project:* Highway and bridge projects constructed with the assistance of the FHWA-administered funds, including projects financed from funds transferred to the FHWA for other agencies.

7. *Navigable Waters of the United States:* (1) For purposes of bridge administration, "navigable waters of the United States" means the following (unless specifically declared otherwise by Congress):

a. The territorial sea;

b. Internal waters subject to tidal influence; and

c. Internal waters not subject to tidal influence, which

(1) Are or have been used, or are or have been susceptible for use, by themselves or in connection with others, as highways for *substantial interstate or foreign commerce.*

notwithstanding obstructions that require portages; or

(2) A governmental or non-governmental body having expertise in waterway improvement determines or has determined to be capable of improvement at a reasonable cost (a favorable balance between cost and need) to provide, by themselves or in connection with others, highways for *substantial interstate or foreign commerce.*

III. Lead Agency for Environmental Processes

Except as provided for in section 144(h) of Title 23 U.S.C., the Coast Guard must approve (issue a permit for) the location and plans for highway bridges crossing navigable waters of the United States. A significant number of these bridges are constructed with the assistance of Federal funds administered by the FHWA.

The actions by the FHWA and Coast Guard require an evaluation under the terms of NEPA, as implemented by the CEQ Regulations (40 CFR Parts 1500–1508), DOT Order 5610.1C, applicable parts of the operating agencies' directives (FHPM 7–7–2 and Commandant Instruction M 16475.1A), and other Federal environmental statutes and orders. The CEQ regulations strongly encourage that a single agency (lead agency) be designated to handle the NEPA responsibilities where related actions by several Federal agencies are to be taken. The lead agency, in such instances, assumes the responsibility for consultation with other agencies, coordinating necessary environmental studies and evaluations, and preparation of any NEPA-related determination or document for review by the cooperating Federal agencies prior to making it available for public review.

The Coast Guard and the FHWA agree that, when a highway section requires an action by both FHWA and Coast Guard, the FHWA will normally serve as the lead agency for the preparation and processing of environmental documents.

IV. Responsibility of the FHWA

A. FHPM 7–7–2 defines three classes of actions which prescribe the level of documentation required in the NEPA process. These are:

1. Class I (EIS's)—Action that requires an EIS.

2. Class II (Categorical Exclusions)—Actions that do not individually or cumulatively have a significant effect on the environment.

3. Class III (Environmental Assessments)—Actions in which the significance of the impact on the environment is not clearly established. All actions that are not Class I or Class II are Class III. For these actions, an environmental assessment (EA) must be prepared culminating in a decision to prepare an EIS or a finding of no significant impact (FONSI).

The above documents shall demonstrate, where applicable, consideration of and compliance with the requirements of other Federal environmental statutes and orders, including but not limited to:

23 U.S.C. 138 and 49 U.S.C. 1653(f) (section 4(f) of the Department of Transportation Act of 1966);

16 U.S.C., *et seq.*, Archeological and Historic Preservation Act and 23 U.S.C. 305;

16 U.S.C. 662, section 2 of the Fish and Wildlife Coordination Act;

16 U.S.C. 1452, 1456, sections 303 and 307 of the Coastal Zone Management Act of 1972;

16 U.S.C., 1536, section 7 of the Endangered Species Act of 1973;

33 U.S.C. 1251, *et seq.*, Clean Water Act of 1977;

42 U.S.C. 300(f), *et seq.*, Safe Drinking Water Act of 1974;

42 U.S.C. 4371, *et seq.*, Environmental Quality Improvement Act of 1970;

42 U.S.C. 4601 *et seq.*, Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970;

42 U.S.C. 4901, *et seq.*, Noise Control Act of 1972;

42 U.S.C. 7401, *et seq.*, Clean Air Act;

42 U.S.C. 2000(d)-(d)4, Title VI of the Civil Rights Act of 1964;

Executive Order 11514, Protection and Enhancement of Environmental Quality, as amended by Executive Order 11991, dated May 24, 1977;

Executive Order 11593, Protection and Enhancement of the Cultural Environment, dated May 13, 1971, implemented by DOT Order 5650.1 dated November 20, 1972;

Executive Order 11988, Floodplain Management, dated May 24, 1977, implemented by DOT Order 5650.2, dated April 23, 1979;

Executive Order 11990, Protection of Wetlands, dated May 24, 1977, implemented by DOT Order 5660.1A, dated August 24, 1978.

B. It is the intent of this MOU that the data developed and the evaluation of impacts upon the human environment set forth in the appropriate environmental document will satisfy the requirements of both FHWA and the Coast Guard. In order to achieve this result, it is incumbent upon FHWA to initiate early and to maintain continuing coordination with the Coast Guard throughout the NEPA phase of project development. Accordingly, it is the responsibility of FHWA to take the following actions:

1. As the lead agency, FHWA shall be responsible for the preparation of the appropriate documentation for Class I, II, or III projects in accordance with the requirements of FHPM 7–7–2.

2. The FHWA shall consult with the Coast Guard prior to determining that any project project which may require a Coast Guard bridge permit is a Class I, II, or III action.

3. For each project that may require a Coast Guard bridge permit and is to be processed as a Class I or Class III action, FHWA will request that the Coast Guard become a cooperating agency.

4. For Class I projects, FHWA will continue to consult with the Coast Guard during the preparation of both the draft and final EIS.

5. For Class II projects, FHWA will provide the Coast Guard with information which documents that a project is a categorical exclusion.

6. For Class III projects, FHWA will consult with the Coast Guard during the preparation of both the environmental assessment, and if so determined, the FONSI.

7. The FHWA will consult with the Coast Guard relative to the need for highway and Coast Guard public hearing opportunities and consider a joint public hearing where appropriate.

8. If FHWA determines, pursuant to section 144(h) of Title 23 U.S.C., that project is exempt from a Coast Guard permit, it shall so notify the Coast Guard of same if FHWA believes that sufficient navigation exists to require the establishment, maintenance, and operation of lights and signals as required under 14 U.S.C. 685.

9. When a difference of opinion arises between the FHWA Division Administrator and the Coast Guard District Commander relative to the proper class of action or adequacy of environmental documentation, the FHWA Division Administrator shall meet with the Coast Guard District Commander and attempt to resolve the issue. If the issue is not resolved, the FHWA Division Administrator shall so notify the FHWA Regional Administrator who, in turn, shall consult with the District Commander. If the issue is not resolved at the FHWA Regional Office level, the Regional Administrator shall refer it to the FHWA Associate Administrator for Right-of-Way and Environment for appropriate handling.

10. The FHWA will ensure that the environmental documentation submitted to the Coast Guard with the permit application is complete with respect to satisfying NEPA and other Federal environmental statutes and orders.

V. Responsibility of the Coast Guard

It is the responsibility of the Coast Guard to take the following actions:

1. The Coast Guard shall cooperate with and provide guidance to FHWA and the HA during the determinations of class of actions and in the preparation of appropriate environmental documentation relative to its areas of jurisdiction.

2. The Coast Guard will furnish names of waterway organizations to FHWA and HA with whom consultation should be made during the development of environmental studies and to whom copies of the draft environmental documents should be sent for review.

3. Provided coordination has been accomplished in accordance with this MOU, the Coast Guard will ordinarily accept FHWA's environmental documentation as satisfactory compliance with NEPA for the purpose of processing the bridge permit application.

4. Where it is necessary for the Coast Guard to hold a hearing or public review of the navigational aspects of the proposal, the Coast Guard notice will make reference to the approved FHWA environmental documentation. It is not the intent of the Coast Guard notice to invite review and comment on approved FHWA environmental documentation.

Dated: April 27, 1981.

Concur.

R.A. Barnhart,

Federal Highway Administrator.

Dated: May 6, 1981.

Concur.

J.B. Hayes,

Commandant, U.S. Coast Guard.

[FR Doc. 85-8698 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-297-84; LR-299-84]

Application of Loss Deferral and Wash Sale Rules and Treatment of Holding Periods and Losses With Respect to Straddle Positions and Mixed Straddles; Straddle-By-Straddle Identification and Mixed Straddle Account Elections; Public Hearing on Proposed Regulations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of a public hearing on proposed regulations relating to the application of the loss deferral and wash sale rules and treatment of holding periods and losses with respect to straddle positions; and relating to mixed straddles.

DATES: The public hearing will be held on Thursday, May 2, 1985, beginning at 10:00 a.m. Outlines of oral comments must be delivered or mailed by Wednesday, April 24, 1985.

ADDRESS: The public hearing will be held in the I.R.S. auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C.

The requests to speak and outlines of oral comments should be submitted to the Commissioner of Internal Revenue Service, Attn: CC:LR:T (LR-297-84 and LR-299-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: B. Faye Easley, Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224. Telephone 202-566-3935 (not a toll-free number).

SUPPLEMENTARY INFORMATION: One of the two subjects of the public hearing is proposed regulations §§ 1.1092(b)-1, 1.1092(b)-2, and 1.1092(b)-5. The proposed regulations appeared in the **Federal Register** for Thursday, January 24, 1985 (50 FR 3352).

The second subject of the hearing is proposed regulations §§ 1.1092-3 and 1.1092-4. These proposed rules appeared in the **Federal Register** for Thursday, January 24, 1985 (50 FR 3351).

The rules of § 601.601(a)(3) of the Statement of Procedural Rules (26 CFR Part 601) shall apply with respect to the public hearing. Persons who have submitted comments within the time prescribed in the notices of proposed rulemaking and who also desire to present oral comments at the hearing on the proposed regulations should submit, not later than Wednesday, April 24, 1985, an outline of the oral comments to be presented at the hearing and the time they wish to devote to each subject.

Each speaker will be limited to 10 minutes for an oral presentation exclusive of the time consumed by questions from the panel for the government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

By direction of the Commissioner of Internal Revenue.

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85-8774 Filed 4-10-85; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 943

Permanent State Regulatory Program of Texas

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period on a request submitted by the State of Texas to further extend the deadline for Texas to resubmit rules governing a blaster training, examination and certification program as required by the Federal regulations at 30 CFR Part 850.

On March 1, 1984, the State of Texas submitted to OSM an amendment to its approved regulatory program. OSM announced procedures for a public comment period and a public hearing on the amendent in the **Frderal Register** on March 23, 1984 (49 FR 10943). The proposed amendment concerned blaster training, examination and certification.

On June 25, 1984, Texas requested that OSM grant an extension of time for the development of a blaster training, examination and certification program and suspend the current rulemaking on this subject.

On September 21, 1984, OSM announced its decision to suspend rulemaking on the proposed rules and extend Texas' deadline to March 21, 1985 (49 FR 37062). On March 7, 1985, Texas requested an additional four months extension through July 15, 1985, to submit the State's blaster certification rules.

All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. OSM is proposing to again modify the deadline for Texas to develop and adopt its blaster program. This notice sets forth the dates and locations for submission of written comments.

DATES: Comments not received by 4:00 p.m. May 13, 1985, will not necessarily be considered.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103.

FOR FURTHER INFORMATION CONTACT: Mr. Robert L. Markey, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 581-7927.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Ch. M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12

months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of Texas' program, the applicable date was 12 months after the publication date of OSM's rule, or March 4, 1984.

On March 1, 1984, Texas submitted an amendment to its approved program which was intended to implement the Federal requirements for a blaster training, examination and certification program. OSM published a notice of public comment period and opportunity for public hearing in the **Federal Register** on March 23, 1984 (49 FR 10943). In its subsequent review of the proposed amendment, OSM identified several deficiencies and pointed these out to the State.

On June 25, 1984, Texas advised OSM that it would require a six-month extension of the deadline for resubmission of a blaster program in order that Texas might adequately address and respond to the issues raised by OSM. Texas requested the six-month extension in order to prepare documentation on the issues raised by OSM and to prepare any necessary revisions and additions to the program. Texas also requested suspension of the current rulemaking on this subject.

In the September 21, 1984 **Federal Register** OSM announced its decision to suspend current rulemaking and extend Texas' deadline to March 21, 1985 (49 FR 37062). On March 7, 1985, Texas requested an additional four months extension through July 15, 1985, to submit the State's blaster certification rules, training and certification program.

Texas stated that, due to restrictions in its Administrative Procedure and Texas Register Act, only one rule action amending § 11.221 may be pending at a time. There is another rulemaking currently ongoing in Texas and therefore blaster certification revisions cannot be submitted at this time. The State anticipates that a rulemaking to revise blaster certification regulations can be submitted to the Railroad Commission of Texas by July 15, 1985, if the current rulemaking schedule proceeds as planned.

OSM is seeking comment on the State's request for additional time to develop and adopt a blaster certification program. Section 850.12(b) of OSM's regulations provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause.

Additional Determinations

1. Compliance with the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Executive Order No. 12291 and the Regulatory Flexibility Act

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from section 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 943

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

Authority: Pub. L. 95–87, Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*).

Dated: April 8, 1985.

John D. Ward,

Director, Office of Surface Mining.

[FR Doc. 85–8729 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD11 85–03]

Marine Event; California Cup Race

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This proposed rule will establish special local regulations during the Annual California Cup Race. This four day event usually takes place in the summer of each year in the waters of Santa Monica Bay, California. Through this action the Coast Guard intends to ensure the safety of spectators and participants on navigable waters during the race.

This years event will be held on the 24th thru the 27th of May 1985. Future information on dates, times, number of participants and location will be published in the weekly issue of the Eleventh Coast Guard District Local Notice to Mariners, at least 30 days prior to the event each year.

DATES: Comments must be received on or before May 10, 1985.

ADDRESSES: Comments should be mailed to Commander (bb), Eleventh Coast Guard District, 400 Oceangate Boulevard, Long Beach, CA 90822. The comments will be available for inspection and copying at the Union Bank Bldg., Suite 901, 400 Oceangate Boulevard, Long Beach, CA. Normal office hours are between 7:30 AM and 3:30 PM, Monday through Friday except holidays. Comments may also be hand-delivered.

FOR FURTHER INFORMATION CONTACT: LTJG Jorge Arroyo, Eleventh Coast Guard District Boating Affairs Office, 400 Oceangate Boulevard, Long Beach, California 90822, Tel: (213) 590–2331.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rule making by submitting written views, data, or arguments. Commenters should include their name and address, identify this notice (CGD1185–03) and the specific section of the proposal to which their comments apply, and give reasons for each comment. Receipt of comments will be acknowledged if a stamped self-addressed postcard or envelope is enclosed.

The regulations may change in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rule making process.

Drafting Information

The drafters of this regulation are LTJG Jorge Arroyo, Project Officer, Boating Affairs Office, Eleventh Coast Guard District and LT Joseph R. McFaul, Project Attorney, Legal Office, Eleventh Coast Guard District.

Discussion of Proposed Regulation

The California Yacht Club sponsors the California Cup Race each year in the navigable waters approximately one mile southwest of Santa Monica, CA beginning at 11:00 AM till 7:00 PM. This event usually has 4 to 12 ocean racing and cruising sailboats, 70 feet in length, that could pose a hazard to navigation. Vessels desiring to transit the regulated area may do so only with clearance from a patrolling law enforcement vessel or an event committee boat.

The California Cup Race is conducted annually in the summer months, usually from 11:00 AM to 7:00 PM on the navigable waters off Santa Monica, California. Further information on exact time, date and location are published by the eleventh Coast Guard District in the Local Notice to Mariners and/or Special Local Regulation promulgated at least 30 days prior to the event. The special local regulations are effective usually for a four day period overlapping on a weekend.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary, since the regulated area will be opened periodically for the passage of vessel traffic and is in force for only a short period of time.

Since the impact of this proposal is expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations, by adding the following section:

§ 100.35 11-85-03 California Cup, Santa Monica, CA.

(a) *Regulated Area.* The following area will be closed intermittently to all vessel traffic. (1) That portion of the Santa Monica Bay, California, enclosed by the following coordinates:

(i) 34 degrees 01.4' N, 118 degrees 31.8' W.

(ii) 33 degrees 59.7' N, 118 degrees 37.9' W.

(iii) 33 degrees 59.2' N, 118 degrees 37.7' W.

(iv) 33 degrees 59.5' N, 118 degrees 33.4' W.

(v) 33 degrees 57.0' N, 118 degrees 30.9' W.

(vi) 33 degrees 57.2' N, 118 degrees 30.1' W.

(2) The actual race course area (including the regulated area) is enclosed by the following coordinates:

(i) 34 degrees 01.4' N, 118 degrees 31.8' W.

(ii) 33 degrees 59.7' N, 118 degrees 37.9' W.

(iii) 33 degrees 55.5' N, 118 degrees 36.1' W.

(iv) 33 degrees 57.2' N, 118 degrees 30.1' W.

(b) *Effective dates.* These regulations will be effective from 11:00 AM to 7:00 PM on 24 thru 27 May 1985.

(c) *Special Local Regulations.* All persons and/or vessels not registered with the sponsor as participants or official regatta patrol vessels are considered spectators. The "official regatta patrol" consists of any Coast Guard, public, state or local law enforcement and/or sponsor provided vessels assigned to patrol this event.

(1) No spectators shall, block, anchor, loiter in, or impede the through transit of participants or official regatta patrol vessels in the regulated area during the effective dates, unless cleared for such entry by or through an official regatta patrol vessel.

(2) When hailed and/or signaled by horn or whistle by an official regatta patrol vessel, a spectator shall come to an immediate stop. Vessels shall comply with all directions of the designated Patrol Commander. Failure to do so may result in citation for failure to comply.

(3) All vessels in close proximity shall operate at a safe and prudent speed which will create a minimum wake that will not affect participants.

(4) The Patrol Commander is empowered to forbid and control the movement of vessels in the regulated area. He may terminate the marine event at any time it is deemed necessary for the protection of life and property. He may be reached on VHF Channel 16 (156.8 MHz) when required, by the call sign "PATCOM".

(33 U.S.C. 1233; 33 U.S.C. 1236); 49 CFR 1.46(b); 33 CFR 100.35)

Dated: March 28, 1985.

F.P. Schubert,

Rear Admiral, U.S. Coast Guard, Commander, Eleventh Coast Guard District.

[FR Doc. 85-8721 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 117

[CGD8-85-05]

Drawbridge Operation Regulations; Back Bay of Biloxi, MS

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the Mississippi State Highway Department (MSHD), the Coast Guard is considering a change to the regulation governing the operation of the bascule span bridge over the Back Bay of Biloxi, mile 0.4, on US 90 between Biloxi and Ocean Springs, Harrison and Jackson Counties, Mississippi, to provide that the draw need not open for passage of vessels from 6:30 to 7:05 a.m.; 7:20 to 8:05 a.m.; 4:00 to 4:45 p.m.; and 4:55 to 5:30 p.m., Monday through Friday except holidays. The draw would continue to open on signal outside these rush hour periods. Presently, the draw is required to open on signal at all times. This proposal is being made because frequent openings of the drawspan during these rush hours result in backup of overland traffic along US 90, a major roadway in the area. This action should accommodate the needs of vehicular traffic during peak morning and afternoon traffic periods, while still providing for the reasonable needs of navigation. Additionally, this document proposes to correct the regulation governing the drawbridge of S15 Back Bay of Biloxi, mile 3.0, to show that the bridge actually is located on Interstate Highway 110.

DATE: Comments must be received on or before May 28, 1985.

ADDRESS: Comments should be mailed to Commander (obr), Eighth Coast Guard District, 500 Camp Street, New Orleans, Louisiana 70130. The Comments and other materials referenced in this notice will be available for inspection and copying in Room 1115 at this address. Normal office hours are between 8:00 a.m. and 3:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Perry Haynes, Chief, Bridge Administration Branch, at the address given above, telephone (504) 589-2965.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Persons submitting comments should include their names and addresses, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal. Persons desiring acknowledgment that their comments have been received should enclose a stamped, self-addressed postcard or envelope.

The Commander, Eighth Coast Guard District, will evaluate all communications received and determine a course of final action on this proposal. The proposed regulation may be changed in the light of comments received.

Drafting Information

The drafters of this notice are Perry Haynes, project officer, and Steve Crawford, project attorney.

Discussion of Proposed Regulation

Navigation through the bridge consists of barge tows and single tug boats, commercial fishers, and pleasure craft. Vertical clearance of the span in the closed position is 40.0 feet above high water and 41.8 feet above low water, with unlimited clearance in the open position. Data submitted by the MSHD show that:

(1) The peak vehicular traffic period in the morning is from 6:30 to 8:00. For the period 11 December 1984 through 18 December 1984, the daily average number of vehicles crossing the bridge during the weekday peak morning traffic period was 1652—on an average of 330 vehicles every 15 minutes.

(2) The peak vehicular traffic period in the afternoon is from 4:00 to 5:30. For the period 11 December 1984 through 18 December 1984, the daily average number of vehicles crossing the bridge during the weekday peak afternoon traffic period was 2379—or an average of 476 vehicles every 15 minutes.

(3) For the period 1 May 1984 through 10 December 1984, Monday through Friday, there were 252 bridge openings during the weekday morning peak vehicular traffic period—an average of 1.6 openings per day; and 256 bridge openings during the weekday peak afternoon traffic period—an average of 1.6 openings per day.

Based on these data, the Coast Guard feels that this proposal will provide relief to overload traffic during weekday peak rush hours, while still meeting the reasonable needs of navigation.

Economic Assessment and Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. The basis for this conclusion is that few vessels will be affected by the proposed bridge closure periods, as evidenced by the bridge opening statistics which show that the bridge averages only 1.6 openings during each rush period. Moreover, a 10 to 15-minute break during each rush hour period would allow for an opening of the draw to pass all waiting vessels, and would ensure that the average delay to vessels would not exceed 23 minutes. The vessels that transit the bridge are mainly repeat users and scheduling their passage outside of the rush hours, when the draw would continue to operate on signal, should involve little or no additional expense to them. Since the economic impact of this proposal expected to be minimal, the Coast Guard certifies that, if adopted, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Proposed Regulation

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations by revising § 117.675 to read as follows:

PART 17—DRAWBRIDGE OPERATION REGULATIONS

§ 117.675 Back Bay of Biloxi.

(a) The draw of the U.S. 90 bridge, mile 0.4, between Biloxi and Ocean Springs shall open on signal; except that, from 6:30 a.m. to 7:05 a.m., 7:20 a.m. to 8:05 a.m., 4:00 p.m. to 4:45 p.m., and 4:55 p.m. to 5:30 p.m., Monday through Friday except holidays, the draw need not open for the passage of vessels.

(b) The draw of the I–110 bridge, mile 3.0 at Biloxi, shall open on signal if at least six hours notice is given.

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

Dated: March 26, 1985.

W.H. Stewart,

Rear Admiral, U.S. Coast Guard, Commander, Eighth Coast Guard District.

[FR Doc. 85–8720 Filed 4–10–85 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 65

[A–5–FRL–2815–7]

Proposed Delayed Compliance Order for Atec Industries, Inc., Canfield, OH

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA proposes to issue an administrative order to Atec Industries, Inc. The Order requires the company to bring volatile organic hydrocarbon emissions from its miscellaneous metal parts coating line in Canfield, Ohio, into compliance with the Ohio Administrative Code (OAC) 3745–21–09(U), part of the federally-approved Ohio State Implementation Plan (SIP). The company is unable to comply with these regulations at this time, and the proposed Order would establish an expeditious schedule requiring final compliance by December 31, 1985. Source compliance with the Order would preclude suits under the federal enforcement and citizen suit provision of the Clean Air Act for violation of the SIP regulations covered by the Order. The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before May 13, 1985 and requests for a public hearing must be received on or before April 26, 1985. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held twenty-one days after notice of the date, time, and place of the hearing, which will be provided in a separate notice in the **Federal Register.**

ADDRESS: Comments and requests for a public hearing should be submitted to the Office of Regional Counsel, EPA, Region V, 230 South Dearborn, Chicago, Illinois, 60604. Material supporting the Order 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: Ms. Dorothy Attermeyer, Associate Regional Counsel, Office of Regional Counsel, EPA, Region V, 230 South

Dearborn, Chicago, Illinois, 60604 at (312) 886-5312.

SUPPLEMENTARY INFORMATION: Atec Industries, Inc., operates a miscellaneous metal parts coating line at its Canfield, Ohio, plant. The proposed Order addresses volatile organic hydrocarbon emissions from the miscellaneous metal parts coating at this facility, which are subject to OAC 3745-21-09(U), part of the federally-approved Ohio State Implementation Plan. OAC 3745-21-09(U) limits the emissions of volatile organic hydrocarbons from these sources and OAC 3745-21-04(C)(28) specifies the date by which Atec Industries, Inc., must be in compliance with said rule. This Order requires final compliance with OAC 3745-21-09(U) by December 31, 1985, by reformulation to compliant high solids coatings. The source has consented to the terms of the Order, and has agreed to meet the increments established in the Order during the period of this informal rulemaking.

List of Subjects in 40 CFR Part 65

Air pollution control.

Authority: 42 U.S.C. 7413, 7601.

Dated: March 29th, 1985.

Valdas V. Adamkus,

Regional Administrator.

[FR Doc. 85-8582 Filed 4-10-85; 8:45 am]

BILLING CODE 6560-50-M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 101-38 and 101-39

Motor Equipment Management and Interagency Fleet Management System

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Proposed rule.

SUMMARY:

a. Part 101-38, Motor Equipment Management

The General Services Administration (GSA) proposes to update the policies and procedures concerning the management of Government-owned and leased motor vehicles. Certain sections from Parts 101-25, 101-26, and 101-39, that apply to the operations of the Federal motor vehicle fleet have been incorporated into proposed Part 101-38. This proposed Part has been restructured to provide a more logical sequence of events, i.e., the regulation begins with planning for motor vehicle acquisition and concludes with motor vehicle disposal actions, accident reports, and the kind of agency data necessary for GSA's annual Federal Motor Vehicle Fleet Report.

b. Part 101-39, Interagency Fleet Management Systems

GSA proposes to update policies and procedures concerning the management and operation of the Interagency Fleet Management System (formerly the Interagency Motor Pools System). This proposed rule clarifies the obligations and responsibilities of Federal agencies when requesting and operating interagency fleet management system vehicles.

c. The revisions to Parts 101-38 and 101-39 were proposed by the appropriate GSA program offices that are responsible for the efficient operation and management of motor vehicles used by the Government. These revisions were reviewed and comments were made by the Interagency Motor Equipment Management Committee, the Interagency Advisory Committee on Regulatory Review, and other Federal agencies. These comments were adopted or reconciled.

DATE: Additional comments on the proposed rules must be received on or before June 10, 1985.

ADDRESS: Comments should be submitted to the General Services Administration (FTA) Washington, DC 20406.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Millington, Office of Transportation, Travel and Transportation Regulations Division, (703) 557-1256 or FTS 557-1256. A copy of the full text of the proposed rules is available upon request. A copy of these proposed rules will be furnished separately to each member of the Interagency Advisory Committee on Regulatory Review.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291, dated February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from the rules outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects

41 CFR Part 101-38

Energy conservation, Gasohol, Government propoerty management, Motor vehicles.

41 CFR Part 101-39

Government property management, Motor vehicles, Safety, and claims.

The authority citation for Parts 101-38 and 101-39 reads as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Dated: March 14, 1985.

By delegation of the Assistant Administrator.

James J. Grady, Jr.,

Director of Policy and Agency Assistance.

[FR Doc. 85-8753 Filed 4-10-85; 8:45 am]

BILLING CODE 6820-24-M

41 CFR Part 101-40

Transportation and Traffic Management

March 19, 1985.

AGENCY: Office of Federal Supply and Services, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed changes to 41 CFR 101-40 that will revise, clarify, and update traffic and transportation management policies and procedures which were previously published in FPMR Amendment G-49 on December 30, 1980 (45 FR 85741). On March 24, 1983, a draft of proposed changes was sent for review and comment to appropriate GSA offices and to members of the Interagency Committee on Transportation and Traffic Management representing 32 civilian executive agencies. In addition, copies of the draft were sent to the Interagency Advisory Committee on Regulatory Review. The comments received have been reconciled and incorporated where practicable. This proposed rule will make the following amendments and revisions:

a. Part 101-40 is revised to reflect GSA organizational changes and to correct certain editorial errors.

b. Part 101-40 also is revised to remove application to passenger transportation since travel regulations and employee entitlements are covered under other directives; e.g., GSA Bulletin FPMR A-40 (41 CFR 101-7), FPMR Temp. Reg. A-22, and FPMR Temp. Reg. A-24.

c. Section 101-40.103-2 is revised to incorporate the General Accounting

Office's revised guidelines for implementing the Fly America Act.

d. Section 101–40.103–3 is revised to emphasize agency responsibilities under the coastwise laws of the United States.

e. Section 101–40.109–2 is revised to increase the threshold at which an agency may enter into term contracts for office relocations from $5,000 to $10,000.

f. Section 101–40.110–3 is added to reflect the Government's policy toward women-owned business enterprises.

g. Section 101–40.203–1 is revised to establish time periods in which household goods carriers must submit interstate and intrastate individual rate tenders in order to participate in the Centralized Household Goods Traffic Management Program, which has been transferred to the GSA regional Customer Service Bureau, Transportation Services Branch (6FBT), Kansas City, Missouri.

h. Section 101–40.203–2 is recaptioned and the term "actual expense method" is changed to "GBL method" to remove confusion that may arise in describing "out-of-pocket" moving expenses.

i. Section 101–40.207 is revised to clarify the application of the Military Personnel and Civilian Employees' Claims Act of 1964 and to show that Pub. L. 97–226 increased the maximum compensation on employees' claims from $15,000 to $25,000.

j. Section 101–40.303–4 is revised to include reference to socially or economically disadvantaged carriers and women-owned carriers.

k. Subpart 101–40.4 is recaptioned and revised to provide guidelines for which each executive agency shall establish appropriate procedures for placing commercial carriers in a temporary nonuse, debarred, or suspended status. GSA has determined that it is more appropriate for individual agencies, rather than the GSA Central Office, to administer temporary nonuse, debarment, and suspension actions against carriers for the causes enumerated in this subpart. However, this subpart provides that debarred or suspended carriers will be included in the Consolidated List of Debarred, Suspended, and Ineligible Contractors which is compiled, maintained, and distributed by GSA in accordance with 48 CFR 9.404.

l. Section 101–40.702–3 is revised to increase the minimum amount at which agencies may process loss and damage claims from $25 to $50. This change is deemed appropriate in view of increased administrative costs. This section also reflects the cancellation of Standard Form 363. The provisions of this form have been incorporated in the revised Standard Form 361, Transportation Discrepancy Report. This revised section also removes the requirement for notifying the Department of Transportation of any pilferage, theft, or loss occurring in shipments of ammunition, explosives, or other hazardous articles (as identified in 49 CFR Part 172).

m. Subpart 101–40.49 is recaptioned and revised to remove references to formats and agreements. This subpart addresses forms only.

n. Section 101–40.4906–3 is recaptioned and revised to illustrate revised Standard Form 361, Transportation Discrepancy Report.

o. Section 101–40.4906–4 is recaptioned and revised to illustrate the revised guidelines for preparing Standard Form 361, Transportation Discrepancy Report.

p. Section 101–40.4906–4 is recaptioned and revised to illustrate the revised GSA Form 2485, Cost Comparison for Shipping Household Goods (Commuted Rate System vs. GBL Method).

DATE: Comments must be received on or before June 10, 1985.

ADDRESS: Requests for a copy of the full text of the proposed rule and comments relative thereto should be addressed to the General Services Administration (FTA), Washington, DC 20406. A copy of the full text will be furnished to each member of the Interagency Advisory Committee on Regulatory Review.

FOR FURTHER INFORMATION CONTACT: Mr. John B. Millington or Mr. Joseph M. Napoli, Office of Transportation, Travel and Transportation Regulations Division (FTA), at (703) 557–1256 or FTS 557–1256.

SUPPLEMENTARY INFORMATION: GSA has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and the consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involved in the least net cost to society. Index terms for 41 CFR 101–40 are: Freight, Government property management, Moving of household goods, Office relocations, and Transportation.

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Dated: March 19, 1985.

By delegation of the Assistant Administrator.

James J. Grady, Jr.,

Director of Policy and Agency Assistance.

[FR Doc. 85–8754 Filed 4–10–85; 8:45 am]

BILLING CODE 6820–24–M

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41 CFR Part 101–41

Administrative Offset and Interest Assessment on Transportation Related Claims

AGENCY: Office of the Comptroller, GSA.

ACTION: Proposed rule.

SUMMARY: The General Services Administration (GSA) proposes to amend the Federal Property Management Regulations (FPMR) to permit Government agencies to collect by administrative offset when carriers fail to make refunds for totally unused passenger tickets under 41 CFR 101–41.210, and other transportation related ordinary debts. They also allow agencies to assess interest and penalties on delinquent refunds due the Government for totally unused passenger tickets, and other transportation related ordinary debts. This order also establishes the procedures for collecting transportation related claims arising out of GSA's transportation audit (31 U.S.C. 3726). These revised procedures will improve the efficiency of Government-wide efforts to collect debts owed the United States, as prescribed by the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711–3719), and the Federal Claims Collection Standards jointly published by the U.S. Department of Justice and the General Accounting Office (49 FR 8889, March 9, 1984).

COMMENT DATE: Written comments must be received by 4:00 p.m. June 10, 1985.

ADDRESS: Comments should be sent to General Services Administration (BWCP), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: John W. Sandfort, Chief, Regulations, Procedures, and Review Branch, Office of Transportation Audits, 202–786–3014.

SUPPLEMENTARY INFORMATION: The General Service Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. Therefore, a regulatory impact analysis has not been prepared. The GSA has based all

administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Part 101–41

Air carriers, Accounting, Claims, Freight, Freight forwarders, Government property management, Maritime carriers, Moving of household goods, Passenger services, Railroads, Transportation. It is proposed to amend 41 CFR 101–41 as follows.

PART 101–41—TRANSPORTATION DOCUMENTATION AND AUDIT

1. The authority citation for 41 CFR Part 101–41 is:

Authority: 31 U.S.C. 3711–3719 and 3726, 40 U.S.C. 486(c)

2. The table of contents for Part 101–41 is amended by revising or adding the following:

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

3. Sections 101–41.210 and 101–41.210–1 are recaptioned and revised as follows:

§ 101–41.210 Ticket refund procedures.

Agencies shall not revise carrier bills or require carriers to rebill items except as provided in § 101–41.210–5 and 6, to recover from carriers the value of exchanged, returned, or unused tickets.

§ 101–41.210–1 Exchanged or returned tickets.

Exchanged or returned tickets are tickets in a carrier's possession for which the carrier has issued a lesser valued ticket, receipt, or refund application showing a refund due the U.S. Government. Agencies shall not submit an SF 1170 to the carrier to claim a refund for the unused value of an exchanged or returned ticket. Carriers are required to make refunds to the "bill charges to" office indicated on the GTR within 60 calendar days from date of ticket exchange. Agencies must provide travelers with a "bill charges to" address by attaching a copy of the GTR or some other document containing the information to the ticket or to the travel authorization. If carriers cannot identify the issuing agency, refunds will be sent to GSA (BWCA), Washington, D.C. 20405. These refunds are subject to the following procedures:

(a) Carriers must include the traveler's name, GTR number, ticket number, amount being refunded, and any other information pertinent to the refund.

(b) Agencies may make written inquiry to the carrier to obtain the above information for the purpose of recovering the refund from GSA.

(c) When using the Diners Club Charge Cards, unused tickets (wholly or partially) are returned by the traveler to the TMC, Scheduled Airlines Traffic Office (SATO), or air carrier's office that issued the original ticket.

When using the GTS account, employees submit unused tickets to the appropriate Federal agency office, TMC, or SATO office that furnished the airline ticket for agency credit.

4. Section 101–41.210–1a is revised as follows:

§ 101–41.210–1a Agency monitoring and processing of exchanged ticket refunds.

Agencies awaiting exchanged or returned ticket carrier refunds shall:

(a) Obtain carrier refund applications or receipts from travelers for accounting purposes.

(b) Record and deposit refunds in conformity with agency fiscal procedures.

(c) Forward carrier refund applications and any other pertinent information to GSA (BWCA) Washington, D.C. 20405, if refund has not been received within 90 calendar days of date of ticket exchange or return.

5. Section 101–41.210–2 is recaptioned and revised as follows:

§ 101–41.210–2 Unused or unreturned tickets.

Unused or unreturned tickets are those which have not been used for passenger service, exchanged, or returned to a carrier. Agencies shall demand the refund value of these tickets from carriers through the use of an SF 1170, Redemption of Unused Tickets. A separate SF 1170 must be prepared for each GTR, though more than one ticket or adjustment transaction may be related to that GTR. Each ticket must be listed on the SF 1170. For procedures covering unused transportation services billed by Foreign Flag Carriers, see § 101–41.210–6.

6. Section 101–41.210–3 is recaptioned and revised as follows:

§ 101–41.210–3 Agency preparation of SF 1170 claims.

Timely processing of SF 1170 is essential to facilitate prompt refunds from carriers. Agencies preparing SF 1170 shall ensure that:

(a) All copies clearly show the required details;

(b) The original and the duplicate copy, together with pertinent unused tickets, are promptly forwarded to the carrier; and

(c) All other copies are retained by the agency for accounting control.

7. Section 101–41.210–3a is amended by revising paragraph (a) and (b) as follows:

§ 101–41.210–3a Carrier processing of SF 1170 claims.

* * * * *

(a) Carriers must include the traveler's name, GTA number, the ticket number, the amount being refunded, and any other information pertinent to the refund.

(b) Agencies may make written inquiry directly to the carrier to obtain the above information for the purpose of recovering refunds from GSA.

8. Section 101–41.210–4 is revised as follows:

§ 101–41.210–4 Agency processing of SF 1170 refunds.

Upon return of the original SF 1170 with the refund, the agency shall record and deposit the refund in conformity with its fiscal procedures; and, if the refund has previously been reported to GSA as uncollected under § 101–41.210–5, shall, within 30 calendar days of receipt thereof, forward the original SF 1170, together with any advice from the carrier regarding the basis of the refund.

to the General Services Administration (BWCA).

9. Section 101–41.210–5 is recaptioned and revised as follows:

§ 101–41.210–5 Agency processing of SF 1170 claims for which the carrier failed to refund or otherwise satisfy the claim.

(a) Partial tickets—A partial ticket is one in which one or more (but not all) coupons have been used. If, within 90 calendar days from the date of issuance of SF 1170, the carrier has failed to make refund for the unused portion of a partial ticket or to furnish a satisfactory explanation as to why no refund is due, the agency shall transmit the triplicate copy of the SF 1170 and all related correspondence to the General Services Administration (BWCA) for appropriate action. An agency may remove from its active accounts those debts referred to GSA under this section. This shall be recorded in a manner sufficient to support its removal from agency accounting records. Should a refund or response be received from the carrier after referring the claim to GSA, the agency shall, within 30 calendar days of receipt thereof, forward the original SF 1170, together with any advice from the carrier regarding the basis of the refund, to the General Services Administration (BWCA) is accordance with 101–41.210–4.

(b) Complete tickets—A complete ticket is one is which no coupons have been used. If, within 30 calendar days from the date of issuance of SF 1170, the carrier has failed to make refund for a complete ticket or to furnish a satisfactory explanation as to why no refund is due, the agency shall take action to collect the debt under the Federal Claims Collection Standards, including administrative offset.

Subpart 101–41.5—Claims by the United States Relating to Transportation Services

10. Section 101–41.500 is revised as follows:

§ 101–41.500 Scope and applicability of subpart.

This subpart sets forth procedures applicable to the assertion of claims by the United States that arise out of freight and passenger transportation services furnished for the account of the United States, the consideration and disposition of protests thereto, the collection of claims by administrative offset and by other means, the imposition of interest, penalties, and the disposition of amounts collected.

11. Sections 101–41.501, 101–41.502, and 101–41.503 are recaptioned and revised as follows:

§ 101–41.501 Definitions.

(a) The term "overcharges" as used herein means charges for transportation services in excess of those applicable thereto under tariffs lawfully on file with Federal or State transportation regulatory agencies, and charges in excess of those applicable thereto under rates, fares, and charges established pursuant to section 10721 of the Revised Interstate Commerce Act, as amended (49 U.S.C. 10721), or other equivalent contract, arrangement, or exemption from regulation.

(b) The term "ordinary debt" as used herein means any administratively determined transportation-related debt other than an overcharge. Ordinary debts include, but are not limited to, payments for transportation services ordered and not furnished, duplicate payments, and those involving loss and/or damage to property transported by carriers.

(c) The term "claim" as used herein means any demand by the United States for the payment of overcharges, ordinary debts, fines, civil penalties, special charges, or interest.

§ 101–41.502 Examination of payments and initiation of collection action and assertion of claims.

(a) *Examination of payments.* (1) Carrier bills and supporting documents that represent payments made by agency disbursing officers for freight and passenger transportation services shall be forwarded to the General Services Administration (BWAAC), Washington, D.C. 20405, for audit. For the purpose of determining whether a claim exists, GSA will consider:

(i) The document ordering the services furnished to determine the contractual basis upon which the rights of the Government and the carrier are based;

(ii) The pertinent tariffs, special or reduced rate quotations, contracts, or agreements, to determine the proper charge for the services rendered;

(iii) Decisions of the courts, regulatory bodies, and the Comptroller General affecting the rates, fares, and charges; and

(iv) Information furnished by transportation officers, travelers, or agencies.

(2) The General Services Administration is obligated to honor a carrier bill for charges properly due. However, GSA has a concurrent responsibility to question or disapprove that part of a payment to a carrier which is found to be illegal or mathematically incorrect or which is not accompanied by documented support establishing an obligation of the United States.

(b) *Notice of Overcharge.* (1) A GSA notice of overcharge is issued when it is determined that a carrier has been paid a sum in excess of that proper for the services rendered. This notice, which states a debt owed to the United States, sets forth: the amount paid; the basis for the proper charge for each Government bill of lading or Government transportation request; and cites applicable tariff references and other data relied upon to support the statement of difference. A separate notice of overcharge is stated for each Government bill of lading or Government transportation request and mailed to the billing carrier.

(2) If the GBL or the GTR contains a contract provision relating to the assessment of interest, then interest shall be charged under the contract terms thereof. If neither contains such a provision, then interest shall be assessed under the Debt Collection Act (31 U.S.C. 3717) and the Federal Claims Collection Standards, 4 CFR Parts 101–105, and Regulations published in 41 CFR Part 105–55.

(c) *Notice of Indebtedness.* A GSA notice of indebtedness is issued when it is determined that an ordinary debt is due the United States. This notice sets forth the basis for the debt, the debtor's rights, interest, penalty and other consequences of nonpayment. The debt is due immediately. Interest accrues 30 calendar days after the mailing of the notice of indebtedness and is subject to interest charges, penalties and administrative costs as prescribed by 31 U.S.C. 3717.

§ 101–41.503 Refunds and/or protests to claims.

(a) Carriers are requested to promptly refund amounts due the United States. Checks shall be made payable to the "General Services Administration" and mailed to the General Services Administration (BWCA), Washington, D.C. 20405.

(b) A carrier that disagrees with a claim may protest by letter to the General Services Administration (BWCA), Washington, D.C. 20405. Since each claim is processed as a separate account receivable, the carrier shall use a separate letter for each claim being protested. The carrier shall present the basis for its protest and submit either the original or a legible copy of all documents substantiating its position. If the carrier believes that an amount less than that claimed is due, it should submit a check for the amount due,

together with a full explanation of the reasons for believing the balance is not due. With reference to an ordinary debt, which is the subject of a notice of indebtedness, the carrier may: Inspect and copy the Government's records related to the claim; seek review by GSA of the claim decision; and/or enter into a written agreement for the payment of the claim. GSA will acknowledge receipt of each letter containing a substantive protest and upon completion of consideration will notify the carrier whether the claim has been sustained, amended, or canceled. Repetitious letters of protest will not serve to preclude the collection of claims found due.

12. Section 101–41.504 is revised as follows:

§ 101–41.504 Collection action by other means.

When a carrier fails to pay or protest a claim and GSA determines that the amount is still due the United States, GSA will effect collection by other means, as set forth in paragraphs (a) through (d) of this section.

(a) When GSA has an indebted carrier's claim against the Government on hand for direct settlement, GSA will apply all or any portion of the amount determined to be due the carrier to the Government's outstanding claim, in accordance with the Federal Claims Collection Act.

(b) When the action outlined in paragraph (a) of this section cannot be taken, GSA will instruct one or more Government disbursing offices to deduct the amount due the United States from an unpaid carrier's bill. A 3-year limitation applies on the deduction of overcharges from amounts due a carrier or forwarder (31 U.S.C. 3726); and, a 10-year limitation applies on the deduction of ordinary debts (31 U.S.C. 3716).

(c) When collection cannot be effected through either of the above procedures, GSA normally sends two additional demand letters to the indebted carrier requesting payment of the amount due within a specified time. Lacking satisfactory response, GSA may place a complete stop order against amounts otherwise payable to the indebted carrier by placing the name of that carrier on the Department of the Army "List of Contractors Indebted to the United States."

(d) When actions to effect collection, as stated in the preceding paragraphs (a) through (c), are unsuccessful, GSA may report the debt to the Department of Justice for collection, litigation, and related proceedings, as prescribed in 4 CFR Part 105.

13. Section 101–41.505 is recaptioned as follows:

§ 101–41.505 Disposition of collections.

* * * * *

14. Section 101–41.506 is amended by revising paragraph (a) and removing paragraph (c) and adding new paragraphs (c), (d), (e), (f) and (g).

§ 101–41.506 Transportation debts administratively determined to be due the United States.

(a) Under the Federal Claims Collection Act of 1966, as amended (31 U.S.C. 3711 *et seq.)*, the Comptroller Generasl and the Attorney General have joint responsibility for promulgating standards for the collection, compromise, termination or suspension of collection action on any debts determined to be due the United States. Regulations defining agency responsibilities for collecting amounts determined to be due the United States, establishing principles governing agency collection procedures for reporting uncollectible debts to the General Accounting Office (GAO) or the Department of Justice, are found in 4 CFR Parts 101 through 105 and in the GAO Policy and Procedures Manual for Guidance of Federal Agencies.

* * * * *

(c) The Director, Office of Transportation Audits, has the authority and responsibility to audit and settle all accounts arising from the payment for domestic and foreign freight and passenger transportation services furnished for the account of the United States under the provisions of 31 U.S.C. 3726 without regard to monetary limitations. He initiates actions on claims arising from his audit and settlement activities.

(d) Whenever feasible, debts owed to the United States, together with interest, administrative charges and penalty charges, should be collected in full. If the debtor requests installment payments, the Director, Office of Transportation Audits, shall determine the financial hardship of the debtor and may arrange installment payments.

(e) All liquidated or certain claims (those upon which all audit procedures under 31 U.S.C 3726 have been completed) over $20,000, exclusive of interest, penalties and administrative charges which cannot be collected, shall be referred to the Department of Justice.

(f) The Director, Office of Transportation Audits, may terminate collection action on, or settle by compromise at less than the principal amount liquidated or certain claims not exceeding $20,000 exclusive of interest, penalties and administrative charges if:

(1) The debtor shows an inability to pay the full amount within a reasonable time;

(2) Complete collection is not enforceable within a reasonable time;

(3) The amount of the claim does not justify the foreseeable collection cost; or

(4) There are uncertain litigative probabilities.

(g) The Director, Office of Transportation Audits, shall prescribe internal regulations for the guidance of GSA personnel collecting claims arising from the audit of transportation accounts.

15. Section 101–41.507 is added as follows:

§ 101–41.507 Disclosure to consumer reporting agencies and referrals to collection agencies.

GSA may disclose delinquent debts to consumer reporting agencies and may refer delinquent debts to debt collection agencies under provisions of the Federal Claims Collection Act, and § 105–55.010 of these Regulations.

Dated: March 25, 1985.

Raymond A. Fontaine,

Comptroller.

[FR Doc. 85–8755 Filed 4–10–85; 8:45 am]

BILLING CODE 6820–AM–M

FEDERAL MARITIME COMMISSION

46 CFR Part 572

[Docket No. 85–7]

Independent Action—Notice and Meeting Provisions in Conference Agreements

AGENCY: Federal Maritime Commission.

ACTION: Enlargement of time to comment.

SUMMARY: Three separate groups of conferences and one interested group of shippers have requested an extension of time to comment in this proceeding, relating to the filing of agreements submitted to the Commission pursuant to section 5 of the Shipping Act of 1984, which was initiated by Federal Register notice of March 18, 1985 (50 FR 10810–10813). The Commission originally allowed comments to be filed on or before April 17, 1985, and the requests seek enlargements of time ranging from May 1, 1985, to May 17, 1985. The parties variously point to the fact that four Commission proceedings of general industry interest currently require comments to be filed within a short space of time, cite the importance of this proceeding and the need for detailed

industry input, and describe the time necessary to coordinate the views of the various member lines of a conference. Grounds for an extension having been established, an enlargement of time until May 17, 1985, is granted.

DATE: Comments due on or before May 17, 1985.

ADDRESS: Send comments (original and 15 copies) to: Bruce A. Dombrowski, Acting Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

FOR FURTHER INFORMATION CONTACT: Robert D. Bourgoin, General Counsel, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5740.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8589 Filed 4-10-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-82; RM-4901]

TV Broadcast Station in Little Rock, AR

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes to substitute Television Channel 47 for Channel 42 at Little Rock, Arkansas, in response to a petition filed by Valley Associates. The assignment of Channel 47 at Little Rock could provide a better site selection for interested applicants.

DATES: Comments must be filed on or before May 28, 1985, and reply comments on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Little Rock, Arkansas); MM Docket No. 85-82, RM-4901.

Notice of Proposed Rule Making

Adopted: March 13, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Valley Associates ("petitioner"), proposing the substitution of UHF Television *54 for unused UHF Channel *28 in Russellville, Arkansas, in order to accommodate its application for a particular site location on UHF Television Channel 42 in Little Rock, Arkansas.

2. Little Rock (population 158,461[1] is the seat of Pulaski County (population 340,613) and the state capital. Little Rock is currently assigned commercial channels 4, 7—, 11, 16— and 42 and noncommercial educational channels *2— and *36.

3. Petitioner's proposal is intended to alleviate a potential separation requirement between Channel *28 at Russellville and its proposed site on Channel 42 at Little Rock. Possible sites for Channel 42 are currently restricted to an area east and northeast of Little Rock. Both the Little Rock Municipal Airport and Air Force Base are located in this area. Petitioner alleges that the presence of these facilities would preclude the construction of a new television tower at a competitive height with other Little Rock broadcast facilities.

4. The Commission does not generally favor substituting a higher reserved television channel for another, when an alternative channel is available. A staff study indicates that Channel 47 could be substituted for Channel 42 in Little Rock, and would require no change for Channel *28 in Russellville. The substitution would provide for a site location in the petitioner's desired direction. Therefore, we will solicit comments on the substitution of Channel 47 for Channel 42 in that community.

§ 73.606 [Amended]

5. In view of the fact that Little Rock, Arkansas could utilize its seventh local television service, the Commission finds that it would be in the public interest to seek comments to amend the Television Table of Assignments, § 73.606(b), of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Little Rock, Ark.	*2—, 4, 7—, 11, 16—, *36, and 42.	*2—, 4, 7—, 11, 16—, *36, and 47—

6. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. A copy of such comments should be served on the petitioner, as follows: Eugene T. Smith, 715 "G" Street, SE., Washington, D.C. 20003, (counsel for the petitioner).

8. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules, 46 FR 11549, published February 9, 1981.*

9. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's rules, it is proposed to amend the TV Table of

[1] Population figures are taken from the 1980 U.S. Census.

Assignments, § 73.606(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-8725 Filed 4-10-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-77; RM-4860]

TV Broadcast Station in Hammond, LA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action herein proposes the assignment of UHF Television Channel 62 to Hammond, Louisiana, as that community's first television assignment, in response to a petition filed by Stuart B. Mitchell and Associates.

DATES: Comments must be filed on or before May 28, 1985, and reply comments must be filed on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposed Rule Making

Adopted: March 13, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

In the matter of Amendment of § 73.606(b), table of assignments, TV broadcast stations (Hammond, Louisiana); MM Docket No. 85-77, RM-4860.

1. A petition for rule making has been filed by Stuart B. Mitchell and Associates ("petitioner") requesting the assignment of UHF Television Channel 62 to Hammond, Louisiana, as that community's first television channel. Petitioner has filed information in support of the proposal and indicated an interest in applying for the channel, if assigned.

2. Hammond (population 15,043) [1] in Tangipahoa Parish (population 80, 698) is located in southeastern Louisiana, approximately 70 kilometers (44 miles) northwest of New Orleans, Louisiana.

3. UHF Television Channel 62 can be assigned to Hammond, Louisiana in compliance with the minimum distance separation requirements of § 73.610 and 73.698 of the Commission's Rules.

§73.606 [Amended]

4. Based on the above facts, we believe that the public interest would be served by seeking comments on petitioner's request. Accordingly, it is proposed to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, for the community listed below:

City	Channel No.	
	Present	Proposed
Hammond, LA		62+

5. The Commission's authority to institute rule making proceedings, showing required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: Stuart B. Mitchell and Associates, 180 South Washington Street, Suite 200, Falls Church, VA 22046.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules,*

8. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is not longer subject to

[1] Population figures were extracted from the 1980 U.S. Census.

Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes and *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showing Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponents(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in the *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspections of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-8726 Filed 4-10-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-80; RM-4858]

TV Broadcast Station in Kansas City, MO

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of UHF Television Channel 32 to Kansas City, Missouri, as its seventh commercial television channel, in response to a petition filed by Michael R. Neal.

DATES: Comments must be filed on or before May 28, 1985, and reply comments must be filed on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: D. David Weston, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Notice of Proposing Rule Making

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations (Kansas City, Missouri); MM Docket No. 85-80, RM-4858.

Adopted: March 13, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Michael R. Neal ("petitioner") requesting the assignment of UHF Television Channel 32 to Kansas City, Missouri. Petitioner has filed information in support of the proposal and indicated an interest in apply for the channel, if assigned.

2. Kansas City (population 448,159),[1] in Jackson County (population 632,266), is located in western Missouri, approximately 380 kilometers (235 miles) west of St. Louis, Missouri. The proposal could provide a seventh commercial TV station to Kansas City.

3. UHF Television Channel 32 can be assigned to Kansas City, Missouri in compliance with the minimum distance separation requirements with a site restriction 12.2 miles southeast to avoid short spacing to Station KBIN, Channel 32, Council Bluffs, Iowa.

§ 73.606 [Amended]

4. Based on the above facts, we believe that the public interest would be served by seeking comments on petitioner's request. Accordingly, it is proposed to amend the Television Table of Assignments (§ 73.606(b) of the Rules), for the community listed below:

City	Channel No.	
	Present	Proposed
Kansas City, MO	4, 5+, 9+, *19+ 41-, 50-, 62+, and *68-.	4, 5+, 9+, *19+ 32-, 41-, 50-, 62+, and *68-.

[1] Population figures were extracted from the 1980 U.S. Census.

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 28, 1985 and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Mr. David R. Jones, 217 West Ford Valley Road, Knoxville, TN 37940
and
Broadcast Technical Services, P.O. Box 9338, Knoxville, TN 37940
(Consultants to petitioner).

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact D. David Weston, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division Mass Media Bureau

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

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M. Street NW., Washington, D.C.

[FR Doc. 85-8728 Filed 4-10-85; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 85-78; RM-4892]

TV Broadcast Station in Jacksonville, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the assignment of UHF TV Channel 35 to Jacksonville, North Carolina, as that community's first commercial allocation, at the request of Jacksonville Broadcasting Company.

DATES: Comments must be filed on or before May 28, 1985, and reply comments on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations (Jacksonville, North Carolina); MM Docket No. 85-78, RM-4892.

Adopted: March 13, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the petition for rule making filed by Jacksonville Broadcasting Company ("petitioner") requesting the assignment of UHF TV

Channel 35 to Jacksonville, North Carolina, as that community's first commercial allocation. Petitioner states that it will apply for the channel, if assigned.

2. Jacksonville (population 17,056), [1] the seat of Onslow County (population 112,784), is located in eastern North Carolina, approximately 165 kilometers (100 miles) southeast of Raleigh. It currently has assigned noncommercial educational Station WUMM, UHF TV Channel *19, licensed to the University of North Carolina. Channel 35 can be assigned to Jacksonville in compliance with the Commission's minimum distance separation and other technical requirements.

§ 73.606 [Amended]

3. We believe the public interest would be served by proposing to assign Channel 35 to Jacksonville as it could provide the community with its first commercial service. Accordingly, we propose to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules, with respect to the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Jacksonville, NC	*19	*19, and 35

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Robert W. Healy, Esq., Gordon and Healy, Chartered, 1821 Jefferson Place, NW., Washington, D.C. 20036 (Counsel to petitioner).

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the data for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acint on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-8724 Filed 4-10-85; 8:45 am]
BILLING CODE 6712-01-M

[1] Population figures are taken from the 1980 U.S.C Census.

47 CFR Part 73

[MM Docket No. 85-74; RM-4767]

FM Broadcast Station in Big Lake, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the allotment of FM Channel 280A to Big Lake, Texas, as that community's second channel, at the request of Marvin G. Schwartz.

DATES: Comments must be filed on or before May 28, 1985, and reply comments on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

Notice of Proposed Rule Making

In the matter of amendment of § 73.202(b) table of allotments, FM broadcast stations (Big Lake, Texas); MM Docket No. 85-74 RM-4767.

Adopted: March 11, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed by Marvin G. Schwartz ("petitioner") requesting the allotment of Channel 280A to Big Lake, Texas, as that community's second FM channel. Petitioner has indicated an intention to apply for the channel, if assigned.

2. Big Lake is located within 320 kilometers (199 miles) of the U.S.-Mexican border. Therefore, Mexican concurrence must be obtained before the channel can be allotted.

3. We believe the public interest would be served by proposing to allot Channel 280A to Big Lake, as requested. Accordingly, we seek comments on the amendment of the FM Table of Allotments, for the community listed below, to read as follows:

City	Channel No.	
	Present	Proposed
Big Lake, TX	252A	252A, and 280A.

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

5. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioner, as follows: Marvin G. Schwartz, 21777 Ventura Blvd., Woodland Hills, California 91364.

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(c)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleading. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the

Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-8723 Filed 4-10-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-76; RM-4900]

TV Broadcast Station in Wolfforth, TX

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein, at the request of Randy Chandler Ministries, Inc., proposes the assignment of UHF Television Channel 22- to Wolfforth, Texas, as that community's first commercial television service.

DATES: Comments must be filed on or before May 28, 1985, and reply comments on or before June 12, 1985.

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations (Wolfforth, Texas); MM Docket No. 85-76, RM-4900.

Notice of Proposed Rule Making

Adopted: March 13, 1985.
Released: April 5, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration a petition for rule making filed February 7, 1985, by Randy Chandler Ministries, Inc. ("petitioner"), seeking the assignment of UHF TV Channel 22 to Wolfforth, Texas, as the community's first commercial television facility. Petitioner has stated an intention to apply for the channel, if assigned.

2. Wolfforth (population 1,701) [1] in Lubbock County (population 211,651) is located in northern Texas approximately 16 kilometers (10 miles) southwest of Lubbock, Texas.

3. UHF TV Channel 22- can be assigned to Wolfforth, Texas, in compliance with the minimum distance separation requirements of § 73.610 of the Commission's Rules.

§ 73.606 [Amended]

4. In view of the fact that Wolfforth could receive a first commercial television broadcast service, the Commission believes it would be in the public interest to seek comments on the proposal to amend the Television Table of Assignments, § 73.606(b) of the Commission's Rules for the following community:

City	Channel No.	
	Present	Proposed
Wolfforth, TX		22-

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows: George R. Grange II, Esquire, Gammon & Grange, 1925 K Street, NW., Suite 300, Washington, D.C. 20006; Counsel for Randy Chandler Ministries, Inc.

7. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

8. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634-6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

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

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(e)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is proposed to amend the TV Table of Assignments, § 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this

[1] Population figures are taken from the 1980 U.S. Census.

effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to assign a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-8727 Filed 4-10-85; 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 50, No. 70
Thursday, April 11, 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.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

1 CFR Ch. III; Regulatory Analysis of Agency Rules; Request for Comments

AGENCY: Administrative Conference of the United States.

ACTION: Request for public comments.

SUMMARY: The Administrative Conference's Committee on Rulemaking has under consideration a draft recommendation on regulatory analysis of administrative agency rules. Interested persons are invited to comment on the draft recommendation.

DATE: Comments due by Monday, April 29, 1985.

ADDRESS: Send comments to: Michael W. Bowers, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037.

FOR FURTHER INFORMATION CONTACT: Michael W. Bowers, 202/254–7065.

SUPPLEMENTARY INFORMATION: The Administrative Conference's Committee on Rulemaking is considering a draft recommendation on agency implementation of regulatory analysis requirements. The draft recommendation is based on a study done for the Administrative Conference by Professor Thomas O. McGarity of the University of Texas School of law. Copies of Professor McGarity's report may be obtained from the Office of the Chairman, Administrative Conference of the United States, 2120 L Street, NW., Suite 500, Washington, D.C. 20037; telephone: 202/254–7065.

Professor McGarity's report and the draft recommendation address the role of regulatory analysis in the internal agency decisionmaking process, focusing on the way agencies perform, or should perform, regulatory analysis. The report and draft recommendation do *not* deal with several important subjects, including: (1) The merits of a general regulatory analysis requirement, (2) the appropriate "trigger" for requiring regulatory analysis; (3) Office of Management and Budget review of agency rules; and (4) judicial review of regulatory analysis.

The Committee on Rulemaking is especially interested in receiving additional information relating to Part 4 of the draft recommedation on the use of consultants in regulatory analysis of rules. More specifically: (1) To what extent does this recommendation duplicate or conflict with existing laws governing federal contracting?, and (2) Do existing laws adequately prevent or resolve conflicts of interest relating to use of consultants for regulatory analysis?

Draft Recommendation

1. The Roll of Regulatory Analysis in the Rulemaking Process

(a) *Identifying Options.* The regulatory analysis process can be very useful to agency decisionmakers in identifying innovative regulatory options. However, regulatory analysis can yield regulatory options only if the regulatory analysis function becomes an integral part of the internal agency decisionmaking process.

(i) Agencies should not begin intensive information-gathering and other analytical efforts on rules until agency technical staff and agency regulatory analysts have attempted to identify a broad range of regulatory options.

(ii) Agencies should experiment with a phased system of reducing options. Under a phased system, the agency initially should identify as large a number of options as it can for brief study. As options are considered and rejected, the remaining options should be analyzed with increasing thoroughness. As resource constraints preclude further consideration of an option, the agency should list the option in its regulatory analysis documents [1] and explain briefly why the option did not warrant further study.

(iii) Although the extent to which options are identified and analyzed in regulatory analysis documents is largely a matter for individual agency management, regulatory analysis documents normally should attempt to identify and analyze several realistic regulatory options.

(b) Integrating Regulatory Analysis into the Decisionmaking Process—(i) *Timing of Analytical Input.* If regulatory analysis is to be used in a rulemaking, the internal agency decisionmaking process should be structured to involve agency regulatory analysts early in the evolution of the rule, before innovative alternatives have been eliminated.

(ii) *Communicating Policy to Regulatory Analysts.* Regulatory analysis can be a valuable tool for communicating policy within regulatory agencies if the analysis explicitly identifies the policy goals that motivate a recommendation. Therefore, it is important that upper level policymakers in agencies provide clear guidance to subordinate decisionmaking units (such as steering committees and working groups) as to the policies that should guide the agency in choosing among options in individual rulemaking proceedings.

(iii) *Policy Input at Important Decisionmaking Junctures.* The different perspectives of an agency's regulatory analysis staff and its technical staff ensures that when both staffs are relied upon in the decisionmaking process, disagreements over appropriate agency policy will result. To obtain the most benefit from this clash of views, agencies should structure the internal decisionmaking process to ensure high level policy input, at important decisionmaking junctures, on the issues upon which the agency's regulatory analysts and technical staff disagree.

(iv) *Regulatory Analysts' Role in Responding to Comments.* When an agency solicits public comment on a regulatory analysis document or on portions of the proposed rule's statement of basis and purpose that draw upon the regulatory analysis document, the agency decisionmaking process should be structured to ensure that agency regulatory analysts have a role in developing the agency's response to the public comments.

(v) *Inter-Agency Review Comments.* Agencies should place in the public rulemaking record any written comments that are directed to the contents of regulatory analysis documents during the inter-agency review process. See ACUS Recommendation 80–6 (1 CFR 305.80–6).

[1] As used in this recommendation, "regulatory analysis document" means any preliminary or final regulatory analysis document accompanying a proposed or final rule.

(vi) *Communicating Regulatory Analysis Results to Congress and the Public.* Agencies should prepare brief summaries of preliminary and final regulatory analysis documents and make them available to appropriate congressional committees and to the public. The summaries should contain tables, charts and other devices to make the information contained in regulatory analysis documents understandable.

(c) *Use of Regulatory Analysis Where Not Required or Where Options Are Foreclosed.* (i) Regulatory analysis documents should consider the costs and benefits of feasible options, even if the agency is statutorily precluded from implementing some of those options. Regulatory analysis documents that consider options outside the agency's authority should be transmitted to the institutions with power to implement them, such as Congress and other agencies, and also be made available to the public.

(ii) Agencies should consider using regulatory analysis as a tool for managing policy for rulemaking initiatives with impacts on the economy that fall below the thresholds set by law for requiring formal regulatory analyses.

2. Disclosure in Regulatory Analysis Documents

In ACUS Recommendation 79–4 (1 CFR 305.79–4), the Conference advises agencies using cost-benefit and similar analyses to include in public notices of particular proceedings information about the analytical methods and assumptions used in conducting the analyses. The following recommendations pertain to disclosure in regulatory analysis documents whether for use by the public or agency decisionmakers.

(a) When agencies use quantitative models to quantify important variables in regulatory analysis documents, the known limitations of those models should be clearly stated.

(b) To avoid allowing quantitative models to oversimplify complex decisionmaking considerations, agencies should require regulatory analysis documents to (1) state clearly the major assumptions that undergird the models relied upon in the regulatory analysis, and (2) discuss important decisionmaking variables that are not subject to quantitative analysis.

(c) Agencies should require that regulatory analysis documents attempt to characterize the uncertainties that are included in quantitative predictions by using tools such as confidence intervals; multiple assessment models; sensitivity analysis, and worst case analysis.

(d) Agencies should require regulatory analysis documents to explicitly address the distributfonal impacts of rulemaking initiatives and the methods used for discounting future costs and benefits. Agencies should consider using more than one discount rate to clarify the sensitivity of the analytical projections to the discount rate.

(e) Agency regulatory analysis documents should make explicit reference to any agency policies that motivate the agency to choose one set of assumptions over another, to draw one inference rather than another, and to choose one quantitative model over another.

3. Informational Needs for Regulatory Analysis

(a) *Agency Access to Information.* Accurate information on the costs and economic impacts of proposed rules is essential to the regulatory process, and often the most important source of this information is a regulated party. Therefore, the Office of Management and Budget should allow agencies to address requests for cost and economic impact information to regulated parties when such requests are needed for accurate economic impact assessments. The Office of Management and Budget should coordinate its regulatory analysis review function with its paperwork reduction function to ensure that it approves information gathering activities that are designed to yield information that it is likely to require later in the rulemaking review process.

(b) *Coordination of Information Gathering Activities.* Agencies should attempt to coordinate their sponsored research activities with their regulatory analysis initiatives. More specifically, agencies should include regulatory analysts in the process of setting long-term research priorities. In addition, agencies should encourage the participation of representatives from the office responsible for agency-sponsored research in the rulemaking process at the very early stages when informational needs are defined.

(c) *Cooperative Regulatory Analysis.* Agencies should attempt on a trial basis to engage in cooperative regulatory analysis by bringing representatives from all affected parties together to assess the validity of particular studies prior to relying upon those studies in regulatory analysis documents.

(d) *Reducing Potential Bias.* Agencies should attempt to reduce the impact of bias in the sources of the information that they use in preparing regulatory analysis documents. This does not mean that agencies should automatically ignore or discount the value of information simply because it comes from a source with an interest in the outcome of the rulemaking initiative. Steps that agencies can take to reduce bias include:

(i) Consulting, whenever possible, multiple sources of information in preparing regulatory analysis documents;

(ii) Carefully citing in regulatory analysis documents all information upon which the analysis draws, and making the information available for public scrutiny at convenient times and places;

(iii) Actively soliciting comment and criticism from acknowledged experts in the fields that the documents address.

(e) *Retrospective Assessments of Previous Analyses.* Agencies should regularly perform retrosppective assessments of the predictions made in previous regulatory analysis documents. Retrospective analyses can provide feedback on the accuracy of agency predictions and thereby enable agencies to enhance the accuracy of future predictions or make judgments about the value of regulatory analysis to an agency's regulatory effort.

4. Use of Consultants in Preparing Regulatory Analysis Documents

Agencies can benefit from entering into consulting contracts with highly qualified experts to aid in gathering and analyzing information for regulatory analysis documents. However, agency personnel should retain the ultimate responsibility for the contents of regulatory analysis documents to prevent delegation of agency responsibility to consultants and to guard against consultant conflict of interest.

a. Agency employees, not consultants, should draft regulatory analysis documents.

b. When a regulatory analysis document relies upon consultant reports, the agency should place the reports in the public rulemaking record, subject to appropriate deletion of trade secret and other commercial or financial information that companies may have shared with consultants under confidentiality agreements.

c. Prior to entering into a consulting contract, agencies should require that each potential consultant prepare a statement describing in general terms any work that the consultant or any employee of the consultant who is likely to work on the project is currently preforming for a potentially regulated party or any work that the consultant or employee has performed in the past for a potentially regulated party. Such statements should be placed in the

rulemaking record, and they should accompany any documents that the consultant prepares for the agency in connection with the regulatory analysis.

(d) Agencies should not employ a consultant who is currently retained by a potentially regulated party to perform services similar to those that the agency is requesting, and agencies should include provisions in consultant contracts that prohibit consultants from accepting employment from a potentially regulated party to perform similar services during the time that the consultant is performing services for the agency.

(e) Agencies should include provisions in consultant contracts that prohibit consultants from seeking employment for similar services from potentially regulated parties for one year following the completion of the contract with the government.

5. The Scope and Limits of Regulatory Analysis

(a) Cost-benefit analysis can be a effective tool for marshalling and analyzing information and for establishing regulatory priorities, but it alone should not be used to dictate particular regulatory results in many regulatory contexts. Cost-effectiveness analysis is more appropriate for rulemaking that involves health, environmental, historical, artistic, and aesthetic considerations for which markets do not exist.

(d) Agencies should not request, and the Office of Management and Budget should not grant, exemptions from regulatory analysis requirements solely on the ground that a rule is perceived to be deregulatory in nature.

(c) Agencies and the Office of Management and Budget should take care that the regulatory analysis preparation and review procedures does not cause undue delay in the rulemaking process or produce post hoc rationalizations for decisions already made.

List of Subjects in 1 CFR Ch. III

Administrative practice and procedure, Regulatory analysis.

Dated: April 9, 1985.

Richard K. Berg,

General Counsel.

[FR Doc. 85-8783 Filed 4-10-85; 8:45 am]

BILLING CODE 6110-01-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Plant Genetic Resources Board; Meeting

According to the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the USDA, Science and Education, announces the following meeting:

Name: National Plant Genetic Resources Board.

Date: May 9-10, 1985.

Time: 8:30 a.m.-4:30 p.m., May 9; 8:30 a.m.-4:30 p.m., May 10.

Place: Room 104-A, Williamsburg Room, Administration Building, Department of Agriculture, Washington, D.C.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permits.

Comments: The public may file written comments before or after the meeting with the contact person below.

Purpose: To review matters that pertain to plant germplasm in the United States and possible impacts on related national and international programs; and discuss other initiatives of the Board.

Contact Person: C. F. Murphy, Executive Secretary, National Plant Genetics Resources Board, U.S. Department of Agriculture, Room 239, Building 005, BARC-West, Beltsville, Maryland 20705. Telephone: (301) 344-1560.

Done at Beltsville, Maryland, this 1st day of April 1985.

Charles F. Murphy,

Executive Secretary, National Plant Genetic Resources Board.

[FR Doc. 85-8745 Filed 4-10-85; 8:45 am]

BILLING CODE 3410-03-M

Cooperative State Research Service

Committee of Nine; Meeting

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776), the Cooperative State Research Service announces the following meeting:

Name: Committee of Nine.

Date: May 22-23, 1985.

Time: 8:00 a.m.-4:00 p.m.

Place: Room 3109 South Building, Department of Agriculture, Washington, DC 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To evaluate and recommend proposals for cooperative research on problems that concern agriculture in two or more States, and to make recommendations for allocation of regional research funds appropriated by Congress under the Hatch Act for research at the State agricultural experiment stations.

Contact Person for Agenda and More Information: Dr. Edward M. Wilson, Recording Secretary, U.S. Department of Agriculture, Cooperative State Research Service, Room 209, Justin Smith Morrill Building, Washington, DC 20251; telephone: 202/447-4587.

Done at Washington, DC, this 5th day of March 1985.

John Patrick Jordan,

Administrator, Cooperative State Research Service.

[FR Doc. 85-8746 Filed 4-10-85; 8:45 am]

BILLING CODE 3410-22-M

Office of Grants and Program Systems

Policy Advisory Committee for the Science and Education Research Grants Program; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Grants and Program Systems announces the following meeting:

Name: Policy Advisory Committee for the Science and Education Research Grants Program.

Date: May 8, 1985.

Time: 9:00 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 1222 South Agriculture Building, 14th and Independence Avenue SW., Washington, D.C. 20250.

Type of Meeting: Open to the public. Persons may participate in the meeting as time and space permit.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

Purpose: To advise the Secretary of Agriculture with respect to the research to be supported, priorities to be adopted and emphasized, and the procedures to be followed in implementing those programs of research grants to be awarded competitively.

Contact Person for Agenda and More Information: Anne Holiday Schauer, Associate Chief, Competitive Research Grants Office, Office of Grants and Program Systems, U.S. Department of Agriculture, Room 112, J.S. Morrill Building, Washington, DC. 20251, telephone: 202/475-5022.

Done at Washington, D.C. this 3rd day of April 1985.

Anne Holiday Schauer,

Executive Secretary, Policy Advisory Committee.

[FR Doc. 85-8747 Filed 4-10-85; 8:45 am]

BILLING CODE 3410-MT-M

Soil Conservation Service

Nibbs Creek Watershed; Deauthorization of Federal Funding

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of Deauthorization of Federal Funding.

SUMMARY: Pursuant to the Watershed Protection and Flood Prevention Act, Pub. L. 83–566, and the Soil Conservation Service Guidelines (7 CFR Part 622), the Soil Conservation Service gives notice of the deauthorization of federal funding for the Nibbs Creek Watershed Project, Amelia County, Virginia, effective on July 22, 1969. The sponsoring local organizations have concurred in this determination and agree that federal funding should be deauthorized for the project. Information regarding this determination may be obtained from Manly Wilder, State Conservationist, at Soil Conservation Service, 400 North 8th Street, Federal Building, Richmond, Virginia 23240, telephone (804) 771–2457.

No administrative action on implementation of the proposed deauthorization will be taken until 60 days after the date of this publication in the **Federal Register.**

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program. Office of Management and Budget Circular A–95 regarding State and local clearinghouse review of Federal and Federally-assisted programs and projects is applicable)

Manly S. Wilder,

State Conservationist.

April 1, 1985.

[FR Doc. 85–8684 Filed 4–10–85; 8:45 am]

BILLING CODE 3410–16–M

DEPARTMENT OF COMMERCE

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles; Harvard University et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No. 83–122. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Apparatus for the Study of Clusters in Expanding Supersonic Beams by Means of Raman Scattering. Date of Denial Without Prejudice to Resubmission: January 15, 1985.

Docket No. 83–209. Applicant: Harvard University, Cambridge, MA 02138. Instrument: Fourier Transform for Infrared Michelson Interferometer and Accessories. Date of Denial Without Prejudice to Resubmission: January 8, 1985.

Docket No. 83–271. Applicant: National Aeronautics and Space Administration, Pasadena, CA 91109. Instrument: CCD 2000 Imaging System. Date of Denial Without Prejudice to Resubmission: January 15, 1985.

Docket No. 83–026. Applicant: Emory University, Atlanta, GA 30322. Instrument: Scanning Electron Microscope, Model DS–130 with Accessories. Date of Denial Without Prejudice to Resubmission: January 8, 1985.

Docket No. 84–135. Applicant: University of California, Livermore, CA 94550. Instrument: (2) Excimer Lasers KRF, Model EMG 150ES with Accessories. Date of Denial Without Prejudice to Resubmission: January 9, 1985.

Docket No. 84–146. Applicant: National Institutes of Environmental Health Sciences, Research Triangle Park, NC 27709. Instrument: Quadrupole Mass Spectrometer System, Model 12–250. Date of Denial Without Prejudice to Resubmission: January 15, 1985.

Docket No. 84–260. Applicant: University of California, Los Alamos, NM 87545. Instrument: (2) Streak Tubes. Date of Denial Without Prejudice to Resubmission: October 10, 1984.

Docket No. 84–319. Applicant: Indiana University, Bloomington, IN 47405. Instrument: Electrophoresis System, Model Mark II with Accessories. Date of Denial Without Prejudice to Resubmission: January 10, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–8768 Filed 4–10–85; 8:45 am]

BILLING CODE 3510–DS–M

National Technical Information Service

Government-Owned Inventions; Availability for Licensing

The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patents are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

Technical and licensing information on specific inventions may be obtained by writing to: Office of Federal Patent Licensing, U.S. Department of Commerce, P.O. Box 1423, Springfield, Virginia 22151.

Please cite the number and title of inventions of interest.

Douglas J. Campion,

Office of Federal Patent Licensing, National Technical Information Service, U.S. Department of Commerce.

Department of Commerce

SN 6–400,571 (4,499,700)
Systems for Monitoring Changes in Elastic Stiffness in Composite Materials

Department of Health and Human Services

SN 6–399,257 (4,500,637)
Prevention of Graft Versus Host Disease Following Bone Marrow Transplantation

SN 6–475,215
Multi-Layer Coil Assembly Coaxially Mounted Around the Rotary Axis for Preparatory Countercurrent Chromatography

Department of the Air Force

SN 6–520,356
Method and Apparatus for Generating a Structured Light Beam Array

SN 6–624,567
Secure Digital Speech Communication

SN 6–643,138
Method and Apparatus for High Speed, Sustained Recording and Infrared Laser Beam Patterns

SN 6-649,454
Apparatus for Retrieving, Placing, and Stocking Trays from an Automatic Storage and Retrieval Carousel
SN 6-659,484
Cargo Handling System
SN 6-675,171
Frequency Selective Signals-To-Noise Enhancer/Limiter Apparatus
SN 6-680,432
Active Dispersion Control for a Doppler Broadened Laser
SN 6-684,240
Autonomous Uninterruptable Power Supply Apparatus
SN 6-686,954
Interactive Communication Channel
SN 6-689,681
Electron-Bombarded Silicon Spatial Light Modulator
SN 6-689,699
Charge Isolation in a Spatial Light Modulator
SN 6-689,736
Sabot/Gun Gas Diverter
SN 6-690,438
Vibration Isolator Actuator
SN 6-698,728
Optimizing Hot Workability and Controlling Microstructures in Difficult to Process High Strength and High Temperature Materials
SN 6-698,979
Wavelength Dependent, Tunable, Optical Time Delay System for Electrical Signals

Department of the Army

SN 6-686,048
Device for Controlling Optical Fiber Twist on a Bobbin
SN 6-699,990
Dielectric Resonator
SN 6-704,816
Injection Controlled Laser Transmitter with Twin Local Oscillators
SN 6-705,267
Monolithic Planar Doped Barrier Limiter
SN 6-707,107
Adjustment of the Frequency-Temperature Characteristics of Crystal Oscillators
SN 6-707,346
Compensation of Acoustic Wave Devices

Department of the Interior

SN 6-488,482 (4,500,329)
Self-Actuating Vacuum Gas/Liquid Separator
SN 6-622,515 (4,500,398)
Production of Lead from Sulfides

[FR Doc. 85-8688 Filed 4-10-85; 8:45 am]
BILLING CODE 3510-04-M

Patent and Trademark Office

Interim Protection for Mask Works of Japanese Nationals Domiciliaries and Sovereign Authorities

Correction

In FR Doc. 85-7363 beginning on page 12355 in the issue of Thursday, March 28, 1985, make the following correction:

On page 12357, second column, under the heading **"Before the Secretary of Commerce"**, fourth paragraph, second line, "not" should read "now".

BILLING CODE 1505-01-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With Portugal on Categories 360 and 361

On March 29, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Portugal to enter into consultations concerning exports to the United States of cotton pillowcases in Category 360 and cotton sheets in Category 361 produced or manufactured in Portugal.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Portugal, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of such products produced or manufactured in Portugal and exported to the United States during the twelve-month period which began on March 29, 1985 and extends through March 28, 1986 at levels of 1,626,083 numbers and 2,980,444 numbers, respectively.

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 360 and 361 is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Portugal—Market Statement

Category 360—Pillowcases

March 1985.

Summary and Conclusions

United States imports of Category 360 from Portugal are non-institutional type pillowcases. Imports from Portugal during 1984 were 1,626,000 pillowcases (135,500 dozen), up 185.3 percent from the 1983 imports of 570,000 million pillowcases (47,500 dozen). This was substantial growth and can be expected to accelerate if not subject to restraints.

The market for Category 360 non-institutional pillowcases has been disrupted by imports and imports from Portugal, the second largest supplier, have disrupted the market.

U.S. Production

Production of non-institutional cotton pillowcases in the United States decreased from 326,000 dozen in 1979 to 250,000 dozen in 1983. Production for the first three quarters of 1984 were 183,000 dozen pillowcases, down fractionally from the same period in 1983. Production by quarters in 1984 trended downward pointing toward a more substantial decline in 1984 than is indicated by the decrease registered during the first three quarters.

U.S. Imports

U.S. imports of non-institutional cotton pillowcases increased from 40,000 dozen in 1979 to 174,000 dozen in 1983. Imports in 1984 were up 139 percent to 416,000 dozen. Imports during the last quarter of 1985 were 168,000 dozen pillowcases, almost equal to the total 1983 imports.

Import Penetration

The ratio of imports to domestic production increased sharply from 12.2 percent in 1979 to 69.6 percent in 1983. The ratio for the first three quarters of 1984 was 135.5 percent, 143 percent above the same period in 1983. The very sharp spurt in imports during the last quarter of 1984 probably resulted in an import

ratio between 165 and 170 percent for the full year of 1984.

Domestic Producers Market Share

The U.S. market for domestically produced and imported non-institutional cotton pillowcases declined from 366,000 dozen in 1979 to 300,000 dozen in 1982. The market sharply increased in 1983 and 1984 with a level of 424,000 dozen in 1983 and 431,000 dozen for the first three quarters of 1984. However, U.S. producers share of the market declined over the entire period as production share fell from 89 percent in 1979 to 42 percent for the first three quarters of 1984. The share for the last quarter of 1984 will be even smaller since imports surged during that period.

Import Values vs U.S. Producers Price

Approximately 52 percent of the cotton pillowcases imported from Portugal are combed pillowcases entered under TSUSA No. 363.3040. The remainder are carded pillowcases entering under TSUSA No. 363.3020. Imports are landed at duty-paid values below the U.S. producers price for comparable pillowcases.

Portugal—Market Statement

Category 361—Cotton Sheets

March 1985.

Summary and Conclusions

United States imports of Category 361 from Portugal are non-institutional type sheets. Imports from Portugal during 1984 were 2.98 million sheets (248,000 dozen), up 27.5 percent from the 1983 imports of 1.31 million sheets (109,000 dozen). This was substantial growth and can be expected to accelerate if not subject to restraints.

The market for Category 361 non-institutional sheets has been disrupted by imports; imports from Portugal the largest supplier have contributed to the disruption; and, removal of restraints on imports from Portugal would intensify the market disruption.

U.S. Production

Production of non-institutional cotton sheets in the United States increased from 990,000 dozen in 1979 to 1,279,000 dozen in 1980. Production trended downward after 1980, declining to 1,014,000 dozen sheets in 1983. Production for the first three quarters of 1984 were 567,000 dozen sheets, down 26.3 percent from the same period in 1983. Production by quarters in 1984 trended downward pointing toward a more substantial decline in 1984 than is indicated by the decrease registered during the first three quarters.

U.S. Imports

U.S. imports of non-institutional cotton sheets increased from 22,000 dozen in 1979 to 248,000 dozen in 1983. Imports in 1984 were up 150 percent to 622,000 dozen. Imports during the last quarter of 1985 were 247,000 dozen sheets, almost equal to the total 1983 imports.

Import Penetration

The ratio of imports to domestic production increased sharply, up ten-fold, from 2.2 percent in 1979 to 24.5 percent in 1983. The ratio for the first three quarters of 1984 was 66.1 percent, 263 percent above the same period in 1983. The very sharp spurt in imports during the last quarter of 1984 probably resulted in an import ratio between 80 and 85 percent for the full year of 1984.

Domestic Producers Market Share

The U.S. market for domestically produced and imported non-institutional cotton sheets, after increasing in 1980, was remarkably stable through 1984. The U.S. producers share of the market was also stable through 1981, but began to decline at an increasing rate thereafter. The domestic producers share for 1981 was 95 percent; it dropped to 89 percent in 1982; to 80 percent in 1983; and to 60 percent during the first three quarters of 1984. The full year share in 1984 will be even smaller due to the surge in imports during the last quarter.

Import Values vs Producers Price

Approximately 51 percent of the cotton sheets imported from Portugal are combed sheets entered under TSUSA No. 363.3030. The remainder are carded sheets entering under TSUSA No. 363.3010. Imports are mostly flannel sheets which are landed at a duty-paid value below the U.S. producers price for comparable sheets.

[FR Doc. 85-8708 Filed 4-10-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

April 1, 1985.

The USAF Scientific Advisory Board Ad Hoc Committee on Enhanced Non-Nuclear Munition Storage will meet at The Pentagon, Washington, DC, Room 5D982, May 6 (9:00 a.m.–5:00 p.m.) and May 7 (9:00 a.m.–5:00 p.m.) 1985 to review operational requirements and to discuss programs and initiatives to enhance munition storage and handling techniques. This meeting will involve classified defense matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-4648.

Norita C. Koritko,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-8695 Filed 4-11-85; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Improvement of the Port Sutton Terminal Channel, Hillsborough Bay, Hillsborough County, FL

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare Draft Environmental Impact Statement.

SUMMARY: The Jacksonville District, U.S. Army Corps of Engineers, is studying the feasibility of improving the Port Sutton terminal channel located in the northeast corner of Tampa Bay, Hillsborough County, Florida. All of the practicable alternatives, whether implementable by the Federal Government or not, are listed below:

Non-structural

No action.

Relocation of port operations.

Load and off-load deep draft vessels at western end of existing channel with shallow draft shuttle vessels.

Structural

Deepen channel to a selected depth between 35 and 43 feet and widen the channel to a maximum width of 300 feet to facilitate use by the more economical deep draft cargo vessels.

Disposal of dredged material in Tampa Bay, or on upland sites, or create marshlands in Tampa Bay with suitable dredged material, or a combination of the three.

The scoping process included the issuance of a public notice on 9 October 1984 that advertised the study and requested comments from the public. A report describing the study and requesting information and comments was sent to known affected or interested parties, including Federal, State, and local agencies and interested private organizations and parties on 9 November 1984. A scoping meeting is not contemplated. Issues to be addressed in the DEIS will be determined during scoping.

The U.S. Fish and Wildlife Service (FWS) is being consulted as part of the planning process in accordance with the Fish and Wildlife Coordination Act. The U.S. National Marine Fisheries Service (NMFS) and the State of Florida are also being consulted, and their contributions will be considered and apropriately applied in the planning process. Consultation for section 7 of the Endangered Species Act and the Archeological and Historic Preservation Act is in progress. Disposal of dredged

material in ocean waters will be evaluated by section 103 of the Marine Protection, Research, and Sanctuaries Act. Disposal of dredged material into waters of the United States will be evaluated by section 404(b) of the Federal Water Pollution Control Act. The DEIS will be made available to the public in June 1985 unless more time is needed for preparation.

Questions about the proposal or the DEIS may be directed to: Ronnie L. Tapp, Environmental Studies Section, U.S. Army Corps of Engineers, Jacksonville District, P.O. Box 4970, Jacksonville, Florida 32232, Telephone: 904-791-1690.

Dated: April 1, 1985.

Charles T. Myers III,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 85-8632 Filed 4-10-85; 8:45 am]

BILLING CODE 3710-AJ-M

Intent to Prepare an Environmental Impact Statement (EIS) for Port Everglades, FL, Development, 1984-2000

Subject: Department of the Army Notice of Intent to Prepare an Environmental Impact Statement (EIS) for Port Everglades, Florida, Development, 1984-2000.

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of Intent to prepare an environmental impact statement.

SUMMARY: The Port Everglades Authority proposes to expand Port Everglades as detailed in the *Port Everglades Master Development Plan 1984-2000.* An Environmental Impact Statement will address those actions of the Port Authority that will require a Department of the Army permit under section 10 of the River and Harbor Act of 1899 and section 404 of the Clean Water Act of 1977. Cumulative impacts of the proposed action and development adjacent to the project area that can be reasonably projected to occur as a result of port development will also be addressed.

The following alternatives are being considered:

a. Denial of all permits (no action).

b. Issuing of all permits as applied for.

c. Issuing of all permits with conditions.

d. Denying a permit for various discrete components of the expansion while issuing permits for the remainder of the components.

A scoping meeting is not contemplated. Scoping will be accomplished by correspondence with affected Federal, State, and local agencies, and with interested parties.

A draft of the EIS will be made available to the public in September 1985. Address questions concerning the EIS to: U.S. Army Engineer District, Post Office Box 4970, Jacksonville, Florida 33232-0019, Attn: Mr. Dan Malanchuk, (SAJPD-ES), Telephone (904) 791-1689, FTS 946-1689.

Dated: March 28, 1985.

Robert B. Ottesen,

Lieutenant Colonel, Corps of Engineers, Deputy District Engineer.

[FR Doc. 85-8711 Filed 4-10-85; 8:45 am]

BILLING CODE 3710-AJ-M

Department of the Navy

Performance of Commercial Activities; Announcement of Program Cost Studies

Department of the Navy, Headquarters Marine Corps, intends to conduct OMB Circular A-76 (48 FR 37110, August 16, 1983) cost studies of various functions at listed activities commencing May 13, 1985. Cost study process is rigorous, time-consuming procedure and, depending upon size of functions involved, can take several months to several years to complete. Since studies not yet begun, specifications not yet prepared. When bids/proposals desired, appropriate advertisements will be placed. No consolidated bidders' list being maintained since solicitations will be processed by various contracting offices throughout United States.

Marine Corps Air Station, Yuma, AZ

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance

Marine Corps Logistics Base, Barstow, CA

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance

Marine Corps Base, Camp Pendleton, CA

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance
Acceptance Testing

Marine Corps Air Station, El Toro, CA

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance
Operation of Bulk Liquid Storage

Marine Corps Recruit Depot, San Diego, CA

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance

Marine Corps Air Ground Combat Center, Twentynine Palms, CA

Motor Vehicle Operation
Motor Vehicle Maintenance

Marine Corps Logistics Base, Albany, GA

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance
Printing and Reproduction

Camp H.M. Smith, HI

Motor Vehicle Operation
Motor Vehicle Maintenance
Storage and Warehousing

Marine Corps Air Station, Kaneohe Bay, HI

Storage and Warehousing

Marine Corps Finance Center, Kansas City, MO

Motor Vehicle Operation
Storage and Warehousing

Marine Corps Base, Camp Lejeune, NC

Maintenance/Repair of Dining Facility Equipment
Repair of Metal Containers
Motor Vehicle Operation
Architect-Engineering Services

Marine Corps Air Station, Cherry Point, NC

Motor Vehicle Operation
Motor Vehicle Maintenance
Storage and Warehousing, Receipt
Storage and Warehousing, Shipping
Storage and Warehousing, Care, Rewarehousing and Support of Material
Training Devices and Simulators
Maintenance of Buildings and Structures, Family Housing
Maintenance of Buildings and Structures, Other than Family Housing
Railroad Facilities Maintenance

Marine Corps Air Station, Beaufort, SC

Installation Bus Services
Motor Vehicle Operation
Motor Vehicle Maintenance
Fueling Service (Aircraft)

Marine Corps Recruit Depot, Parris Island, SC

Motor Vehicle Operation
Motor Vehicle Maintenance

Marine Corps Development and Education Command, Quantico, VA

Maintenance/Repair of Special Equipment
Maintenance/Repair of Dining Facility Equipment
Other Maintenance/Repair of Equipment
Installation Bus Services
Food Services
Motor Vehicle Operation
Motor Vehicle Maintenance
Heating Plants and Systems
Sewage and Waste Plants and Systems
Other Services or Utilities
Fueling Services (Aircraft)
Maintenance of Buildings and Structures, Family Housing
Maintenance of Buildings and Structures, other than Family Housing
Grounds and Surfaced Areas

William F. Roos, Jr.,

Lieutenant, JAGC, USNR Federal Register Liaison Officer.

April 3, 1985.

[FR Doc. 85-8442 Filed 4-10-85; 8:45 am]

BILLING CODE 3810-AE-M

Naval Coastal Systems Center Review Team; Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Coastal Systems Center Review Team of the Naval Research Advisory Committee Panel on Laboratory Oversight will meet on May 7–8, 1985, at the Naval Coastal Systems Center, Panama City, Florida. The first session will commence at 8:00 a.m. and terminate at 5:15 p.m. on May 7. The second and final session will commence at 8:00 a.m. and terminate at 5:00 p.m. on May 8. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical, and engineering health of NCSC. The agenda for the meeting will consist of technical briefings by the NCSC departments which will assist the team in their efforts to make a thorough evaluation of the scientific, technical, and engineering health of the activity. These briefings will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552b(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M. B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: April 4, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85-8760 Filed 4-10-85; 8:45 am]

BILLING CODE 3810-AE-M

Naval Ocean Systems Center; Naval Research Advisory Committee; Closed Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (5 U.S.C. app.), notice is hereby given that the Naval Ocean Systems Center Review Team of the Naval Research Advisory Committee Panel on Laboratory Overisght will meet on May 6–7, 1985, at the Naval Ocean Systems Center, San Diego, California. The first session will commence at 8:00 a.m. and terminate at 5:15 p.m. on May 6. The second and final session will commence at 8:00 a.m. and terminate at 5:00 p.m. on May 7. All sessions of the meeting will be closed to the public.

The purpose of the meeting is to examine the scientific, technical, and engineering health of NOSC. The agenda for the meeting will consist of technical briefings by the NOSC departments which will assist the team in their efforts to make a thorough evaluation of the scientific, technical, and engineering health of the activity. These briefings and tours will contain classified information that is specifically authorized under criteria established by Executive order to be kept secret in the interest of national defense and is in fact properly classified pursuant to such Executive order. The classified and nonclassified matters to be discussed are so inextricably intertwined as to preclude opening any portion of the meeting. Accordingly, the Secretary of the Navy has determined in writing that the public interest requires that all sessions of the meeting be closed to the public because they will be concerned with matters listed in section 552(c)(1) of title 5, United States Code.

For further information concerning this meeting contact: Commander M.B. Kelley, U.S. Navy, Office of Naval Research (Code 100N), 800 North Quincy Street, Arlington, VA 22217–5000, Telephone number (202) 696–4870.

Dated: April 4, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85-8761 Filed 4-10-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

[BPA File No. INCENT-2]

Implementation of the Industrial Incentive Rate for the Direct-Service Industrial Customers of the Bonneville Power Administration

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice of final action.

SUMMARY: On January 23, 1985, BPA proposed implementing the Industrial Incentive Rate for BPA's direct-service industrial customers (DSIs) over the period March 1 through June 30, 1985. The market price for alumium had deteriorated to the point where, beginning in March 1985, several DSIs were expected to curtail production from earlier levels. In an effort to maintain as much of the existing load as possible, BPA investigated whether BPA's revenues would increase as a result of implementation of the Industrial Incentive Rate. Based on the results of its initial studies, public comments, and revised studies, BPA adopted an Incentive Rate approximately equal to a 6-mill per kilowatthour discount from the Standard Industrial Rate.

The Industrial Incentive Rate will be effective for a 4-month period beginning March 1, 1985, and shall be applied on a take-or-pay basis to the loads of those DSIs who elected to purchase under this arrangement.

Responsible Official: Janet W. McLennan, Assistant Power Manager for Natural Resources and Public Services, is the official responsible for implementation of the Industrial Incentive Rate.

DATES: The Industrial Incentive Rate is effective March 1 through June 30, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Baker, Bonneville Power Administration, Public Involvement office, P.O. Box 12999, Portland, Oregon 97212. Telephone numbers, voice/TTY for the Public Involvement office are: 503–230–3478 in Portland; toll-free 800–452–8429 for Oregon outside of Portland;

800-547-6048 for Washington, Idaho, Montana, Utah, Nevada, Wyoming, and California. Information may also be obtained from:

Mr. George Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97232, 503-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Avenue, Eugene, Oregon 97401, 503-687-6952

Mr. Wayne R. Lee, Upper Columbia Area Manager, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379

Mr. George T. Reich, Acting Puget Sound Area Manager, 415 First Avenue North, Room 250, Seattle, Washington 98109, 206-442-4131

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-434-6226, extension 701

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706

Mr. Frederic D. Rettenmund, Boise District Manager, Owyhee Plaza, Suite 245, 1109 Main Street, Boise, Idaho 83707, 208-334-9137

SUPPLEMENTARY INFORMATION:

I. Background

The Industrial Incentive Rate is a reduced rate designed to increase BPA's revenues during periods of adverse market conditions for the aluminum industry over those revenues which would otherwise be expected to result from application of BPA's Standard Industrial Rate. The rate also is intended to stimulate industrial production and maintain employment in the Pacific Northwest. Under the terms of the 1983 General Rate Schedule Provisions, the Industrial Incentive Rate can be offered to the DSIs only if BPA can demonstrate that the net result of implementing the rate would be to increase total BPA revenues.

For a 6-month period beginning on September 1, 1984, BPA implemented the Industrial Incentive Rate for the first time. The rate, averaging 22.7 mills per kilowatthour, represented a discount of approximately 5 mills per kilowatthour from the Standard Industrial Rate. Given the economic conditions which the DSIs currently face, BPA decided that it would be advisable to consider implementing another incentive rate upon expiration of the first—this time for the period March 1 through June 30, 1985.

II. BPA's Action

BPA analyzed the appropriateness of instituting another incentive rate in a feasibility study, published on January 23, 1985. Following a 3-week public comment period, BPA revised its feasibility study and offered the DSIs a discount from the Standard Industrial Rate of approximately 6 mills, contingent on a take-or-pay commitment that would ensure that BPA's revenues would increase as a result of the offer. Although BPA originally sought a commitment level of 2360 megawatts (MW), the DSIs only committed to purchasing 2262.4 MW. However, given the effects of BPA's customer charge which increases the average rate paid by some DSIs, the commitment of 2262.4 MW was enough to increase BPA's total revenue by $113,000 over the 4-month incentive rate period and by $9.4 million over 7 months. The average rate for the 4 months during which the incentive rate applies will be approximately 19.8 mills per kilowatthour for those DSIs for whom the customer charge in the Industrial Power Rate Schedule has no effective impact; the average rate for those DSIs which are affected by the customer charge will be higher. Overall, the average rate for all DSIs over the incentive rate period should be approximately 22.1 mills per kilowatthour.

One major issue in the implementation of the incentive rate had to do with the calculation of the "floor rate" pursuant to section 7(c)(1) of the Pacific Northwest Electric Power Planning and Conservation Act. With respect to the industrial floor rate, the power sales contract for this Incentive Rate power includes the following language:

Industrial Floor Rate

In accordance with the Administrator's Record of Decision on the 1983 Final Rate Proposal (WP-83-A-02, p. 268, September 1983), the "floor rate" explained in section 7(c)(2) of the Pacific Northwest Electric Power Planning and Conservation Act, 16 U.S.C. § 839e(c)(2), shall not be based on the Industrial Incentive Rate under this Agreement. In consideration of this Incentive Rate offer by Bonneville, the undersigned Industry agrees not to contest the inclusion of loads in the calculation of the floor rate for the period March through June 1985, to the extent that the floor rate is based on Operating Year 1985 loads. This Section 8 is not severable from the remainder of this Agreement, unless the section is held to be unlawful by the United States Court of Appeals for the Ninth Circuit.

Further information relating to the Industrial Incentive Rate is contained in the Final Feasibility Study, the Evaluation of the Record, and the Record of Decision. Copies of these materials are available from the BPA Public Involvement Office at the address listed under "**FOR FURTHER INFORMATION CONTACT.**"

Issued in Portland, Oregon on March 28, 1985.

Peter T. Johnson,

Administrator.

[FR Doc. 85-8669 Filed 4-10-85; 8:45 am]

BILLING CODE 6450-01-M

Economic Regulatory Administration

[OFC Case No. 65036-9262-21, 22-22; Docket No. ERA-FC-84-028]

Ukiah Peaking Facility; Order Granting Northern California Power Agency Exemption From the Prohibitions of the Powerplant and Industrial Fuel Use Act, of 1978

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Order granting Northern California Power Agency, Ukiah Peaking Facility, exemption from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On December 24, 1984, the Northern California Power Agency, Ukiah Peaking Facility (NCPA Ukiah), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant from the provisions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) (42 U.S.C. 8301 *et seq.*) which (1) prohibit the use of petroleum and natural gas as a primary energy source in new electric powerplants and (2) prohibit the construction of a new powerplant without the capability to use an alternate fuel as a primary energy source. The final rule containing the criteria and procedures for petitioning for exemptions from the prohibitions of FUA was published in the **Federal Register** at 46 FR 59872 (December 7, 1981).

NCPA Ukiah requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion turbine installation consisting of two 25.8 MW combustion turbine-generator systems and appurtenant equipment with a maximum heat input rate of 323 million Btu per hour per turbine. The proposed units are to be installed at the NCPA Ukiah facility in Ukiah,

California. The powerplant will be capable of burning natural gas or petroleum.

Pursuant to section 212(g) of the Act and 10 CFR 503.41, ERA hereby issues this order granting to NCPA Ukiah a permantent peakload powerplant exemption from the prohibitions of FUA for the proposed combustion turbine generators at the facility in Ukiah, California.

The basis for ERA's order is provided in the **SUPPLEMENTARY INFORMATION** section below.

DATES: In accordancce with section 702(a) of FUA, this order and its provisions shall take effect on June 10, 1985.

FOR FURTHER INFORMATION CONTACT:

George Blackmore, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue SW., Room GA-045, Washington, D.C. 20585, Phone (202) 252-1251

Steven E. Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue SW., Washington, D.C. 20585, Phone (202) 252-6947.

The public file containing a copy of this order and other documents and supporting materials on this proceding is available for inspection upon request at the Department of Energy Freedom of Information Reading Room, 1000 Independence Avenue SW., Room 1E-190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m.-4:00 p.m.

SUPPLEMENTARY INFORMATION: FUA prohibits the use of natural gas or petroleum in certain new powerplants unless an exemption for such use has been granted by ERA. NCPA Ukiah has filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed Ukiah, California facility's simple-cycle combustion turbine installation.

In accordance with the procedural requirements of FUA and 10 CFR 501.3(d) ERA published its Notice of Acceptance of Petition for Exemption and Availability of Certification relating to this unit, in the **Federal Register** on February 7, 1985 (50 FR 5298), commencing a 45-day public comment period pursuant to section 701(c) of FUA. As required by section 701(f) of the Act, ERA provided a copy of NCPA Ukiah's petition to the Environmental Protection Agency for its comments. During that period, interested persons were also afforded an opportunity to request a public hearing. The period for submitting comments and for requesting a public hearing closed March 25, 1984. No comments were received and no hearing was requested.

NCPA Ukiah certified in it Petition for Exemption that the proposed unit will be operated solely as a peakload powerplant. To be included within the basic definition of "peakload powerplant" as established by section 103(a) of FUA, an electric-generating unit must be "a powerplant the electrical generation of which in kilowatt hours does not exceed, for any 12-calendar-month period, such powerplant's design capacity multiplied by 1500 hours."

NCPA Ukiah certified that the maximum design capacity of the powerplant is 49.5 megawatts and that the maximum generation that will be allowed during any 12-month period for the combustion turbine is the design capacity times 1,500 hours or 74,250 megawatt-hours, constituting a "peakload powerplant" operation within the definition.

NCPA Ukiah has also certified that it will secure all applicable permits and approvals prior to commencement of operation of this new unit under exemption.

As ERA determined that no alternate fuels are presently available for use in the proposed unit, ERA has waived the requirement of 10 CFR 503.41(a)(2)(ii) for submission of a certification by the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency that the use by the powerplant of any available alternate fuels as a primary energy source will cause or contribute to a concentration in an air quality control region or any area within the region, of a pollutant for which any national air quality standards is, or would be, exceeded.

Decision and Order

Accordingly, based upon the entire record of this proceeding, ERA has determined that NCPA Ukiah has satisfied all of the eligibility requirements for the requested exemption as set forth in 10 CFR 503.41, and pursuant to section 212(g) of FUA, ERA hereby grants NCPA Ukiah a permanent exemption for a peakload powerplant to be installed at its facility in Ukiah, California, permitting the use of natural gas or petroleum as a primary energy source in the unit.

After review by ERA's Office of Fuels Programs, Coal and Electricity Division, of NCPA Ukiah's completed environmental checklist submitted pursuant to 10 CFR 503.13, together with other relevant information, ERA has determined that the granting of the requested exemption does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act.

Pursuant to section 702(c) of the Act and 10 CFR 501.69 any person aggrieved by this order may petition for judicial review at any time before the 60th day following the publication of this order in the **Federal Register**.

Issued in Washington, D.C. on April 5, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-8771 Filed 4-10-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. EF84-2011-000]

Bonneville Power Administration; Filing

April 8, 1985.

Take notice that on April 2, 1985, the U.S. Department of Energy on behalf of the Bonneville Power Administration submitted for filing the Bonneville Power Administration (BPA) Erratum to 1983 General Rate Schedule Provisions.

The BPA 1983 Wholesale Power Rate Schedules and General Rate Schedule Provisions presently reads:

"sum of all the customer's bills (in dollars and net of the LDD) associated with a given ECP for the class of power in question during the exchange adjustment period; the computation of SCB for the Industrial Firm Power Rate (IP-83) shall *exclude* purchases under the Industrial Incentive Rate:"

The language should be corrected to read:

"sum of all the customer's bills (in dollars and net of the LDD) associated with a given ECP for the class of power in question during the exchange adjustment period; the computation of SCB for the Industrial Firm Power Rate (IP-83) shall *include* purchases under the Industrial Incentive Rate:"

The use of the word "exclude," rather than "include," in the term "SCB" renders the denominator of the equation for SCB incorrect by not basing the calculation on total purchases under the IP-83 rate schedule. The numerator of the equation (ICB) correctly excludes incentive rate purchases in order to determine the proportion of purchases made at the Standard Industrial Rate and Premium Industrial Rate. As presently worded, BPA would pay excessive exchange rebates to DSIs by

crediting the DSIs for costs of the exchange which the DSIs never paid. Such was never the intent of the Exchange Adjustment mechanism. BPA's revenue forecasts and revenue analyses made at the time of incentive rate implementation are consistent with the correction made in this filing. This correction does not change BPA's projected revenues on file with the Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 17, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8732 Filed 4-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-1-22-002]

Consolidated Gas Transmission Corp.; Compliance Filing

April 8, 1985.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on April 1, 1985, filed Substitute Second Revised Sheet No. 31 to comply with the Commission's February 28, 1985, suspension order.

The filing reduces Consolidated's commodity rates by 0.18 cent/Dt and demand rates by 2 cents/Dt to reflect reductions in the rates of pipeline suppliers.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a 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 15, 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. 85-8733 Filed 4-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-2-25-000 and TA85-2-25-001]

Mississippi River Transmission Corp.; Rate Change Filing

April 5, 1985.

Take notice that on April 2, 1985, Mississippi River Transmission Corporation ("Mississippi") tendered for filing Tenth Revised Sheet No. 4 to its FERC Gas Tariff, Second Revised Volume No. 1. An effective date of May 1, 1985 is proposed.

Mississippi states that the instant filing reflects significant rate reductions to its jurisdictional customers resulting from expiration of Mississippi's gas purchase agreement with Trunkline Gas Company ("Trunkline") and Mississippi's obligation to purchase thereunder, effective May 1, 1985. The impact of the instant filing on Mississippi's Rate Schedule CD-1 is a decrease of $.796 per Mcf in Demand Charge D-1 and a decrease in the commodity rate of $.0102 per Mcf. The single part rate under Rate Schedule SGS-1 reflects a decrease of $.0757 per Mcf. The combined impact of the rate changes is an approximate $8.7 million annual reduction in gas costs to Mississippi's jurisdictional customers below the current cost of gas reflected in Mississippi's March 1, 1985 rates.

Mississippi requests waiver of the Notice requirements of § 154.22 of the Commission's Regulations and such other Rules or Regulations of the Commission and of any provisions of Mississippi's tariff in order that Tenth Revised Sheet No. 4 may become effective May 1, 1985 as proposed.

Mississippi states that the rate reductions are a direct result of and, in Mississippi's opinion, contemplated by the Commission's February 19, 1985 Order in Docket No. CP84-348-000 which ruled that termination of Mississippi's obligation to purchase from Trunkline did not require prior Commission authorization.

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, DC 20426, in accordance with §§ 385.211 and 385.214 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. 85-8734 Filed 4-10-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-137-017]

Transcontinental Gas Pipe Line Corp.; Compliance Tariff Filing

April 8, 1985.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing on April 1, 1985 certain original and revised tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1. The Proposed tariff sheets are filed pursuant to Ordering Paragraph (E) of the March 27, 1985 "Order Approving Settlement With Modifications" issued by the Federal Energy Regulatory Commission (Commission) in Docket Nos. RP83-137-000, *et al.* As provided in Ordering Paragraph (E) of such order, the proposed effective date of the subject tariff filing is April 1, 1985.

Transco states that the purpose of the instant compliance tariff filing is to implement the terms and provisions of the DS, T-I and T-II rate schedules approved by the aforesaid Commission order. Additional, Transco states that because the Commission has determined in its March 27, 1985 order that the rates being filed under Rate Schedules T-I (for service in excess of a customer's firm sales level other than transportation of certain working interest gas) and T-II are "fully allocated" rates, subject to a final decision in the ongoing proceedings in Docket No. RP83-137-000, Transco's Rate Schedule T-III is no longer necessary as a separate rate schedule. Transco states that it therefore proposes to cancel Rate Schedule T-III effective April 1, 1985.

In addition, with respect to Rate Schedules DS, T-I and T-II, Transco states that the rates and provisions on the sheets submitted for filing are

identical to those filed in Transco's "Amended Offer of Settlement" on December 26, 1984 in Docket Nos. RP83–137–000, *et al.* with the two exceptions noted below:

1. Transco has reflected the currently effective rate under Rate Schedule T–1 for service within buyer's firm sales level on Ninth Revised Sheet No. 13. Such rate, which reflects the non-gas cost component in the Rate Schedule CD commodity rate, was approved effective March 1, 1985 by Commission order issued February 7, 1985 in Docket No. RP83–137–014.

2. *Pro Forma* Original Sheet No. 194 submitted with the Amended Offer of Settlement erroneously reflected DS service eligibility data for purchasers under the G and OG Rate Schedules on the basis of 1983–84 winter period sales at the higher of actual sales or 65% load factor. The 65% load factor floor on such eligibility data was intended to apply only to the CD and Firm Industrial customers, as reflected in Article III, Paragraph 8(c) and *Pro Forma* Original Sheet No. 193 of the Amended Offer of Settlement, and the inclusion of such load factor floor for the G and OG customers was an inadvertent error. In Original Sheet No. 194 submitted with the instant compliance tariff filing, the eligibility data has been corrected to set forth actual winter period sales data, without adjustment, for the G and OG customers.

Paragraph (E) of the Commission's March 27, 1985 Order waived the requirements of §§ 154.22 through 154.28 of the Regulations in order that those sheets implementing the settlement agreement shall become effective on April 1, 1985. Transco also requests waiver of said Sections of the Commission's Regulations in order that those sheets cancelling Rate Schedule T–III may also be made effective on April 1, 1985 as proposed.

Transco further states that in accordance with § 154.16 of the Commission's Regulations, copies of this filing were mailed to all parties to this proceeding and to all persons upon whom the original filing herein was made.

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 and 385.214). All such motions or protests should be filed on or before April 15, 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 this 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.

Appendix A

Ninth Revised Sheet No. 13
Original Sheet No. 13–1A
Original Sheet No. 13–2A
Third Revised Sheet No. 13–B
First Revised Sheet No. 13–C
Original Sheet No. 13–D
Second Revised Sheet No. 153
Second Revised Sheet No. 154
Second Revised Sheet No. 166
Second Revised Sheet No. 167
First Revised Sheet No. 182
Original Sheet No. 187
Original Sheet No. 188
Original Sheet No. 189
Original Sheet No. 190
Original Sheet No. 191
Original Sheet No. 192
Original Sheet No. 193
Original Sheet No. 194
Original Sheet No. 195
Original Sheet No. 196
Second Revised Sheet No. 345
First Revised Sheet No. 368
Original Sheet No. 371
Original Sheet No. 372
Original Sheet No. 373.

[FR Doc. 85–8735 Filed 4–10–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP85–124–000]

United Gas Pipe Line Co.; Compliance Filing

April 5, 1985.

Take notice that on March 26, 1985, United Gas Pipe Line Company (United) tendered for filing Third Revised Sheet No. 4–F to its FERC Gas Tariff, First Revised Volume No. 1 in compliance with the Commission's December 21, 1984, order in Docket No. CP84–379, which required United to file an abbreviated section 4 application to implement any change in the monthly rate.

United states that the proposed rate for April 1985 is $3.04 per Mcf, which reflects a change from the previous rate. United submits that its projected cost of gas including company-used and unaccounted for gas for the month of April is $2.99 per Mcf. The additional gas which will be purchased to satisfy Discount Rate Schedule (DRS) demand is expected to be obtained from existing sources and United does not anticipate that it will incur additional variable costs (other than costs of company-used and unaccounted for gas which are included in the gas cost portion of the rate) to deliver the DRS gas. United notes, however, that the system average variable cost underlying United's currently effective rates as settled in Docket No. RP82–57 (and as justified in the cost and revenue study accepted by Commission order dated January 15, 1985) is approximately 5 cents per Mcf. The proposed rate for April exceeds the sum of the projected cost of gas and any variable costs incurred in providing the service and, therefore, exceeds the floor prescribed under the Discount Rate Schedule.

United requests any further waiver, as may be required, to permit this sheet to become effective April 1, 1985. United indicates that copies of this filing were mailed to its jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NW., Washington, DC 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. 85–8736 Filed 4–10–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP83–52–000]

United Gas Pipe Line Co.; Errata to Notice of Customer Meeting

April 5, 1985.

The customer meetihg erroneously noticed in this docket for April 11, 1985, will be held on April 16, 1985. 50 FR 13416 (April 4, 1985).

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–8737 Filed 4–10–85; 8:45 am]

BILLING CODE 6717–01–M

Western Area Power Administration

Record of Decision To Construct the Liberty-Coolidge 230-kV Transmission Line Project, AR

AGENCY: Department of Energy, Western Area Power Administration.

ACTION: Record of decision to construct the Liberty-Coolidge 230-kV Transmission Line Project, Arizona.

SUMMARY: The Western Area Power Administration (Western) has made the decision to construct the Liberty to Coolidge 230-kilovolt (kV) transmission line following the environmentally preferred alternative identified in the draft and final environmental impact statements (EIS). Approximately 58 miles of the transmission line will be constructed with single-pole structures made of concrete, steel, or a combination of these materials. Segments of four transmission lines will be removed and then consolidated on these structures. Approximately 27 miles will be constructed using wood-pole H-frame structures. Bays will be added at Liberty and Coolidge Substations. Western will proceed with land acquisition, construction, and subsequent operation and maintenance of the transmission line. The availability of the draft and final EIS (DOE/EIS-0100) for the project was announced in the **Federal Register** by the Environmental Protection Agency on July 15, 1983, and November 9, 1984, respectively. Western also published in the **Federal Register** other notices regarding the EIS as appropriate.

Western will implement the mitigation measures listed in the EIS. A specific mitigation plan for cultural resource impacts will be developed in consultation with the Arizona State Historic Preservation Officer (SHPO), and this plan will be implemented before construction activities begin in the vicinity of eligible cultural resource sites. In addition, any site specific mitigation requirements identified during construction will be addressed by Western and coordinated with appropriate Federal, State, and local agencies.

FOR FURTHER INFORMATION CONTACT: Mr. Charles W. Saylor, Environmental Specialist, Boulder City Area Office, Western Area Power Administration, P.O. Box 200, Boulder City, Nevada 89005, Telephone: (702) 293-8844.

SUPPLEMENTARY INFORMATION: Western will upgrade electrical transmission capability between the Liberty and Coolidge Substations. For 58 miles, the project plan will involve constructing a new double circuit 230-kV transmission line (consolidating the existing Parker-Phoenix 161-kV line with the new line) from the Liberty Substation to near the Phoenix Substation, and upgrading the existing Phoenix-Coolidge 115-kV transmission line to 230-kV from near Phoenix to Coolidge (consolidating the existing Phoenix-Maricopa 115-kV line with the new line part of the way). A short segment of the existing Coolidge-Saguaro 115-kV line will be consolidated with the new line as it nears Coolidge Substation. Approximately 27 miles of line will be constructed with single-circuit wood-pole H-frame structures.

The existing Phoenix-Coolidge 115-kV transmission line is an integral part of the Western system serving southern Arizona and is near full capacity. The southern portion of the Central Arizona Project (CAP) will require an additional 108 megawatts (MW) of transmission capacity once completed. In addition, the 1980 Arizona Loads and Resource Report showed that Western has the need to increase transmission capacity into southern Arizona by 100 MW to meet the demands of customer load growth. Present capacity is limited to 325 MW, while identified capacity requirements are proposed at 423 to 433 MW.

The action will serve the following purposes: (1) Capacity would be available to supply CAP requirements; (2) capacity would be available to meet anticipated customer growth needs; (3) system and service reliability would be increased; (4) safety conditions would be improved and maintenance costs would be reduced; and (5) a contribution to energy conservation would be made by reducing line losses.

Regional and corridor-specific studies were conducted for the study area. Project scoping and public involvement were undertaken. A preliminary environmental assessment, agency contacts, the formation of a Project Task Force and a Cultural Resources Investigations Peer Review Panel, and a series of public meetings were undertaken prior to preparation of the EIS. Additionally, a concerted effort was made to contact and inform the general public. Public planning workshops were held, and nearly 7,500 letters were sent to potentially affected landowners.

Studies were divided into three broad categories: Natural resources, which investigated such areas as water resources, wildlife, vegetation, and earth resources; human resources, which investigated such areas as land use, aesthetic resources, and socioeconomic impacts; and cultural resources, which investigated prehistoric, historic, native American, and architecutral resources. Western evaluated these resources within the study area to identify potential transmission line corridors. Some major factors considered were: (1) Archaeological and historic sites; (2) areas of religious significance to native Americans; (3) wildlife and vegetative resources; (4) existing and proposed land use, especially agricultural and residential; (5) human health; (6) climate and air quality; (7) geology and soils; and (8) visual resources. Areas of opportunity, least impact, avoidance, and exclusion were then identified, and alternative corridors were delineated.

The alternative corridors were persented to the public in a series of public planning workshops. Input from landowners and other interested groups and individuals was used to help select the environmentally preferred corridor.

The draft EIS was issued in July 1983, which presented Western's proposed action, reasonable alternatives to the proposed action, and the environmental impacts associated with the proposal and alternatives. Public Hearings on the draft EIS were conducted in August 1983, and written and oral comments were received. Pending negotiations for right-of-way across the Gila River Indian Community, the final EIS was not released until November 1984.

Alternatives considered were:

(1) No Action.

(2) Energy Conservation.

(3) Alternative Transmission Systems and Tehnologies.

(4) Design Alternatives.

(5) Routing Alternatives.

Basis of Decision

The no-action alternative would result in a rebuild of the Phoenix-Coolidge 115-kV transmission line. Forty-two percent of the wood poles would have to be replaced along with necessary crossarms and X-braces. However, this still would not meet the increased demand generated by the CAP (an authorized Federal water development project) and by customer load growth in southern Arizona since the 115-kV line is near full capacity. Western would then need to construct new transmission facilities on new right-of-way to satisfy these demands. In addition, the 115-kV rebuild would still pass through the Snaketown National Historic Landmark causing significant impacts to cultural resources. The selected action will consolidate segments of four separate transmission lines on one set of structures on mostly existing rights-of-way, reducing environmental impacts.

Energy conservation measures could not significantly reduce existing area loads to offset the over 100 MW of projected load growth in southern Arizona.

Other transmission systems or technologies were not technologically or economically feasible. Underground construction could cost about 8 to 10 times greater than overhead construction, and the environmental

impacts on physical resources would be significantly greater. There are no existing or planned transmission facilities owned by other utilities that Western could use to meet the stated need.

Western selected the single-pole and wood-pole H-frame structure types because of costs and available supplies. Visual impacts and land use conflicts would be less than other structure types.

To reduce visual impacts of the line, Western will use nonspecular conductors. Conductor selection was made to best serve needs and reduce line losses. If steel structures are used, then Western will use nonspecular structures.

No major objections were received to the environmentally preferred corridor during either the draft or final EIS review periods. All practicable means to avoid or minimize environmental harm from the project were identified in the draft EIS, and these mitigative measures will be implemented.

Coordination with the appropriate Federal, State, and local agencies and individuals has been completed. There are no federally listed threatened or endangered species that would be affected by the proposed action. Some special status State-listed species are in the study area. Western will coordinate with the State before construction regarding site specific protection for these species.

An intensive cultural resource survey of the project's right-of-way and existing pole locations has been conducted. A cultural resource mitigation plan will be developed in consultation with the SHPO and the Advisory Council on Historic Preservation to minimize the project's effect on eligible cultural resource sites. Pole removal and rehabilitation activities within the Snaketown National Historic Landmark and other sensitive areas will be monitored by qualified professionals. The project construction specifications will provide that in the event previously undiscovered cultural resources are encountered during construction of the line, activities that could jeopardize those resources will be suspended until a qualified archaeologist or historian can evaluate their significance and recommend appropriate action.

In response to Executive Orders 11988 and 11990 and the Department of Energy's *Compliance with Floodplain/Wetlands Environmental Review Requirements* (10 CFR Part 1022), Western evaluated the potential effects of the project on floodplain/wetlands. The preferred corridor was located to avoid floodplains and wetlands wherever possible. Only two very small wetlands exist on the right-of-way, and both are sustained by irrigation ditch runoff. Care will be taken during construction to preserve wetland vegetation. Floodplains are extensive but are typically dry during most of the year as is the case in a very arid climate. Upstream impoundments and diversions for flood control and irrigation reduce the amount of flooding. The removal of the old lines from flood plains will reduce the amount of transmission line located in the floodplains. There are no practicable alternatives to locating structures within the 100-year floodplains of the Agua Fria, Salt, and Gila Rivers since the Liberty and Coolidge Substations are on opposite sides of these rivers. Proper design and siting of the new structures will not restrict or have any significant effects on these floodplains. Care will be taken during construction to minimize disturbance of any floodplain vegetation and control erosion.

Copies of this record of decision will be sent to the appropriate agencies and individuals.

Issued at Golden, Colorado, February 15, 1985.

William H. Clagett,

Acting Administrator.

[FR Doc. 85-8772 Filed 4-10-85; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-250066; FRL-2816-2]

Nominations to the Scientific Advisory Panel; Request for Comments

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice provides the names, addresses, professional affiliations, and selected biographical data of persons nominated to serve on the Scientific Advisory Panel established under section 25(d) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, (86 Stat. 973 and 89 Stat. 751; 7 U.S.C. 136 *et seq.*). Public comment on the nominations is invited. Comments will be used to assist the Agency in selecting nominees to comprise the Panel and should be so oriented.

ADDRESS: By mail, submit comments to: Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, bring comments to: Rm. 236, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA

DATE: Comments should be postmarked not later than May 13, 1985.

FOR FURTHER INFORMATION CONTACT:

By mail: Philip H. Gray, Jr., Executive Secretary, FIFRA Scientific Advisory Panel (TS-766C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 1115, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-7096)

SUPPLEMENTARY INFORMATION:

I. Background

FIFRA amendments enacted November 28, 1975, added, among other things, a requirement set forth in section 25(d) that notices of intent to cancel or reclassify pesticide registrations pursuant to section 6(b)(2), as well as proposed and final forms of rulemaking pursuant to section 25(a), be submitted to a Scientific Advisory Panel prior to being made public or issued to a registrant. In accordance with section 25(d), the Scientific Advisory Panel is to have an opportunity to comment on the health and environmental impact of such actions.

II. Charter

A Charter for the FIFRA Scientific Advisory Panel has been issued in accordance with the requirements of section 9(c) of the Federal Advisory Committee Act, Pub. L. 92-643, 86 Stat. 770 (5 U.S.C. App. I). The qualifications as provided by the Charter follow.

A. Qualifications of Members

Members are scientists who have sufficient professional qualifications, including training and experience, to be capable of providing expert comments as to the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) of FIFRA. No person shall be ineligible to serve on the Panel by reason of membership on any other advisory committee to a Federal department or agency or employment by a Federal department or agency (except the Environmental Protection Agency). The Administrator appoints individuals to serve on the Panel for staggered terms of 4 years. Panel members are subject to the provisions of 40 CFR Part 3, Subpart F—Standards of Conduct for Special Government Employees, which include rules regarding conflicts of interest. An officer and/or employee of an

organization producing, selling, or distributing pesticides and any other person having a substantial financial interest (as determined by the Administrator) in such an organization, as well as an officer or employee of an organization representing pesticide users shall be excluded from consideration as a nominee for membership on the Panel. Each nominee selected by the Administrator shall be required, before being formally appointed, to submit a Confidential Statement of Employment and Financial Interests, which shall fully disclose the nominee's sources of research support, if any.

In accordance with section 25(d) of FIFRA, the Administrator shall require all nominees to the Panel to furnish information concerning their professional qualifications, including information on their educational background, employment history, and scientific publications. Section 25(d) of FIFRA requires the Administrator to issue for publication in the **Federal Register** the name, address, and professional affiliations of each nominee.

B. Applicability of Existing Regulations

With respect to the requirement of section 25(d) that the Administrator promulgate regulations regarding conflicts of interest, the Charter provides that EPA's existing regulations applicable to special governmental employees (which include advisory committee members) will apply to the members of the Scientific Advisory Panel. These regulations appear at 40 CFR Part 3, Subpart F. In addition, the Charter provides for open meetings with opportunities for public participation.

C. Process of Obtaining Nominees

In accordance with the provisions of section 25(d), EPA, in January 1985, requested the National Institutes of Health (NIH) and the National Science Foundation (NSF) to nominate scientists to fill three vacancies occurring on the SAP. NIH responded by letter dated February 27, 1985, enclosing a list of 6 nominees; NSF responded by letter dated February 19, 1985, with a list of 12 nominees.

III. Nominees

The following are the names, addresses, professional affiliations, and selected biographical data on nominees being considered for membership on the FIFRA Scientific Advisory Panel to fill three vacancies occurring during calendar year 1985.

Harold R. Behrman, professor, obstetrics, gynecology, and pharmacology, School of Medicine, Yale University. *Expertise:* Physiology, biochemistry. *Born:* November 26, 1939. *Education:* University of Manitoba, BS 1962, MS 1965; North Carolina State University, PhD (physiology), 1967. *Professional experience:* Research assistant, sensory and digestive physiology, North Carolina State University, 1964–1967; Cancer Medical Research Council research fellow, reproductive endocrinology, Harvard Medical School, 1967–1970; associate professor 1970–1971, assistant professor, physiology, 1971–1972; director, Department of Reproductive Biology, Merck Institute of Therapeutic Research, 1972–1975; associate professor, 1976–1981, professor, obstetrics, gynecology, and pharmacology, School of Medicine, Yale University, 1981–present. *Concurrent position:* Lalor fellow, Harvard Medical School, 1971–73. *Societies:* Cancer Federation of Biological Science: Society Experimental Biology and Medicine; Endocrine Society; Society of Endocrinology; Cancer Physiology Society. *Research:* Polypeptide and peptide hormone interrelationships in endocrine systems with prostaglandins and purines.

Edward Bresnick, Director and Eppley Professor of Oncology, Eppley Institute for Research in Cancer and Allied Diseases, University of Nebraska Medical Center. *Expertise:* Biochemistry. *Born:* September 7, 1930. *Education:* St. Peters College, BS 1952; Fordham University, MS, 1954; PhD 1957. *Professional experience:* Research associate, Medical Branch, University of Texas, 1957–1958; resident biochemist, Burroughs, Wellcome and Company, 1958–1961; from assistant professor, biochemistry to professor, pharmacology, Baylor College of Medicine, 1970–1972; professor of cellular and molecular biology and chairman of department, Medical College of Georgia, 1972–1978; professor of biochemistry, College of Medicine, University of Vermont, 1978–1982, department chairman, 1980–1982. *Concurrent position:* Consultant, National Institute General Medical Science. *Societies:* AAAS; American Chemical Society, American Association of Cancer Research, American Society of Cell Biologists, American Society of Biological Chemists. *Research:* Cancer research, enzymology; regulatory mechanisms; pyrimidine and nucleic acid metabolism.

Thomas W. Clarkson, professor, radiation biology, biophysics, pharmacology and toxicology, University of Rochester. *Expertise:* Toxicology. *Born:* August 1, 1932. *Education:* University of Manchester, BS, 1953; PhD (biochemistry) 1956. *Professional experience:* Medical Research Council fellow, University of Manchester, 1956–1957; instructor, radiation biology, University of Rochester, 1957–1961; science officer, Medical Research Council, United Kingdom, 1962–1964; senior fellow, Weizmann Institute, 1964–1965; associate professor, biophysics, pharmacology and radiation biology, 1965–1971; professor, radiation, biology, biophysics, pharmacology and toxicology, University of Rochester, 1971-present; director, Environmental Health Science Center, 1975-present; *Concurrent position:* Member, Committee for Food Protection, National Academy of Science-National Academy of England, 1973–1976; Subcommittee on Toxicology, 1972–1976; member, Toxicology Advisory Board, Food and Drug Administration, 1975–1977; member, Toxicology Study Section, NIH, 1976–1977. *Societies:* AAAS; Health Physics Society; British Pharmacology Society; Society of Toxicology; Chemical Society. *Research:* Cellular physiology; reabsorption mechanisms in intestime and kidney; heavy metal toxicology; action of metals on cellular level in intestime, kidney and red blood cells.

Deiter Hans Max Groschel, professor of pathology and internal medicine and Director, clinical microbiology, Department of Pathology, University of Virginia Medical School. *Expertise:* Medical microbiology; infectious diseases. *Born:* May 13, 1931. *Education:* University of Cologne, MD 1957; American Board Microbiology, Diploma, 1965. *Professional experience:* Medical intern, University of Cologne, 1959–1960; research associate, hygiene and microbiology, 1960–1963; associate microbiologist, Wistar Institute, Pa., 1963–1965; from assistant professor to associate professor, School of Medicine, Temple University, 1965–1968; director, microbiology and infectious diseases, Springfield Hospital Medical Center, 1968–1971; associate professor, 1971–1978; professor, pathology, University of Texas M.D. Anderson Hospital and Tumor Institute, 1978; professor, pathology and internal medicine, Department of Pathology, director, clinical microbiology, University of Virginia Medical School, 1979-present. *Concurrent position:* Clinical associate in lab medicine, School of Medicine, University of Connecticut, 1970–1971; associate professor of pathology, University of Texas Graduate School of Biomedical Science, 1972; associate professor of medicine and pathology, University of Texas School of Medicine, Houston, 1973. *Societies:* AMA; fellow,

American Academy Microbiology; American Society of Microbiology; German Society of Hygiene and Microbiology; Reticuloendothelial Society. *Research:* Clinical microbiology; public health: epidemiology; natural resistance to infection; infectious diseases; infection control.

Charles Edward Hamner, Jr., professor, obstetrics and gynecology, School of Medicine, University of Virginia and associated vice president, health services. *Expertise:* Biochemistry; veterinary medicine. *Born:* March 26, 1935. *Education:* Virginia Polytech Institute, BS, 1956; University of Georgia, DVM, 1960; MS 1962; PhD (biochemistry) 1964. *Professional experience:* Assistant professor, exploratory surgery 1964–1967; associate professor of obstetrics and gynecology, 1967–1977; assistant vice president, health services, 1977–80; professor, obstetrics and gynecology, School of Medicine, University of Virginia 1977-present; associate vice president, health services, 1980-present. *Concurrent position:* Morris Animal Foundation fellow, University of Georgia, 1960–61; National Institute General Medicine Science fellow, 1961–1964; consultant, Pharmaceutical Research and Development Management, WHO, NIH, 1971; director, program coordination, A.H. Robins Company, 1974–1977. *Honors and Awards:* Research Career Development Award, NIH, 1971. *Societies:* Society of Study Reproduction: American Society of Animal Science; British Society Study of Fertility. *Research:* Sperm metabolism; composition of female reproductive tract secretions; drug development: Industrial management.

John James Lech, professor of pharmacology, Medical College of Wisconsin, Milwaukee, Wisconsin 53213. *Expertise:* pharmacology. *Born:* June 21, 1940. *Education:* Rutgers University, Newark, BS 1962; Marquette University, PhD (pharmacology), 1967. *Professional experience:* From instructor to assistant professor, 1967–1974; associate professor, pharmacology, 1974–1980; professor, pharmacology and toxicology, Medical College of Wisconsin, 1980-present. *Concurrent position:* American Heart Association grant, Medical College of Wisconsin, 1972–1975. *Societies:* AAAS; Society of Toxicology; American Fisheries Society; American Society of Pharmacology and Experimental Therapeutics. *Research:* Cardiac triglyceride metabolism; metabolism of foreign compounds by fish.

Daniel Sidney Longnecker, professor of pathology, Dartmouth Medical School. *Expertise*: Pathology. *Born*: June 8, 1931. *Education*: State University of Iowa, AB, 1954; MD, 1956; MS, 1962. *Professional experience*: From assistant professor to associate professor, pathology, University of Iowa, 1961–1969; associate professor, School of Medicine St. Louis University, 1969–1972; professor, pathology, Dartmouth Medical School, 1972-percent. *Concurrent position*: NIH fellow, Department of Pathology, University of Pittsburgh, 1965–1967; USPHS research grants, University of Iowa, 1967–1969; St. Louis University, 1969–1971 and Dartmouth College, 1975-present; visiting assistant professor, Department of Pathology, University of Pittsburgh, 1965–1967. *Societies*: American Society of Clinical Pathologists and Academic Pathologists; Society of Experimental Biology and Medicine; American Association of Pathologists and Bacteriologists; American Society of Experimental Pathologists. *Research*: Biochemical mechanisms of cell injury; experimental pancreatitis; carcinogenesis.

David Pimentel, professor, insect ecology and agricultural science, Cornell University. *Expertise*: Ecology, entomology. *Born*: May 24, 1925. *Education*: University of Massachusetts, BS, 1948; Cornell University PhD (entomology), 1951. *Professional experience*: Assistant, entomology, Cornell University, 1948–1951; chief, tropical research lab, USPHS, San Juan, Puerto Rico, 1951–1953; project leader, technical development lab, Savannah, Georgia, 1954–1955; from assistant professor to professor, insect ecology and head, Department of Entomology and Limnology, State University, New York College of Agriculture, Cornell University, 1955–1969; professor, insect ecology, 1969–1976; professor, insect ecology and agricultural science, Cornell University, 1976-present. *Societies*: AAAS; Ecology Society of America: Social Study Evolution; Entomology Society; American Society of Zoology. *Research*: Ecology and genetics of insect-plant, parasitic-host and predator-prey population systems; environmental resource management and pollution, energy and land resources in the food system; systems management in pest control.

Gary Strobel, professor, plant pathology, Montana State University. *Expertise*: Plant pathology. *Born*: September 23, 1938. *Education*: Colorado State University, BS, 1960; University of California, Davis, PhD (plant pathology), 1963. *Professional experience*: From assistant professor to professor, botany, 1963–1977; professor, plant pathology, Montana State State University, 1977-present. *Concurrent position*: Principal investigator, NSF and USDA research grants; NIH career development award, 1969–1974. *Societies*: AAAS, American Phytopathology Society; American Society of Plant Physiologists; American Society of Biological Chemists. *Research*: Plant disease physiology; biochemistry of fungi and bacteria that cause plant diseases; phytotoxic glycopeptides: metabolic regulation in diseased plants; nature and mechanism of action of host-specific toxins.

Raymond Robert Suskind, professor, environmental health and medicine, chairman, Department of Environmental Health, and Director, Kettering Lab, College of Medicine, University of Cincinnati. *Expertise*: Medical science; health sciences. *Born*: November 29, 1913. *Education* : Columbia University, AB, 1934; State University New York, MD 1943; American Board of Dermatology and Syphilology, diploma 1949. *Professional experience*: Resident, dermatology, and syphilology, Cincinnati General Hospital, 1944–1946; resident fellow, dermatology, College of Medicine, University of Cincinnati, 1948–1949; from assistant professor to associate professor, preventive medicine and industrial health, 1949–1962; assistant professor, dermatology, 1950–1962; director, dermatology research, Kettering Lab, 1948–1962; professor of dermatology and head, division of environmental medicine, Medical School, University of Oregon, 1962–1969; professor, environmental health and medicine, chairman, Department of Environmental Health and director, Kettering Lab, College of Medicine, University of Cincinnati. *Honor and Awards*: Mitchell Award, State University New York Medical Center, 1943. *Societies*: American College of Physicians; New York Academy of Science; fellow, American Academy of Dermatologists; American Occupational Medical Association; American Dermatology Association. *Research*: Environmental medicine and dermatology: percutaneous absorption; cutaneous hypersensitivity; effects of physical environment on skin reactions to irritants and allergens; environmental cancer; environmental problems of chemical origin; mechanisms and patterns of cutaneous responses to irritants and intergenic stimuli: Percutaneous absorptions; chemical carinogenesis; biological effects of heavy metals.

Glenn Walter Suter, research associate, ecology, Environmental

Science Division, Oak Ridge National Laboratory. *Expertise:* ecology. *Born:* May 1, 1948. *Education:* Virginia Polytech Institute, BS 1969; University of California, Davis, PhD (ecology) 1976. *Professional experience:* Research associate, Ecology, Environmental Sciences Division, Oak Ridge National Laboratory, 1975–present. *Societies:* AAAS; Ecology Society of America. *Research:* effects of unconventional energy sources on terrestrial biotic communities.

James Arthur Swenberg, head, biochemical, toxicology and pathology department, Chemical Industry Institute of Toxicology. *Expertise:* veterinary pathology. *Born:* January 15, 1942. *Education:* University of Minnesota, DVM, 1966; Ohio State University, MS, 1968; PhD (veterinary pathology), 1970. *Professional experience:* NIH trainee in pathology, Ohio State University, 1966–1970; research associate, 1970; assistant professor, 1970–1972; associate professor, 1972; research scientist in pathology, UpJohn Company, 1972–1977; head, biochemical, toxicology, and pathology, Chemical Industrial Institute of Toxicology, 1978–present. *Concurrent position:* Consultant, Battelle Memorial Institute, 1971–1972. *Societies:* American Association of Cancer Research; AAAS; American Association of Neuropathologist; American College of Veterinary Pathologists. *Research:* Cancer research, including chemical carcinogenesis, neurooncogenesis and chemotherapy, and short term test for carcinogens; DNA damage/mutagenesis; improved toxicology and data handling methods.

Gary August Wilson, director, microbiology research, Miles Laboratory, Elkhart, Indiana. *Expertise:* Molecular genetics, microbiology. *Born:* December 13, 1942. *Education:* Illinois State University, Normal, BS 1965; University of Chicago, MS 1968, PhD (microbiology), 1970. *Professional experience:* Fellow, School of Medicine, University of Rochester, 1970–1972; from instructor to assistant professor, microbiology, 1972–1978; associate professor, 1978–1980. *Concurrent position:* American Cancer Society research grant, 1972; faculty research award, 1979; visiting professor, Institute Gulbenkian de Ciencia, Portugal, 1974; visiting professor, 1976. *Societies:* American Society of Microbiologists; AAAS; Sigma Xi. *Research:* DNA-mediated transformation in *Bacillus subtilis;* restriction endonucleases; gene cloning;

Dated: April 3, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-8702 Filed 4-10-85; 8:45 am]

BILLING CODE 6510-50-M

[Docket No. ECAO-CD-81-2; A-4-FLR-2816-3]

Draft Air Quality Criteria Document for Lead

AGENCY: Environmental Protection Agency.

ACTION: Notice of a corrigenda to the second external review draft.

SUMMARY: The existing criteria document, *Air Quality Criteria for Lead* (EPA-600/8-77-017), is being updated and revised pursuant to sections 108 and 109 of the Clean Air Act, as amended, 42 U.S.C. 7408 and 7409, and will be used as a basis for review and, as appropriate, revision of the National Ambient Air Quality Standard (NAAQS) for lead. As prt of this process, EPA released the second external review draft of the revised criteria document, *Air Quality Criteria for Lead* (EPA-600/8-83-028B), which was made available for public comment between October 15 and December 14, 1984. However, in light of the recent publication of several important papers in the scientific literature concerning the relationship between blood lead levels and blood pressure, EPA is making available for public comment a corrigenda to the second external review draft of the revised criteria document, *Air Quality Criteria for Lead.* The corrigenda, the full text of which is included in this notice, discusses the newly published information on blood lead-blood pressure relationships. Also included are several corrections to the external review draft which need to be noted prior to the review of the second external review draft of the subject lead document by the Clean Air Scientific Advisory Committee (CASAC) of EPA's Science Advisory Board. Details about the time and place of this meeting will be provided in a subsequent **Federal Register** announcement.

DATES: Comments on the corrigenda must be received by May 10, 1985.

ADDRESSES: EPA requests that all comments be submitted in writing to the Project Manager, Air Quality Criteria for Lead, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711. The corrigenda will also be available for public inspection and copying at the EPA Library, EPA headquarters, Waterside Mall, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Dr. David Weil, U.S. Environmental Protection Agency, Environmental Criteria and Assessment Office, MD-52, Research Triangle Park, NC 27711 [(919) 541-4163].

All public comments received, as well as the Agency's responses to these comments, will be included in the docket established for the review of the lead document (Docket No. ECAO-CD-81-2). The docket is available for inspection and copying between the hours of 8:00 a.m. and 4:00 p.m. at EPA headquarters in the Central Docket Section, A-130, Gallery 1, West Tower, Waterside Mall, 401 M Street SW., Washington, DC 20460.

Dated: April 4, 1985.

Bernard D. Goldstein,

Assistant Administrator for Research and Development.

12.9.1 Lead Effects on the Cardiovascular System

Lead has long been reported to be associated with cardiovascular effects, in both human adults and children. This section assesses pertinent literature on the subject, including: (1) Studies of cardiotoxic effects in overtly lead-intoxicated individuals; (2) epidemiologic studies of associations between lead exposure and increased blood pressure, including observations for nonovertly intoxicated subjects; and (3) toxicologic data providing well-controlled experimental evidence for lead-induced cardiovascular effects in animals and valuable information on possible mechanisms of action underlying cardiovascular effects of lead exposure. Interrelationships between certain cardiovascular effects, e.g. hypertension, and lead-induced renal effects are discussed in more detail elsewhere in this chapter (see Section 12.5).

12.9.1.1 Cardiovascular Effects in Human Adults and Children

Structural and functional changes suggestive of lead-induced cardiac abnormalities have been described for both adults and children, always in individuals with clinical signs of overt intoxication. For instance, in reviewing five fatal cases of lead poisoning in young children, Kline (1960) noted that degenerative changes in heart muscle were reported to be the proximate cause of death; it was not possible, however, to establish that the observed changes were directly due to lead intoxication

per se. In another study, Kósmider and Petelenz (1962) found that 66 percent of a group of adults over 46 years old with chronic lead poisoning had electrocardiographic abnormalities, a rate four times the adjusted normal rate for that age group. Additional evidence for a possible etiological role of higher level lead exposure in the induction of disturbances in cardiac function derives from observations of the disappearance of electrocardiographic abnormalities following chelation therapy in the treatment of many cases of lead encephalopathy (Myerson and Eisenhauer, 1963; Freeman, 1965; Silver and Rodriguez-Torres, 1968). The latter investigators, for example, noted abnormal electrocardiograms in 21 of 30 (20 percent) overtly lead-intoxicated children prior to chelation therapy, but abnormal electrocardiograms remained for only four (13 percent) after such therapy (Silver and Rodriguez-Torres, 1968). None of the above studies provide definitive evidence that lead induced the observed cardiotoxic effects, although they are highly suggestive of an etiological role of lead in producing such effects. However, further substantial evidence supporting the plausibility of lead being a causative factor in producing cardiotoxic effects in humans has been derived from animal toxicology studies, as discussed later.

Hypertension or, more broadly, increased blood pressure represents another type of cardiovascular effect long studied as possibly being associated with excessive lead exposure. As long ago as 1886, Lorimer reported that high blood lead levels increased the risk of hypertension. However, from then until only recently, relatively mixed and often apparently contradictory results have been reported concerning associations between high-level lead exposures and hypertension effects. That is, numerous investigators reported significant associations between hypertension and lead poisoning (Oliver, 1891; Legge, 1901; Vigdortchik, 1935; Emmerson, 1963; Dingwall-Fordyce and Lane, 1963; Richet et al., 1966; Morgan, 1976; Beevers, et al., 1976), whereas other studies failed to find a statistically significant association at $p < 0.05$ (Belknap, 1936; Fouts and Page, 1942; Mayers, 1947; Brieger and Rieders, 1959; Cramer and Dahlberg, 1966; Malcolm, 1971; Ramirez-Cervantes et al., 1978). The potential contribution of lead to hypertension was difficult, if not impossible, to determine based on the results of the above studies, due to many methodological differences and problems (e.g., lack of comparable definitions of lead exposure and prospective control populations, variations in how hypertension was defined or measured as the key health endpoint, etc.).

In contrast to the confusing array of results derived from the above studies, a much more consistent pattern of results has begun to emerge from more recent investigations of relationships between lower-level lead exposures and increases in blood pressure or hypertension. Kromhout and Couland (1984), for example, reported associations between hypertension and blood lead among general population groups, and Batuman et al. (1983) reported an association between hypertension and chelatable lead burdens in veterans. Also, Moreau et al. (1982) reported significant associations ($p < 0.001$) between blood-lead levels and a continuous measure of blood pressure among 431 French policemen (age 24 to 55 years), after controlling for important potential confounding variables such as age, body mass index, smoking, and drinking.

In a larger recent study, Pocock et al. (1984) evaluated relationships between blood lead concentrations, hypertension, and renal function indicators in a clinical survey of 7735 middle-aged men from 24 British towns. Results for the overall group studied indicated correlation coefficients of $r = +0.03$ and $r = +0.01$ for associations between systolic and diastolic blood pressure, respectively, and blood lead levels. The systolic blood pressure correlation, though small in magnitude, was nevertheless statistically significant at $p < 0.01$. However, analyses of data for men categorized according to blood lead concentrations only suggested increases in blood pressure at lower blood lead levels; no further, significant increments in blood pressure were observed at higher blood lead levels (either before or after adjustment for factors such as age, town, body mass index, alcohol consumption, social class, and observer). Evaluation of prevalence of hypertension defined as systolic blood pressure over 160 mm Hg revealed no significant overall trend; but of those men with blood lead levels over 37 μg/dl, a larger proportion (30 percent) had hypertension when compared with the proportion (21 percent) for all other men combined ($p < 0.08$). Similar results were obtained for diastolic hypertension defined as >100 mm Hg, i.e., a greater proportion (15 percent) of men with blood lead levels over 37 μg/dl, had diastolic hypertension in comparison with the proportion (9 percent) for all other men ($p < 0.07$). Pocock et al. (1984) interpreted their findings as being suggestive of increased hypertension at blood lead levels over 37 μg/dl, but not at lower concentrations typically found in British men. However, an unpublished EPA reanalysis of the grouped data reported by Pocock et al. (1984) indicates that blood lead is a significant predictor of blood pressure in their data, both before and after adjusting for covariates, when a regression of blood pressure is performed versus the log of blood lead for their reported group averages (U.S. EPA, 1985). Furthermore, the regression coefficient indicated that the size of the effect was significant, suggesting a blood pressure increase of 3 mm Hg as blood lead increases from 5 to 15 μg/dl.

Relationships between blood lead and blood pressure among American adults have also been recently evaluated, as reported by Harlan et al. (1985) and Pirkle et al. (1985). These analyses were based on evaluation of NHANES II data, which provide careful blood lead and blood pressure measurements on a large-scale sample representative of the U.S. population and considerable information on a wide variety of potentially confounding variables as well. As such, these analyses avoided the problem of selection bias, the healthy-worker effect, workplace exposures to other toxic agents, and problems with appropriate choice of control groups that often confounded or complicated earlier, occupational studies of blood-lead, blood-pressure relationships. The analyses reported by Harlan et al. (1985) demonstrated statistically significant linear associations ($p < 0.001$) between blood lead concentrations and blood pressure (both systolic and diastolic) among males and females, aged 12 to 74 years. However, using a model controlling for a number of other potentially confounding factors, blood lead was not independently related to blood pressure in women after adjusting for the effects of other variables in the model.

Further analyses reported by Pirkle et al. (1985) focused on white males (aged 40 to 59 years) in order to avoid the effects of collinearity between blood pressure and blood lead concentrations evident at earlier ages and because of less extensive NHANES II data being available for non-whites. In the subgroup studied, Pirkle et al. (1985) found significant associations between blood lead and blood pressure even after including in multiple regression analyses all known factors previously established as being correlated with blood pressure. The relationship also held when tested against every dietary and serologic variable measured in the

NHANES II study. Inclusion of both curvilinear transformations and interaction terms altered little the coefficients for blood pressure associations with lead (the strongest relationship was observed between the natural log of blood lead and the blood pressure measures). No evident threshold was found below which blood lead level was not significantly related to blood pressure across a range of 7 to 34 μg/dl. In fact, the dose-response relationships characterized by Pirkle et al. (1985) are indicative of large initial increments in blood pressure at relatively low blood lead levels, followed by leveling off of blood pressure increments at higher blood lead levels. This pattern is consistent with biphasic blood pressure increases observed in response to blood lead increases in the rat (Victery et al., 1982a,b) and may also account for the failure of other studies to find consistent relationships between blood pressure and blood lead in study groups with mild to moderate elevations of blood lead concentrations. Pirkle et al. (1985) also found lead to be a significant predictor of diastolic blood pressure greater than or equal to 90 mm Hg, the criterion blood pressure level now standardly employed in the United States to define hypertension.

Additional analyses were performed by Pirkle et al. (1985) to estimate the likely public health implications of their findings concerning blood-lead, blood-pressure relationships. Changes in blood pressure that might result from a specified change in blood lead levels were first estimated. Then coefficients from the Pooling Project and Framingham studies (Pooling Project Research Group, 1978 and McGee and Gordon, 1976, respectively) of cardiovascular disease were used as bases: (1) To estimate the risk for incidence of serious cardiovascular events (myocardial infarction, stroke, or death) as a consequence of lead-induced blood pressure increases and (2) to predict the change in the number of serious outcomes as the result of a 37 percent decrease in blood lead levels for adult white males (aged 40–59 years) observed during the course of the NHANES II survey (1976–1980). The following declines in serious outcomes were thusly estimated: (1) A 4.7 percent decrease (77,300 fewer events) for fatal and non-fatal myocardial infarctions; (2) a 6.7 percent decrease (27,500 fewer events) for fatal and non-fatal strokes; and (3) a 5.5 percent decrease (73,900 fewer events) for death from all causes.

Overall, the recent analyses reported by Harlan et al. (1985) and Pirkle et al. (1985) provide convincing evidence for strong associations between blood pressure increases and blood lead levels, even at blood lead concentrations below 30 μg/dl and, possibly, down to as low as 7 μg/dl. Whether the associations observed are causal or not remain to be more definitively established, as is the case for consequent risks for serious cardiovascular outcomes estimated by Pirkle et al. (1985). However, much support for the plausibility of causal relationships between lead exposures and hypertension, as well as other cardiovascular effects, is provided by experimental toxicology findings discussed next.

12.9.1.2 Toxicological Studies in Animals.

Electron microscopy of the myocardium of lead-intoxicated rats (Asokan, 1974) and mice (Khan et al., 1977) have shown diffuse degenerative changes analogous to those alluded to earlier for lead-poisoned children. Kopp and coworkers have also found depression of contractility, isoproterenol responsiveness, and cardiac protein phosphorylation (Kopp et al., 1980a), as well as high energy phosphate levels (Kopp et al., 1980b) in hearts of lead-fed rats. Similarly, persistent increased susceptibility to norepinephrine-induced arrhythmias has been observed in rats fed lead during the first three weeks of life (Hejtmancik and Williams, 1977, 1978, 1979a,b; Williams et al., 1977a,b).

The cardiovascular effects of lead alone or in conjunction with cadmium have been studied in rats following chronic low level exposure by Perry and coworkers (Perry and Erlanger, 1978; Kopp et al., 1980a,b). Perry and Erlanger (1978) exposed female weanling Long-Evans rats to cadmium, lead, or cadmium plus lead (as acetate salts) at concentrations of 0.1, 1.0, or 5.0 ppm in deionized drinking water for up to 18 months. These authors reported statistically significant increases in systolic blood pressure for both cadmium and lead in the range of 15–20 mm Hg. Concomitant exposure to both cadmium and lead usually doubled the pressor effects of either metal alone. A subsequent study (Kopp et al., 1980a) using weanling female Long-Evans rats exposed to 5.0 ppm cadmium, lead, or lead plus cadmium in deionized drinking water for 15 or 20 months showed similar pressor effects of these two metals, alone or in combination, on systolic blood pressure. Electrocardiograms performed on these rats demonstrated statistically significant prolongation of the mean PR interval. Bundle electrograms also showed statistically significant prolongations. Other parameters of cardiac function were not markedly affected. Phosphorus-31 nuclear magnetic resonance (NMR) studies conducted on perchloric acid extracts of liquid nitrogen-frozen cardiac tissue from these animals disclosed statistically significant reductions in adenosine triphosphate (ATP) levels and concomitant increases in adenosine diphosphate (ADP) levels. Cardiac glycerol 3-phosphoryl-choline (GPC) were also found to be significantly reduced using this technique, indicating a general reduction of tissue high-energy phosphates by lead or cadmium. Pulse-labeling studies using ^{32}p demonstrated decreased incorporation of this isotope into myosin light-chain (LC-2) in all lead or cadmium treatment groups relative to controls.

The results of this group of studies indicate that prolonged low-dose exposure to lead (and/or cadmium) reduces tissue concentrations of high-energy phosphates in rat hearts and suggest that this effect may be responsible for decreased myosin LC–2 phosphorylation and subsequent reduced cardiac contractility. Other experiments by these authors (Kopp et al., 1980b) were also conducted on isolated perfused hearts of weanling female Long-Evans rats exposed to cadmium, lead, or lead plus cadmium in deionized drinking water at concentrations of 50 ppm for 3–15 months. Incorporation of ^{32}P into cardiac proteins was studied following perfusion on inotropic perfusate containing isoproterenol at a concentration of 7×10^{-7}M. Data from these studies showed a statistically significant reduction in cardiac active tension in hearts from cadmium- or lead-treated rats. Incorporation of ^{32}P was also found to be significantly reduced in myosin LC–2 proteins. The authors suggested that the observed decrease in LC–2 phosphorylation could be involved in the observed decrease in cardiac active tension in lead- or cadmium-treated rats.

Further evidence for lead inducing elevated blood pressure is provided by the study of Iannaccone et al. (1981), who reported increased blood pressure ($p < 0.001$) in rats at blood lead levels of 38 μg/dl. Significant enhancement of blood pressure responses to norepinephrine was also observed in the lead-treated rats. The Iannaccone et al. (1981) study confirms the findings of lead-induced blood pressure increases reported by Perry and coworkers, as does the Victery et al. (1982a,b) study which found a biphasic response of

blood pressure to lead exposure in the rat.

Makasev and Krivdina (1972) observed a two-phase change in the permeability of blood vessels (first increased, then decreased permeability) in rats, rabbits, and dogs that received a solution of lead acetate. A phase change in the content of catecholamines in the myocardium and in the blood vessels was observed in subacute lead poisoning in dogs (Mambeeva and Kobkova, 1969). This effect appears to be a link in the complex mechanism of the cardiovascular pathology of lead poisoning.

The susceptibility of the myocardium to toxic effects of lead was supported by *in vitro* studies in rat mitochondria by Parr and Harris (1976). These investigators found that the rate of Ca^{2+} removal by rat heart mitochondria is decreased by 1 nmol Pb/mg protein.

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Additional Items for Corrigenda

1. Table 13–5 (vol. IV, pg. 13–25) is incomplete. It should be an exact reproduction of Table 11–14 (vol. III, pg. 11–48).

2. Table 13–6 (vol. IV, pg. 13–27). Delete the word "percent" from title.

3. In some volume IV's, pg. 12–60 may have been omitted.

[FR Doc. 85–8703 Filed 4–10–85; 8:45 am]
BILLING CODE 6560-50-M

[OPTS–42069; TSH–FRL 2817–5]

Test Rule Development Process Under the Toxic Substances Control Act; Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public meeting.

SUMMARY: The EPA will hold a public meeting to discuss the process for developing test data pursuant to section 4 of the Toxic Substances Control Act (TSCA). This meeting was requested by the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA).

DATE: The meeting will be held on Wednesday, April 17, 1985, at 10 a.m.

Meeting location: Capitol Park International Hotel, South Lobby Conference Room, 800 4th St., SW., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, 401 M St. SW., Washington, D.C. 20460, Toll Free: 800–424–9065, In Washington, D.C.: 554–1404, Outside the USA: Operator–202–554–1404.

SUPPLEMENTARY INFORMATION: EPA will hold a public meeting to discuss the process for developing test data pursuant to section 4 of TSCA.

I. Background

NRDC and CMA have requested to meet with personnel from EPA to discuss the process for developing test data pursuant to section 4 of TSCA. EPA has agreed to meet with representatives from both NRDC and CMA and has scheduled a public meeting for this purpose. The purpose of the meeting is to identify and discuss any changes that could be made to the current test rule development process under TSCA section 4 that would speed the development of needed test data. Persons interested in attending this meeting or in receiving more information about the meeting should call the TSCA Assistance Office.

II. Public Record

EPA has established a public record for this meeting (OPTS–42069). This record will include a summary of the meeting. The record will be available for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. E–107, 401 M St., SW.,Washington, D.C. 20460. The Agency will supplement the record with additional relevant information as it is received.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003 (15 U.S.C. 2601))

Dated: April 8, 1985.

Don Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–8822 Filed 4–10–85; 8:45 am]
BILLING CODE 6560-50-M

FEDERAL MARITIME COMMISSION

[Fact Finding Investigation No. 13]

Military Household Goods Rates of Vessel Operating Common Carriers; Order Extending Investigation

The Investigative Officer has recommended that this investigation be extended for 60 days in order that the final report and recommendations reflect the contracts for the carriage of military household goods which became effective April 1, 1985. The Order instituting Fact Finding Investigation No. 13 appeared at 49 FR 13918, April 9, 1984.

Now therefore, it is ordered, that this investigation be extended for 60 days, and that the final report and recommendations of the Investigative Officer shall be filed no later than June 7, 1985.

It is further ordered, That Notice of this Order be published in the **Federal Register.**

By the Commission April 5, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–8731 Filed 4–10–85; 8:45 am]
BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No. 202–010025–004.
Title: Red Sea Rate Agreement.
Parties:
Barber Blue Sea Line
Maersk Line
Nedlloyd Lijnen B.V.
Sea-Land Service, Inc.

Synopsis: The proposed amendment would eliminate the $10,000 membership fee and reduce the notice period for independent action from ten days to two. The parties have requested a shortened review period.

Agreement No. 224–010740.
Title: Norfolk Terminal Agreement.
Parties:
Virginia International Terminals, Inc. (VIT)
Seapac Services/Neptune Orient Lines (SEAPAC/NOL)

Synopsis: Agreement No. 224–010740 provides that SEAPAC/NOL shall have the nonexclusive use of marine terminals at the Norfolk International Terminals, Norfolk, Virginia. VIT shall furnish SEAPAC/NOL terminal services at the facility. SEAPAC/NOL will call at the facility in consideration for the assessment of terminal charges by VIT that are different than those contained in Terminal Operators Conference of Hampton Roads Terminal Tariff No. 1 (FMC Agreement No. 8435). SEAPAC/NOL guarantees to move through the Norfolk International Terminals 22,000 containers in the initial year of this agreement, and 30,000 each subsequent year. The term of the agreement is for

three years. The parties have requested a shortened review period for the agreement.

By Order of the Federal Maritime Commission.

Dated: April 8, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8765 Filed 4-10-85; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice, that on April 2, 1985, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was deemed effective that date, to the extent that it constitutes an assessment agreement as described in paragraph (d) of section 5, Shipping Act of 1984.

Agreement No. 201-000089-002.

Title: Morehead City, Wilmington, Southport, Georgetown, Charleston, Port Royal, Savannah, Port Monatee, Brunswick, St. Mary's, Ferandina, Jacksonville, Tampa; Tonnage Assessment Agreement.

Parties:

South Atlantic Employers Negotiating Committee

International Longshoremen's Association, AFL-CIO

Synopsis: This amendment lowers the overall assessment per ton and the unit assessment as set forth in FMC Agreement No. 201-000089-001. The agreement is a tonnage assessment agreement covering the aforementioned ports. The agreement is designed to obtain funds necessary to meet the fringe benefit obligations under the Employers-ILA collective bargaining agreement. It contains a tonnage formula for funding the fringe benefits obligations for guaranteed annual income, vacation and holiday, and administrative support for those benefits.

By Order of the Federal Maritime Commission.

Dated: April 8, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8767 Filed 4-10-85; 8:45 am]

BILLING CODE 6730-01-M

Intent To Terminate Approval of Agreement

Agreement No. 1 10284.

Title: United States Lines, Inc. and Lykes Bros. Steamship Co., Inc.; Husbanding Agreement.

Parties:

United States Lines, Inc.

Lykes Bros. Steamship Co., Inc.

Synopsis: The Commission has been notified by United States Lines, Inc. that Agreement No. 10284 has been canceled, effective July 8, 1984.

Filing Party: United States Lines, Inc., 27 Commerce Drive, Cranford, New Jersey 07016.

By Order of the Federal Maritime Commission.

Dated: April 8, 1985.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85-8766 Filed 4-10-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Agency Forms Under Review

April 5, 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 informaiton. 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 recomendations received, will be submitted to the Board for final approval under OMB delegated authority.

DATE: Comments must be received on or before April 22, 1985.

ADDRESSES: 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: Robert Neal, 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 OMB'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 Report

1. Report title: Bank Holding Company Financial Supplement.
Agency form number: FR Y-9
OMB Docket number: 7100-0128
Frequency: semiannually, annually
Reporters: Bank Holding Companies
Small businesses are not affected

General description of report: This information collection is mandatory [12 U.S.C. 1844] and is not given confidential treatment.

The FR Y-9 data historically has been primary source of information for the Federal Reserve System's bank holding company (BHC) surveillance function in its on-going monitoring of the financial condition of these institutions. BHC's with consolidated assets of $150 million or more are required to file this report.

Proposal To Approve Under OMB Delegated Authority the Implementation of the Following Report

2. Report title: Banking Holding Company Financial Statement.
Agency form number: FR 2352
OMB Docket number: will be assigned
Frequency: semiannually
Reporters: Bank Holding Companies
Small businesses are affected

General description of report: This information collection is mandatory [12 U.S.C. 1844] and is not given confidential treatment.

The FR 2352 data is one of the primary sources of information for the Federal Reserve System's bank holding company

(BHC) surveillance function in its ongoing monitoring of the financial condition of these institutions. BHC's with consolidated assets of less than $150 million are required to file this report.

Board of Governors of the Federal Reserve System, April 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8665 Filed 4-10-85; 8:45 am]

BILLING CODE 6210-01-M

ABC Holding Co. 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 USC 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 May 3, 1985.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *ABC Holding Company*, Moultrie, Georgia; to merge with Quitman Bancshares, Inc., Quitman, Georgia, thereby indirectly acquiring The Bank of Quitman, Quitman, Georgia.

2. *Charter Holding Company, Inc.*, Tuscaloosa, Alabama; to become a bank holding company by acquiring 88.44 percent of the voting shares of First State Bank of Tuscaloosa, Tuscaloosa, Alabama.

B. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *North Adams Bancshares, Inc.*, Ursa, Illinois; to become a bank holding company by acquiring 80.0 percent of the voting shares of North Adams State Bank of Ursa, Ursa, Illinois.

Board of Governors of the Federal Reserve System, April 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8663 Filed 4-10-85; 8:45 am]

BILLING CODE 6210-01-M

Buffalo Bancshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) 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.

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 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 applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 1, 1985.

A. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Buffalo Bancshares, Inc.*, Buffalo, Kentucky; to engage *de novo* in the activity of selling credit life insurance in the Commonwealth of Kentucky.

B. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Wilcox Bancshares, Inc.*, Grand Rapids, Minnesota; to engage *de novo* directly in the activities of making loans or other extensions of credit for the company's account or for the account of others. These activities would be conducted in Grand Rapids, Minnesota.

Board of Governors of the Federal Reserve System, April 5, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-8664 Filed 4-10-85; 8:45]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Ad Hoc Advisory Committee on Hypersensitivity to Food Constituents; Renewal

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the renewal of the Ad Hoc Advisory Committee on Hypersensitivity to Food Constituents (formerly the Ad Hoc Advisory Committee on Hypersensitivity to Sulfiting Agents in Food) by the Secretary of Health and Human Services. This notice is issued under the Federal Advisory Committee Act.

DATE: Authority for this committee will expire on March 13, 1987, unless the Secretary formally determines that renewal is in the public interest.

FOR FURTHER INFORMATION CONTACT: Richard L. Schmidt, Committee Management Office (HFA-306), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2765.

Dated: April 4, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8655 Filed 4-10-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 84N-0367]

Drugs Composed Wholly or Partly of Insulin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) advises that it will begin certifying human insulins as soon as the official human insulin reference standard becomes available from the United States Pharmacopeial Convention, Inc. (U.S.P.C.), which should be sometime during the second quarter of 1985. In addition, FDA announces its intention to begin selectively testing samples of batches of insulin submitted to FDA for certification instead of replicating all required tests. The agency will continue routinely to perform the potency test and to require insulin manufacturers to submit the results to all required tests for review by FDA.

FOR FURTHER INFORMATION CONTACT: Robert D. Bradley, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-6490.

SUPPLEMENTARY INFORMATION:

I. Insulin and the Federal Food, Drug, and Cosmetic Act

Under section 506 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 356), FDA certifies batches of drugs composed wholly or partly of insulin. The act requires that each batch of insulin be certified if it meets the characteristics of identity, strength, quality, and purity, prescribed by regulations issued to ensure safety and efficacy of use. The act further provides that, before the effective date of such regulations FDA shall, in lieu of certification, issue a release for any batch which, in FDA's judgment, may be released without risk as to the safety and efficacy of its use (see 21 U.S.C. 356(a)). Under section 506(c) of the act and 21 CFR 429.30, tests and methods of assay for insulin products for purposes of certification are those set forth in the U.S.P.

II. Human Insulin

Until recently, all insulin was derived from the pancreas glands of animals. The source of these insulins was declared as either porcine, bovine, or a mixture of each, depending on the animal from which the insulin was derived. FDA recently approved a new insulin, called human insulin, from a different source. Unlike beef and pork insulins, which are named on the basis of source, the new insulin is identified as human, not because it is derived from human beings, but, rather, because it has the same molecular structure as insulin found in the human body. Human insulin may be manufactured by two different methods:

(1) Enzymatic modification of pork insulin and (2) recombinant deoxyribonucleic acid (DNA) technology.

Currently, human insulin is "released" under section 506(a) of the act, rather than certified under section 506(b) of the act, because no public standards have been established for human insulin. However, a monograph for human insulin is included in the latest revision of the official compendium, the United States. Pharmacopeia XXI—National Formulary XVI (U.S.P/N.F.), which became official on January 1, 1985. Because tests and methods of assay for certification of insulin products are those set forth in the U.S.P., the U.S.P. monograph establishes a public standard for human insulin that will be applicable to all human insulin products. Therefore, FDA expected to begin certifying batches of human insulin in accordance with the U.S.P. monograph when it became official on January 1, 1985. However, the U.S.P. human insulin reference standard required to perform several of the tests set forth in this monograph is not yet available from the U.S.P.C. Because the results of these tests are not valid without the use of this reference standard, FDA will continue to release batches of human insulin under the provisions of section 506(a) of the act until the reference standard is available and in use by the insulin manufacturers. U.S.P.C. expects to have this reference standards available sometime during the second quarter of 1985.

III. Certification Based on Selective Testing and Manufacturers' Test Results

A. General

Since the inception of the insulin certification program, the agency, as a condition of certification or release, has subjected all batches of insulin to tests and assays in FDA's own laboratories. The agency then compared the results of those tests conducted by FDA with the results of the same tests conducted by the manufacturer. In considering comments submitted to the agency that full replicative testing is unnecessary for currently manufactured insulin products, the agency reexamined this certification testing policy. FDA has concluded, as a result of this reexamination, that there appears to be no public health reason to continue, as a condition for certification, replicating routine tests, such as sterility, pH, loss on drying, nitrogen content, zinc content, isophane ratio, and the test for insulin not extracted by buffered acetone. Improved analytical procedures and techniques now give results with lower variability than those used a few years ago. Further, many of these same or similar tests are performed routinely by manufacturers on other injectable drug products without FDA review of the manufacturers' results or testing of samples of the drug products before they are introduced into interstate commerce. Although FDA has determined to discontinue replication of all routine tests on all batches of insulin for purposes of certification, the agency will continue to require the submission of required samples of each batch of insulin products submitted for certification to enable the agency to perform any or all of the required tests. Although FDA will onbly selectively test the samples, the manufacturers will still be required to submit the results of all required tests for FDA's review. The agency expects that this change in its certification testing procedure will take effect sometime during the second quarter of 1985.

The policy change of basing certification on review of the manufacturers' tests and on FDA's selective testing results does not apply, at this time, to the insulin potency assay. For both human insulins and animal insulins, FDA will continue to replicate the potency test as discussed below.

B. Development and Validation of a New Potency Assay for Insulin Products

Along with the development of human insulins, sophisticated laboratory testing techniques have been under development. It became clear in the early 1980's that one of these techniques, the high performance liquid chromatography (HPLC) test, should be seriously considered for use in assaying the amount of insulin present in insulin products.

Up to now, a rabbit bioassay test has been used to determine the biological activity and potency of insulin master lots. The rabbit test is designed to be a model of the effect of insulins on the blood sugar level in humans. Although satisfactory in terms of its reliability, the rabbit test is time-consuming and somewhat cumbersome to perform because of the large number of rabbits required to ensure the accuracy of the assigned potency. The HPLC test, on the other hand, is a sophisticated, rapid, in vitro analytical procedure that can be used to assay specifically the amount of insulin present.

At a May 1982 workshop sponsored by FDA and the U.S.P.C., the use of the HPLC assay as the potency assay for insulin products was discussed. The consensus of the workshop was that the HPLC test should be developed and validated as the potency test for insulin products in place of the rabbit bioassay. Because the HPLC assay does not measure biological activity, it was also recommended that a rabbit bioidentity test (using fewer rabbits than the rabbit biossay) be done to ensure that each master lot of insulin has appropriate biological activity.

C. Potency Testing of Human Insulins

Through the efforts of the U.S.P.C., industry, and FDA, an HPLC test has undergone validation testing for use on human insulins. The U.S.P. monograph for human insulin set forth in the official U.S.P. includes the HPLC test as the test for assigning potency of human insulin drug products. The monograph, in addition, continues to require the rabbit bioassay. However, in the absence of the U.S.P. human insulin reference standard, the HLPC test can not be used for assigning potency. Therefore, the potency of human insulin must continue to be assigned based on the results of the rabbit bioassay until the U.S.P. human insulin reference standard becomes available.

For the foreseeable future, FDA will perform both the HPLC test and the rabbit bioassay. The agency anticipates that, as more experience is gained using the HPLC test, the rabbit bioassay will be replaced by a rabbit bioidentity test. When the human insulin monograph is revised to eliminate the rabbit bioassay, FDA will discontinue conducting the rabbit bioassay for certification purposes. If experience with these test procedures is satisfactory, in the future the agency will consider extending its policy of selective testing to the potency test for human insulins.

Potency Testing of Animal Insulins

The validation of the HPLC assay for insulin products from animal sources is in progress, but because of several technical problems, e.g., establishing reference standards, correlating data with the bioassay, and developing HPLC methods for a variety of dosage forms, it has not progressed as far as has validation of the HPLC test for human insulin products. Therefore, the sole potency assay specified in the U.S.P. for animal insulins, and which will be performed by FDA, continues to be the rabbit bioassay. In addition, FDA will perform the HPLC test on animal insulins for research and correlation purposes.

Correlation of results obtained from the rabbit bioassay and the HPLC test is necessary before it would be prudent to accept the HPLC assay as the potency assay for animal insulins and, in all probability, before the U.S.P.C. will modify its U.S.P. monographs for animal insulins to specify that the HPLC test can be used for animal insulins.

Dated: April 3, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-8654 Filed 4-10-85; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 85G-0122]

Novo Laboratories, Inc.; Filing of Petition for Affirmation for GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Novo Laboratories, Inc., has filed a petition (GRASP 4G0295), proposing that pullulanase derived from *Bacillus acidopullulyticus* is generally recognized as safe (GRAS) as a direct human food ingredient.

DATE: Comments by June 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Lawrence J. Lin, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-8950.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (section 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))) and the regulations for affirmation of GRAS status in § 170.35 (21 CFR 170.35), notice is given that a petition (GRASP 4G0295) has been filed by Novo Laboratories, Inc., 59 Danbury Rd., Wiltron, CT 06897, proposing that pullulanase derived from *Bacillus acidopullulyticus* is GRAS as a direct human food ingredient.

The petition has been placed on display at the Dockets Management Branch (address above).

Any petition that meets the format requirements outlined in § 170.35 is filed by the agency. There is no prefiling review of the adequacy of data to support a GRAS conclusion. Thus, the filing of a petition for GRAS affirmation should not be interpreted as a preliminary indication of suitability for GRAS affirmation.

Interested persons may, on or before June 10, 1985, review the petition and/or file comments (two copies, identified with the docket number found in brackets in the heading of this document) with the Dockets Management Branch (address above). Comments should include any available information that would be helpful in determining whether this use is or is not GRAS. A copy of the petition and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 2, 1985.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-8591 Filed 4-10-85; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (FR, Vol 46, No. 223, pp. 56933-56934, dated Thursday, November 19, 1981, **Federal Register,** Vol. 48, No. 3, pp. 512-513, dated Wednesday, January 5, 1983, and **Federal Register,** Vol. 48, No. 198, pp. 46447-46448, dated Wednesday, October 12, 1983) is amended to reflect the reorganization of the Office of Legislation and Policy (OLP), Office of the Associate Administrator for Policy.

—The OLP is being reorganized to streamline operations by consolidating similar functions.

The Specific Amendments to Part F. Are As Follows

—Section FQ.20.C. Office of Legislation and Policy (FQC) is amended by deleting the functional statements and organizational titles for Section FQ.20.C.1. Congressional Affairs Staff (FQC-1), Section FQ.20.C.2. Office of Legislation (FQCC), and Section FQ.20.C.3. Office of Policy Analysis (FQCB). The deletion of the two offices includes deleting the offices' subordinate divisions in their entirety. The new division functional statements and organizational titles for the OLP (Section FQ.20.C.) are as follows:

1. Division of Policy Analysis (FQCB)

Plans and conducts long-range and short-range policy analyses of health care financing issues and legislative proposals. Initiates or performs major policy studies for the Associate Administrator for Policy (AAP) in such areas as reimbursement reform, alternative cost control systems, and the reimbursement of new delivery systems. Coordinates technical and operating policy issues with respect to the introduction of appropriate statutory modifications through the Office of Legislation and Policy. Reviews policy documents including regulations, issue papers and memoranda before they are signed by the Administrator and/or the AAP. Reviews, analyzes, and develops new legislative proposals for submission to the Department and the Congress. Serves as a focal point for interface with the Office of the Assistant Secretary for Planning and Evaluation, other departmental components, and other Federal agencies on health care financing policy issues and legislative initiatives. Provides technical services and support to the Office of Research and Demonstrations, the Bureau of Eligibility, Reimbursement and Coverage, other HCFA components, and the Congress on the policy implications and technical aspects of new legislative or policy initiatives.

2. Division of Legislation (FQCC)

Plans and directs the legislative planning and development activities of HCFA. Develops and analyzes recommendations concerning legislative proposals for changes to the health care financing programs. Develops long-range legislative plans in substantive areas related to the reimbursement, coverage, and eligibility of services under the Medicare and Medicaid programs. Analyzes the impact of HCFA and congressional legislative proposals affecting HCFA programs, and makes recommendations to the Administrator, the Associate Administrator for Policy, and the Department. Prepares testimony and technical briefing materials for congressional hearings on HCFA programs, and serves as principal advisor to the HCFA senior staff on congressional legislative initiatives of interest or concern to the Agency. Develops the technical specifications for HCFA legislation. Provides information on HCFA programs and legislative plans to members of the Congress and the congressional committees as requested. Coordinates legislative activities, and prepares for congressional hearings with the Office of the Assistant Secretary for Legislation.

3. Division of Legislative Services and Congressional Affairs (FQCD)

Provides legislative research and analysis services to HCFA staff, and produces regular and special reports on legislative issues and activities. Prepares background materials on the Congress for congressional hearings and briefing sessions, and coordinates with HCFA components on the preparation of bill reports and bill report clearances. Maintains and services HCFA with a legislative research and reference library. Responds directly or coordinates responses to written and verbal congressional and legislative requests for information related to HCFA programs. Organizes and prepares materials for briefings of individual Congressmen and their constituents. Monitors the interests or concerns of individual Congressmen, and prepares recurring reports on significant congressional contacts. Analyzes alternative responses to congressional issues, and makes recommendations to higher officials on specific issues.

Dated: March 28, 1985.

Carolyne K. Davis,

Administrator, Health Care Financing Administration.

[FR Doc. 85-8682 Filed 4-10-85; 8:45 am]

BILLING CODE 4120-03-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Policy Development and Research

[Docket No. N-85-1516; FR-2095]

Announcement of Oasis Technique Research and Demonstration Project

AGENCY: Office of the Assistant Secretary for Policy Development and Research, HUD.

ACTION: Announcement of Oasis Technique Research and Demonstration Project.

SUMMARY: HUD is announcing a one-year cooperative agreement that will support a demonstration of a management improvement technique for public housing projects. The Awardee is the Oasis Institute of the Housing Authority of the City of Fort Lauderdale, Florida. A demonstration site and facilitating organization with characteristics similar to those in Fort Lauderdale are to be selected by the Awardee, subject to approval by the Department. The Oasis Institute will prepare a report on the application of the Oasis Technique to the demonstration site so that other public housing agencies (PHAs) across the country can build on the experiences and adapt the approaches to their environment.

DATE: Comments are due on or before 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, DC 20410. Comments should refer to the above docket number and title.

FOR FURTHER INFORMATION CONTACT: William A. Wisner, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street SW, Room 8126, Washington, DC 20410, Phone (202) 426-1520 (this is not a toll free number).

SUPPLEMENTARY INFORMATION: The "Oasis Technique," developed by the Oasis Institute of the Fort Lauderdale Housing Authority (FLHA), is a quality-of-life improvement technique that seeks to identify the strengths and weaknesses of a neighborhood that contains a public housing project so that the appropriate financial and human resources can be properly focused and utilized to reverse the trend of neighborhood deterioration. Improvements occur because a strategically located public housing site, or "Oasis," in a neighborhood that has many social problems, is targeted for rehabilitation and is made decent and safe. The improved site results in a ripple effect that leads to improvement in adjacent areas.

The Technique's principal areas of focus are: (1) Physical rehabilitation and modernization of public housing projects; (2) improved grounds aesthetics through the use of tree and shrub plantings and tenant ground maintenance; (3) management and peer pressure to promote timely payment of rent, nondisturbance of neighbors and adequate maintenance of grounds and building exteriors; (4) intensive police involvement in public housing agency crime reduction efforts; (5) community-wide, private and public sector involvement in the overall revitalization process; and (6) on-going counseling of residents.

In Fort Lauderdale, the "Oasis Technique" has been successful in improving the physical environment of the selected public housing projects, increasing stability in resident tenure, and decreasing neighborhood crime. In addition, neighborhood blight appears to have been arrested and there is evidence of increased private

investment in the areas surrounding the "Oasis."

For the technique to be successful, there must be participation by residents, the active use of public safety and other city services, tutorial programs, and employment generating activities that together address neighborhood needs in their totality.

HUD is announcing a one year cooperative agreement with the Oasis Institute, a not-for-profit organization established by the Board of Commissioners of the Fort Lauderdale Housing Authority for the purpose of assisting PHAs and communities in the use of the Oasis Technique. Under the agreement, the Institute will undertake the following preliminary tasks: (1) Develop a management and work plan to include a detailed allocation of resources and a time schedule for accomplishment of tasks under the cooperative agreement; (2) describe the Fort Lauderdale environment in which the technique was applied, the involved PHA properties and neighborhood and the principal areas of focus for the technique, and describe the strategies and resources used to deal with the problems and issues identified, the results and accomplishments of implementing the technique in Fort Lauderdale, and the recommendations and experiences that will be helpful to other communities; and (3) develop a demonstration site selection process. The Oasis Institute will undertake the following tasks as the demonstration project: (i) Indentify a suitable demonstration site and entity (facilitating organization) for the demonstration of the "Oasis Technique"; (ii) implement the technique and provide management support at the demonstration site; and (iii) produce reports on the implementation of the "Oasis Technique" at the demonstration site. The reports will cover such subject areas as the setting and environment; the specific revitalization problems and challenges faced at this site; the major actors in the public and private sector, including the PHA, residents, local government, business and community leaders, and their roles in dealing with the problems and marshaling existing public and private resources. The steps involved in applying the technique, any problems or obstacles encountered, problem-solving strategies, costs, and results will be described. The reports are to aid other communities in adapting the technique to their individual needs.

Funds for this project are authorized under Title V of the Housing and Urban Development Act of 1970. The funding that is to be provided to the Oasis Institute is for its use in accomplishing and documenting the demonstration. No funds will be provided to the facilitating organization or PHA. As a condition of participation in the demonstration, the facilitating organization will be expected to contribute its own resources as required to carry out the demonstration.

In accordance with the requirements of section 470 of the Housing and Urban-Rural Recovery Act of 1983, the demonstration will begin with the selection of the demonstration site under the proposed cooperative agreement. PHAs that would like to be considered as applicants for the demonstration site should contact the Oasis Institute by May 28, 1985 at 437 Southwest 4th Ave., Fort Lauderdale, FL 33315.

The selection will not be made until at least fifteen (15) days after the period provided for public comment has expired and all comments received have been fully considered. In the event that the Department's consideration of the comments gives rise to a significant change in any aspect of the planned demonstration, notice of the change will be published in the **Federal Register**. If appropriate, the commencement of activities may be delayed as a resut of comments, the activities may be modified, or additional public comment may be sought.

The site selection process must take into consideration the fact that the site should exhibit as many of the characteristics of the physical and governmental environment surrounding the pre-Oasis FLHA properties as possible. Applicants for the demonstration site are to be PHAs, in consort with units of local government, and must contact the Oasis Institute to be considered. The participating unit of general local government will be expected to commit the resources of its local agencies to provide such support as may be appropriate for the demonstration. The facilitating organization for the demonstration is expected to be a PHA, a unit of local government, a task force with special powers, or an existing organization recognized as having the potential for solving the complex problems of slum and blight. It must be capable of mobilizing existing public and private sector resources and effecting cooperation among public and private community groups necessary to address the defined problems.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours in the Office of the General Counsel, Rules Docket Clerk, Department of Housing and Urban Development, 451 Seventh Street, SW, Room 10276, Washington, DC 20410.

The Catalog of Federal Domestic Assistance program number is: 14.506, Office of Policy Development and Research, General Research and Technology Activity.

Authority: Title V of the Housing and Urban Development Act of 1970.

Dated: April 5, 1985.

June Q. Koch,

Assistant Secretary for Policy Development and Research.

[FR Doc. 85-8715 Filed 4-10-85; 8:45 am]

BILLING CODE 4210-32-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Environmental Impact Statement on North Key Largo (Florida) Habitat Conservation Plan and Endangered Species Act Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of intent to prepare environmental impact statement.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (FWS) intends to gather the information necessary for the preparation of an Environmental Impact Statement (EIS) for the North Key Largo (Florida) Habitat Conservation Plan (HCP) and proposed Endangered Species Act section 10(a) permit. The HCP is being prepared by the North Key Largo Habitat Conservation Plan Study Committee in conjunction with the preparation by Monroe County, Florida of a Comprehensive Plan for development of the County. The FWS is working closely with the County and the Florida Department of Community Affairs (DCA) in preparation of the EIS. Study Committee meetings since the summer of 1984 have provided suggestions and information on the scope of issues and significant issues to be addressed in the HCP and EIS. In addition, the FWS will hold two (2) public scoping meetings and solicits further written comments on the scope of issues and significant issues that should be addressed in the EIS.

DATES: *Public Scoping meetings*—Two public scoping meetings will be held in conjuntion with meetings of the Habitat Conservation Plan Study Committee. The first will be held at 1 p.m on May 16, 1985. The precise time and date of the second meeting will be published in the **Federal Register.**

Written comments—Written comments will be accepted until following the second scoping meeting. The exact date for the closing of the comment period will be pubished in a subsequent **Federal Register** notice.

ADDRESS: *Public scoping meetings*—The May 16, 1985, meeting will be held at the Monroe County Public Library, Key Largo Branch, 2nd Floor, First Federal Savings and Loan Building, Walforf Plaza, Mile Marker 100. The location of the second meeting will be announced in the **Federal Register.**

Written comments—Should be addressed to: David Wesley, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207.

FOR FURTHER INFORMATION CONTACT: David Wesley, U.S. Fish and Wildlife Service, 2747 Art Museum Drive, Jacksonville, Florida 32207, (904) 791-2580.

SUPPLEMENTARY INFORMATION:

Description of the Proposed Action

The FWS may issue a permit pursuant to section 10(a) of the Endangered Species Act of 1973, as amended, 16 U.S.C. 1539(a), that would authorize the take of endangered species incidental to development and other activities in North Key Largo, Florida. Section 10(a) of the Endangered Species Act was amended in 1982 to authorize the issuance of permits to take endangered species as an incident to otherwise lawful activities provided that the permit application is supported by a habitat conservation plan that will further the long term conservation of the species. Section 10(a) specifically requires a habitat conservation plan to specify: (1) The likely impact of the incidental taking of the species; (2) the steps the applicant will take to minimize and mitigate such impacts and the long term funding that will be available to implement those steps; (3) the alternatives to the taking that have been considered and the reasons they are not being utilized; and (4) other measures that the FWS may require as being necessary or appropriate for the purposes of the plan. The FWS may issue an incidental take permit only upon finding that: (1) The taking will be incidental; (2) the applicant will minimize and mitigate the impacts of the taking to the maximum extent practicable; (3) the applicant will ensure that adequate long term funding for the plan will be available; (4) the taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild; and (5) the additional measures specified by the FWS will be met.

FWS issuance of a permit authorizing take of endangered species incidental to development of North Key Largo will be subject to at least three environmental reviews. First, the FWS will engage in intra-FWS consultation under section 7(a)(2) of the Endangered Species Act, 16 U.S.C. 1536(a)(2), to ensure that issuance of the permit will not be likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of the critical habitat of such species. Second, the FWS previously has issued two previous biological opinions under section 7(a)(2) with respect to Federal activities in North Key Largo that may affect listed species. An opinion dated May 29, 1980, furnished to the Farmers Home Administration, resulted in prohibitions on water hook ups in certain parts of North Key Largo. A second opinion, dated October 27, 1983, and furnished to the Rural Electrification Administration, resulted in prohibitions on electrical hook ups in certain parts of North Key Largo. These opinions may be revised, possibly in conjunction with section 7 consultation with respect to the proposed incidental take permit. Third, in addition to triggering consultation under section 7, the proposed issuance of the incidental take permit may have significant effects on the quality of the human environment and thus will be the subject of an EIS prepared pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C).

Monroe County, Florida, within which North Key Largo is located, is in the process of preparing a Comprehensive Plan for development of the County under the Florida Area of Critical State Concern process, Florida Statutes, Chapter 380. Any successful HDP for North Key Largo must be consistent with the requirements of the Monroe County Comprehensive Plan. In addition, Congress has allocated $98,000, to be matched with non-Federal funds, for the development of an HCP for North Key Largo. The FWS has subsequently entered into a grant agreement with the DCA under which the County, in cooperation with the DCA, will prepare an HCP for North Key Largo. In preparing the HCP, the County and its staff will work with the North Key Largo Habitat Conservation Plan Study Committee to explore the possibilities for allowing reasonable levels of development on North Key Largo, while meeting the goals of section 10(a), which include ensuring the long term conservation of any affected listed species. Pursuant to the FWS–DCA grant agreement, the County will prepare the EIS for the FWS for the possible incidental take permit in conjunction with its preparation of the HCP.

Proposed Scoping Process

Parties interested in the potential for development of an HCP for North Key Largo convened the first in a series of meetings on the HCP in July 1984. These meetings have been attended by representatives of landowners, citizens and environmental groups, and local, State and Federal agencies, including the County, the DCA, the Governor's Office and the FWS. In order to gather further information, the FWS will also hold two public scoping meetings in conjunction with meetings of the North Key Largo Habitat Conservation Plan Study Committee. The first will be held on May 16, 1985, in Key Largo at the place noted above under **"ADDRESSES."** Following this meeting a draft document setting forth the scope of issues and significant issues that will be addressed in the EIS will be prepared and distributed. A second scoping meeting will then be held to discuss the draft scoping document and other issues relating to the scope of the EIS. Finally, the comment period will remain open until a few weeks after the second scoping meeting. The location of the second scoping meeting and the dates of that meeting and the close of the comment period will be announced in a future **Federal Register** notice.

Significant Issues

The Key Largo woodrat, Key Largo cotton mouse, and Schaus swallowtail butterfly, all listed as endangered under the Endangered Species Act, inhabit the upland hardwood hammock forest areas of North Key Largo. The prickly apple cactus is a candidate species which may soon be proposed for listing and also inhabits the hammocks. The hardwood hammocks, which originally were found throughout the Florida Keys and in the southern peninsula of Florida, have been reduced by human activities and are one of the most limited and threatened ecosystems in Florida. The American crocodile, also listed as endangered, occupies low-lying wetlands in North Key Largo. These wetlands are protected by State laws and regulations. The FWS is also currently in the process

of acquiring lands for the Crocodile Lake National Wildlife Refuge, whose projected size is 7,000 acres. As a result, development pressure on the upland hardwood hammock areas have increased, creating direct conflicts between development and conservation of the endangered species and their habitats.

The purpose of the North Key Largo HCP would be to conserve and enhance the habitats of the endangered species and ensure the long term conservation of the species while accommodating some development. Alternative plans for accomplishing this purpose will be examined during the process of preparing the HCP and the EIS. Implementaion of the HCP could have some or all of the following impacts:

1. Loss of individuals of the endangered species inhabiting North Key Largo. Restoration of individuals could occur as a result of captive propagation or translocation to other suitable habitats.

2. Loss of some portion of the current habitats of the endangered species. Some habitats disturbed during construction activities might be reclaimed as productive habitat following construction. Enhancement of habitat through plantings and vegetation management could also occur.

3. Impacts on the species and remaining habitat resulting from increased numbers of people living in and visiting North Key Largo.

4. Socioeconomic impacts on surrounding communities resulting from increased numbers of people living in and visiting North Key Largo.

5. Increased protection for some or all of the species' habitats through public acquisition of fee title, easements or other interests in land currently occupied by the species.

6. Increased protection for the species through conservation-oriented restrictions on development or specific management programs designed to enhance the species.

Alternatives to the Proposed Action

1. No action. No HCP would be developed and no incidental take permit would be issued by the FWS. Development activities could lead to significant losses of the endangered species and their habitats, but would conflict with the prohibition in section 9 of the Endangered Species Act, 16 U.S.C. 1538, on taking endangered species.

2. Development of an HCP that would allow some development while ensuring the long term conservation of the species. Such an HCP would be consistent with the Monroe County Comprehensive Plan. The HCP could be structured in a number of different ways and still meet the statutory requirements for an HCP. The HCP will consider several alternative scenarios for siting potential development and maximizing habitat values, including concentrating development in clusters without regard to property boundaries, allowing landowners to develop individual parcels, and establishing programs where some development rights could be transferred to less environmentally sensitive areas. Each alternative would incorporate a range of development levels and intensities.

3. Public acquisition of privately held habitat of the endangered species. This would be in addition to the purchase by the FWS of lands for the Crocodile Lake National Wildlife Refuge.

The environmental review of this proposed action will be conducted in accordance with the requirements of NEPA, the regulations of the Council on Environmental Quality, 40 CFR Parts 1500–1508, other applicable Federal regulations, and FWS procedures for compliance with those regulations.

Dated: March 28, 1985.

James W. Pulliam, Jr.,

Regional Director, U.S. Fish and Wildlife Service, Atlanta, Georgia.

[FR Doc. 85–8361 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-55-M

Geological Survey

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202–395–7313.

Title: National Demographic Profile of Outdoor Recreational Topographic Map Users

Abstract: Respondents supply information on use of topographic maps in outdoor recreational activities, type of recreation, frequency of map use, and on demographic characteristics. The recreational and demographic profile developed from the survey will be used to design an effective marketing program to increase map sales revenues.

Bureau Form Number: None

Frequency: One time

Description of Respondents: 500 male and 500 female general-public individuals.

Annual Response: 1,000

Annual Burden Hours: 60

Bureau clearance officer: Geraldine A. Wilson, 703–860–7211

Dated: February 16, 1985.

R.B. Southard,

Chief, National Mapping Division.

[FR Doc. 85–8697 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Indian Affairs

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paper Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed information collection requirement and explanatory material may be obtained by contacting the Bureau's Information Collection Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau's clearance officer and the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone (202) 395–7340.

Title: Subchapter E—Education—Waiver for Academic Standards—25 CFR Part 36

Abstract: Information is needed to control wholesale request for waivers and to ensure that minimum academic standards and the dormitory criteria are adhered to. Information will be used to determine the validity of waiving academic standards. The information collection will involve tribal governments and local school boards.

Bureau Form Number: None

Frequency: On occasion

Description of Respondents: Tribes and school boards

Annual Responses: 29.33

Annual Burden Hours: 293.3

Bureau Clearance Officer: Ramona Moore (202) 343-3574

John W. Fritz,

Assistant Secretary, Indian Affairs.

April 2, 1985.

[FR Doc. 85-8683 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-02-M

Plan for the Use and Distribution of the Devils Lake Sioux Tribe of Indians Judgment Funds in Docket 363 Before the United States Claims Court

April 4, 1985.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs by 209 DM 8.

The Act of October 19, 1973 (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use or distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on August 1, 1983, in satisfaction of the award granted to the Devils Lake Sioux Tribe of Indians before the United States Claims Court in Docket 363. The plan for the use and distribution of the funds were submitted to the Congress with a letter dated July 6, 1984, and was received (as recorded in the Congressional Record) by the Senate on July 23, 1984, and by the House of Representatives on July 23, 1984. The plan became effective on January 6, 1985, as provided by the 1973 Act, as amended by Pub. L. 97-458, since a joint resolution disapproving it was not enacted.

The plan reads as follows:

For the Use and Distribution of the Devils Lake Sioux Tribe's Judgment Funds in Docket 363 (Forfeiture Act Claims, Treaties of July 23, 1851, and June 19, 1858, and Non-Forfeiture Act Claims) before the United States Claims Court

The share of the Devils Lake Sioux Tribe, 26.21 percent, of the award funds in Docket 363 appropriated on August 1, 1983, totaling $3,770,593.68, and the funds appropriated the same date in satisfaction of a Docket 363 award granted specifically to the Devils Lake Sioux Tribe, totaling $50,731.52, both before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as follows.

Per Capita Payment Aspect

Eighty (80) percent of the funds shall be distributed in the form of per capita payments by the Secretary of the Interior (hereinafter the "Secretary") in sums as equal as possible to all tribal members born on or prior to and living on the effective date of this plan.

Programing Aspect

Twenty (20) percent of the funds, and any amounts remaining from the per capita payment provided above, shall be invested by the Secretary and utilized by the tribal governing body on an annual budgetary basis for tribal social and economic development programs as follows:

1. Elderly Assistance Program—four (4) percent
2. Recreation Projects—two (2) percent
3. Education Assistance Program—one (1) percent
4. Assistance in Funeral and Burial Expenses—two (2) percent
5. Tribal Land Acquisition—three (3) percent
6. Tribal Administration—eight (8) percent

General Provisions

The per capita shares of living, competent adults shall be paid directly to them. The per capita shares of deceased individual beneficiaries shall be determined and distributed in accordance with 43 CFR Part 4, Subpart D. Per capita shares of legal incompetents and minors shall be handled as provided in the Act of October 19, 1973, 87 Stat. 466, as amended January 12, 1983, 96 Stat. 2512.

None of the funds distributed per capita or made available under this plan for programing shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for per capita shares in excess of $2,000, any Federal or federally assisted programs.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-8714 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-02-M

Final Determination That the Kaweah Indian Nation, Inc., Does Not Exist as an Indian Tribe

April 1, 1985.

This notice is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f), notice is hereby given that the Assistant Secretary has determined that the Kaweah Indian Nation, Inc. does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a confirmed determination, following a public comment period on the proposed finding, that the group does not satisfy three of the seven mandatory criteria set forth in 25 CFR 83.7 and, therefore, does not meet the requirements necessary for a government-to-government relationship with the United States.

Notice of the proposed finding to decline to acknowledge the group was first published on page 28770 of the **Federal Register** on Monday, July 16, 1984. Interested parties were given 120 days in which to submit factual or legal arguments to rebut evidence used to support the proposed finding. No rebuttals or other comments were received during the comment period and no evidence was submitted which would warrant changing the conclusion that the Kaweah Indian Nation does not exist as an Indian tribe within the meaning of Federal law.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, options other than acknowledgment are available under which the Kaweah Indian Nation could make application for services and other benefits. No viable alternatives were found.

This determination is final and will become effective 60 days after publication unless the Secretary of the Interior requests the determination be reconsidered pursuant to 25 CFR 83.10.

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85-8689 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-02-M

Final Determination That the Principal Creek Indian Nation East of the Mississippi Does Not Exist as an Indian Tribe

This notice is published in the exercise of authority delegated by the Secretary of Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.9(f), notice is hereby given that the Assistant Secretary had determined that the Principal Creek Indian Nation East of the Mississippi does not exist as an Indian tribe within the meaning of Federal law. This notice is based on a confirmed determination, following a public comment period on the proposed findings that the group does not satisfy all of the seven mandatory criteria set forth in 25 CFR 83.7 and, therefore, does

not meet the requirements necessary for a government-to-government relationship with the United States.

Notice of the proposed finding to decline to acknowledge the group was published on page 25311 on the **Federal Register** on June 20, 1984. Interested parties were given 120 days in which to submit factual or legal arguments to rebut evidence used to support the finding that the Principal Creek Nation East of the Mississippi does not exist as an Indian tribe. The initial 120 day comment period was subsequently extended for an additonal 120 days and the notice of the extension appeared in the **Federal Register** on November 1, 1984 on page 44024. The extension was provided because of deficiencies in the initial distribution of the proposed finding.

No rebuttals or other comments were received during the comment period and its extension and no evidence was submitted which would warrant changing the conclusion that the Principal Creek Indian Nation East of the Mississippi does not exist as an Indian tribe within the meaning of Federal law.

In accordance with 25 CFR 83.9(j) of the Acknowledgment regulations, an analysis was made to determine what, if any, options other than acknowledgment are available under which the Principal Creek Indian Nation East of the Mississippi could make application for services and other benefits. No viable alternative was found.

With regard to future claims awards to individual Eastern Creek Indian descendants, we are unable to predict, at this time, what the eligibility requirements might be or who will be the eligible beneficiaries.

This determination is final and will become effective 60 days after publication unless the Secretary of the Interior requests the determination be reconsidered pursuant to 25 CFR 83.10(a–c).

John W. Fritz,

Deputy Assistant Secretary, Indian Affairs.

[FR Doc. 85–8694 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Groups 748, 809 and 894; 4–19952–ILM–940]

California; Filing of Plat of Survey

April 1, 1985.

1. These plats of survey of the following described land will be officially filed in the California State Office, Sacramento, California, immediately:

Humboldt Meridian, Humboldt and Siskiyou Counties

T. 2 N., R. 5 E.
T. 13 N., R. 6 E.

Mount Diablo Meridian, Modoc County

T. 46 N., R. 5 E.

2. (2) The plat, in two (2) sheets representing the dependent resurvey of portions of the east, west and north boundaries, and a portion of the subdivisional lines of Township 2 North, Range 5 East, Humboldt Meridian, under Group No. 748, California, was accepted February 22, 1985.

(b) The plat in eight (8) sheets, represents a dependent resurvey of Homestead Entry Survey No. 220 and Mineral Survey No. 1321 and the metes-and-bounds survey of Tracts 38 through 49, Township 13 North, Range 6 East, Humboldt Meridian, for Group 809, California, was accepted February 22, 1985.

(c) The plat representing the dependent resurvey of a portion of the north boundary, subdivisional lines, subdivision-of-section lines of section 3, the survey of a portion of the subdivision of section lines of section 3, and the metes-and-bounds survey of a portion of lot 35, in section 3, T. 46 N., R. 5 E., Mount Diablo Meridian, under Group No. 894, California, was accepted February 26, 1985.

3. These plats will immediately become the basic record for describing the land for all authorized purposes. These plats have been placed in the open files and are available to the public for information only.

4. These plats were executed to meet certain administrative needs of the Bureau of Land Management.

5. All inquiries relating to this land should be sent to the California State Office, Bureau of Land Management, Federal Office Building, 2800 Cottage Way, Room E–2841, Sacramento, California 95825.

Herman J. Lyttge,

Chief, Records and Information Section.

[FR Doc. 85–8693 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-40-M

[C–40710]

Colorado; Invitation for Coal Exploration License Application, Sunland Mining Corp.

Pursuant to the Mineral Leasing Act of February 25, 1920, as amended, and to Title 43, Code of Federal Regulations, Subpart 3410, members of the public are hereby invited to participate with Sunland Mining Corporation, in a program for the exploration of unleased coal deposits owned by the United States of America in the following described lands located in Routt County, Colorado:

Routt County, CO

T. 4 N., R. 86 W., 6th P.M.
Sec. 20, all;
Sec. 21, N½, SW¼, NW¼SE¼, S½SE¼;
Sec. 28, all;
Sec. 29, all.

The application for coal exploration license is available for public inspection during normal business hours under serial number C–40710 at the BLM Colorado State Office, Public Room, 1037 20th Street, Denver, Colorado and at the BLM Craig District Office, 455 Emerson Street, Craig, Colorado.

Any party electing to participate in this program must share all costs on a pro rata basis with the applicant and with any other party or parties who elect to participate. Written Notice of Intent to Participate should be addressed to the following and must be received by them within thirty (30) days after the publication of this Notice of Invitation in the **Federal Register:**

Chief, Mineral Leasing Section, Colorado State Office, Bureau of Land Management, 1037 20th Street, Denver, Colorado 80202, and
David R. Canning, General Manager, Sunland Mining Corporation, P.O. Box 55, Oak Creek, Colorado 80467.

Evelyn W. Axelson,

Chief, Mineral Leasing Section.

[FR Doc. 85–8696 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-JB-M

[N–41323; 5–00253]

Realty Action; Competitive Sale; Public Lands in Washoe County, NV

Correction

In FR Doc. 85–7221, beginning on page 12085 in the issue of Wednesday, March 27, 1985, make the following correction:

On page 12085, the docket number in the heading should have appeared as set forth above.

BILLING CODE 1505-01-M

Draft Logical Mining Unit Application and Processing Guidelines

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of draft guidelines and request for public comment.

SUMMARY: This Notice sets forth draft guidelines reflecting the Department of

the Interior's proposed administration of section 2(d) of the Act of February 25, 1920 (otherwise known as the Mineral Leasing Act (MLA)), as amended (30 U.S.C. 202a). The Department of the Interior's regulations that implement section 2(d) of MLA are codified at 43 CFR Part 3487 (1984). When final, these guidelines will be used by Bureau of Land Management personnel in order to process logical mining unit (LMU) applications, develop approval stiplulations, ensure public participation, and monitor operator-compliance with the LMU approval. This notice invites public comments on the draft guidelines.

DATE: Comments must be submitted on or before June 10, 1985.

ADDRESS: Department of the Interior, Bureau of Land Management (660), 18th and C Sts., NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mr. Paul W. Politzer or Mr. Allen B. Agnew, Bureau of Land Management (660), 18th and C Sts., NW., Washington, D.C. 20240 (202/343-7722).

SUPPLEMENTARY INFORMATION: Section 5 of the Federal Coal Leasing Amendments Act of 1976, as amended, added paragraph 2(d) to MLA. This amendment states that the Secretary, upon determining that maximum economic recovery of Federal coal will be achieved, may approve the consolidation of Federal coal leases into an LMU. Federal coal leases issued prior to enactment of FCLAA may only be included in an LMU with the consent of *all* lesses whose Federal coal leases will be included in the approved LMU. If requested by a person having a direct interest that is or may be adversely affected, a public hearing must be held prior to LMU approval. An LMU is an area of land in which the coal can be developed in an efficient, economic, and orderly manner as a unit, with due regard to conservation of the coal and other resources. An LMU may contain one or more Federal coal leases, and may include non-Federal coal; however, all lands in an LMU must be under the effective control of a single operator, be able to be developed and operated as a single operation, and be contiguous. No LMU may be approved if the total acreage would exceed 25,000 acres.

An approved LMU is subject to the diligence requirements of section 7 of MLA—diligent development, continued operation, and 3-year resource recovery and protection plan submittal. Formation of an LMU allows production of coal from anywhere within the LMU to be construed as occurring on all Federal coal leases contained in the approved LMU. However, the entire LMU recoverable coal reserves must be mined out within 40 years.

The draft guidelines provide a background and general discussion of these provisions of MLA and set forth the approval criteria, application requirements, consultation and public participation requirements, and approval stipulations. The guidelines also discuss in great detail how the section 7 of MLA diligence requirements of individual Federal coal leases do and do not govern the diligence requirements imposed on the LMU. The guidelines further discuss modifications to approved LMU's, how an LMU may fail and the results of the failure on individual Federal coal leases that were contained in the LMU, and how the Department of the Interior intends to monitor the diligence requirements of both the LMU and the individual Federal coal leases contained in the LMU. Finally, example notification letters relating to consultation, public participation, and LMU approval are contained in the appendices.

The draft guidelines were formuiated in light of informal advice rendered by Solicitor's Office staff. The Department of the Interior invites public comment on these draft guidelines. All actions on pending applications for LMU approval are suspended as of April 11, 1985, until publication of final LMU guidelines in the **Federal Register.**

The primary author of these draft guidelines is Mr. Allen B. Agnew, Branch of Technical Support, Solid Mineral Operations Division, Bureau of Land Management (BLM), assisted by other BLM field and headquarters personnel and the Office of the Solicitor, Department of the Interior.

The draft guidelines are set forth below.

Dated: April 4, 1985.

Robert F. Burford,

Director, Bureau of Land Management.

LMU APPLICATION AND PROCESSING GUIDELINES

I. Background

Section 5 of the Federal Coal Leasing Amendments Act of 1976 (FCLAA), added Section 2(d) to the Mineral Leasing Act of 1920 (MLA), which provides the legislative framework for logical mining units (LMU's). The implementing regulations at 43 CFR Part 3480, which were published in the **Federal Register** on July 30, 1982 (effective August 30, 1982), provide LMU description and establishment criteria. The Authorized Officer (AO), defined at 43 CFR 3400.0-5(b),[1] may approve an LMU application submitted by an operator/lessee or may direct that an LMU be established. LMU approval/denial is a Bureau of Land Management (BLM) State Director Decision. Therefore, for the purpose of LMU approval/denial, the State Director is the AO. For day-to-day management/oversight, the BLM District Manager is the AO, as stated in the LMU Approval Stipulations (see Appendix B-2).

Although the Secretary, through the AO, has discretion to order LMU formation, it is not normally the policy of BLM to order LMU formation. Such an order would only be given when maximum economic recovery (MER) of the coal deposits would be increased in accordance with section 2(d)(1) of MLA. An LMU may be enlarged by the addition of other Federal coal leases or with interests in non-Federal coal, may be diminished by creation of other separate Federal coal leases or LMU's, or may be disminished by the relinquishment of recoverable coal reserves and/or acreage.

II. General Discussion

The purpose of these guidelines is to set forth the requirements and conditions that must be satisfied to enable an LMU to be approvable. The guidelines do not alter any aspect of the AO's discretionary authority in acting on LMU applications, which is set forth in the 43 CFR Part 3480 rules.

Federal coal leases have diligence provisions that are lease-specific. The diligence provisions for LMU's are LMU-specific. When a Federal coal lease is included in an LMU, both types of diligence run *simultaneously*. However, in essence, LMU-specific diligence takes precedence over lease-specific diligence, *as long as* that Federal coal lease is contained in an approved LMU. In other words, LMU diligence *supersedes*, but *does not suspend*, lease-specific diligence requirements. As long as all LMU approval conditions/stipulations, including diligence, are complied with, *an individual Federal coal lease contained in an approved LMU is not in noncompliance with lease-specific diligence requirements.*

Diligence is based on recoverable coal reserves, as determined by the responsible mining engineer and the AO. The standards for coal reserve base, minable reserve base, recoverable coal reserves, and MER are defined in the regulations at § 3480.0-5. The

[1] Hereafter, all "3400. . . ." citations refer to "43 CFR," unless otherwise stated or unless referring to a complete Group or Part at 43 CFR.

responsible mining engineer and the AO must use their best professional judgment in applying these definitions to determine recoverability and that MER will be achieved. The regulatory criteria may be adapted locally to determine the recoverable coal reserves.

Any coal beds, proposed to be excluded, include all coal that the LMU operator proposes not to mine. Therefore, a narrative of the coal reserve base, minable reserve base, and recoverable coal reserves, by bed, will be required in the LMU application, in addition to a narrative regarding *any* Federal coal that the operator proposes to not mine or to render unminable. Such coal may either be required to be mined as a condition of LMU approval, may be assigned to another lessee upon approval by the AO, may be relinquished if authorized by the AO, may be segregated into another Federal coal lease or into another LMU, or may be retained in the LMU if such coal could not be mined (e.g., that portion of the coal reserve base that could not be economically mined by any entity or operation).

A Federal coal lease, or LMU, *must* produce commercial quantities of coal prior to the end of 10 years, or the Federal coal lease or LMU is *automatically terminated by law*. There is no statutory or regulatory relief from this provision. Nothing prohibits LMU formation just prior to the end of the first 10-year period that a Federal coal lease is individually subject to diligence. Since production from anywhere within an LMU is deemed to have occurred on all *Federal* coal leases within the LMU, as long as criteria for LMU approval are adhered to, that Federal coal lease is not in jeopardy. But, if LMU diligent development is not satisfied, the LMU is terminated by law; then, the Federal coal leases must be assessed individually for compliance with MLA. Upon LMU failure, if a specific Federal coal lease would have not achieved lease-specific diligent development within its initial 10-year period, that Federal coal lease would *also* be automatically terminated by law.

Note.—See Appendix C regarding potential ramifications of LMU failure.

The commercial quantities (by regulation, 1 percent of the LMU recoverable coal reserves) for diligent development and continued operation is the *minimum* required to satisfy the LMU diligence provisions. However, in order to achieve the LMU 40-year recoverable coal reserves exhaustion requirement, the operator will have to supply a production schedule showing that the 40-year mine out will be achieved.

Necessarily, for a majority of the life-of-the-mine for the LMU, annual production will have to meet or exceed an average of 2½ percent. However, once the LMU is subject to continued operation, annual production *cannot be less than* 1 percent annually or based on a 3-year rolling average; otherwise, advance royalty will be due.

Note.—There is a limitation on the number of years that advance royalty can be paid for an LMU. See section VII.G. regarding Advance Royalty and Appendix C regarding potential ramifications of LMU failure.

If an LMU application shows that there are more than 40 years of reserves, then some land/coal must either be relinquished, assigned out from the LMU, made part of another LMU, or segregated from the LMU into another separate Federal coal lease.

Note.—Once a Federal coal lease is segregated and assigned a new lease number, it remains a separate and distinct entity. If an LMU were to fail and if the lessee(s) wished to have the segregated Federal coal leases recombined, there is no appropriate authority at 43 CFR Group 3400 to consolidate the segregated Federal coal leases back into the original Federal coal lease by administrative Decision.

If the LMU application shows that the coal will be mined within 40 years, *and* if the operator fails to achieve that 40-year mine out, the LMU is subject to cancellation by State Director Decision. There is no relief from the 40-year mine-out provision.

Note.—In fact, 40 years is actually a maximum. The Secretary has discretion to impose shorter mine-out time frames. However, Department policy (as codified at 3487) is to allow the full 40-year mine-out period for any approved LMU.

If a Federal coal lease has no production during the life-of-the-mine for the LMU, and if the 40-year LMU mine-out provision is violated, the LMU must be cancelled by State Director Decision and the Federal coal lease reverts to its individual, lease-specific diligence requirements. Since there had been no production, the Federal coal lease would be automatically terminated by law. This is because that Federal coal lease, individually, would never have achieved its own diligent development by production of commercial quantities of the lease-specific recoverable coal reserves prior to the end of the lease-specific diligent development period. Other ramifications on specific Federal coal leases when an LMU fails are discussed in Appendix C.

All *lands* within the LMU must be under the effective control of a single operator. This requirement is *not* related to the "surface owner consent" requirements of the Surface Mining Control and Reclamation Act of 1977 (SMCRA) or the surface-owner consultation process at 43 CFR Part 3420. Where there is non-Federal land and/or non-Federal coal to be included in the LMU, the public participation procedures require that all surface owners and all coal owners, if other than the Federal Government, be notified. In addition, to demonstrate effective control, the LMU application must contain a narrative of agreements with the surface *and* coal owners, if other than the Federal Government. If necessary, hard copies of those executed agreements may have to be provided; for example, the agreements may be required to be produced as the result of a public hearing, if one is held. LMU's are formed to provide lessees a tool to develop all of their coal as a single operation and to allow coal production from anywhere within the LMU to constitute production from all *Federal* coal leases in the LMU.

Note.—An LMU approval is an agreement between the Federal Government and a non-Federal entity. Failure by the non-Federal entity to comply with that agreement constitutes a breach. Therefore, LMU cancellation is an administrative action, not a judicial action. LMU's may be cancelled by State Director Decision, for just cause, stating the cause of the cancellation.

III. LMU Approval Criteria

The application for an LMU or modification to an approved LMU must satisfy certain statutory and regulatory criteria. The AO, except for good cause stated in a Decision disapproving the LMU application, shall approve an LMU *if* the LMU application satisfies *all* of the following:

1. Within the proposed LMU boundary, the LMU recoverable coal reserves must be *capable of being developed in an efficient, economical and orderly manner as a unit*, with due regard to conservation of the recoverable coal reserves and other resources.

2. The LMU *may consist of one more Federal coal leases and* may include *intervening or adjacent lands* in which the United States does not own the coal.

3. All lands and coal in the LMU shall be under the *effective control of a single operator.*

4. All lands must be *able to be developed and operated as a single operation.* A single operation may include a series of excavations.

5. All lands within the LMU *must be contiguous* (i.e., have at least one point

in common, including cornering tracts). Intervening physical separations such as burn or outcrop lines and intervening legal separations such as rights-of-way do not destroy contiguity, as long as the legal subdivisions have at least one point in common.

6. Mining *operations must achieve MER of the Federal recoverable coal reserves* within the LMU.

7. If portions of a single Federal coal lease are to be included in more than one LMU, that Federal coal lease shall be segregated into two or more Federal coal leases.

8. If only a portion of a Federal coal lease is to be included in an LMU, the remaining land shall be segregated into another Federal coal lease.

9. The operator may apply to relinquish any portion of a Federal coal lease, segregated under item 7 or 8 above, in accordance with 3452.1, or may assign any portion of such a Federal coal lease in accordance with 3453.

10. The LMU cannot exceed 25,000 acres, including both Federal and non-Federal lands.

11. The operator must agree to the LMU approval stipulations.

IV. LMU Application Requirements

Five copies of the LMU application must be submitted to the AO. The resource recovery and protection plan (R2P2),[3] or R2P2 modification if there is a currently approved R2P2 for at least one of the Federal coal leases, will have to contain all of the requirements of §3482.1(c) for the life-of-the-mine for the LMU. (See section VII.A. regarding Resource Recovery and Protection Plan submittals for LMU's on which there is an already approved R2P2 or, for non-Federal coal, an already approved SMCRA permit.) Therefore, only information sufficient to determine satisfaction of the LMU APPROVAL CRITERIA needs to be submitted in the LMU application. The LMU application must contain a *narrative* that covers the following:

1. Name and address of the *designated operator* of the LMU § 3487.1(c)(1)]:

[3] Hereafter, R2P2 means the plan of operations submited pursuant to MLA, in accordance with § 3482.1(b) of the 1982 regulatory diligence systems, or the "mine plan" approved for Federal coal leases prior to the 1982 rulemaking.

• This is very important, as more than one operator/lessee may want its Federal Coal lease(s) included in the LMU.

2. A listing of the Federal coal lease serial numbers, a descripition of the land and all coal beds (including thickness and quality) within the boundary of the LMU, and an indentification of those coal beds proposed to be mined and those coal beds proposed to be excluded from any Federal coal lease which would be a part of the LMU [§ 3487.1(c)(2)]:

• The listing of all Federal coal lease serial numbers must include the name and address of all lessees with Federal coal leases proposed to be included in the LMU.

• As stated in the July 30, 1982, preamble to the 43 CFR Part 3480 rules, the rules are intended to require the operator to demonstrate his *right to enter and mine all recoverable coal reserves* contained in the proposed LMU. The legal description of all lands (Federal and non-Federal) within the proposed LMU boundary is required on a lease-by-lease basis. For the Federal portion, it most probably will be the legal land description contained in each Federal coal lease form. For non-Federal portions, the legal land description should be on a surface-owner-specific and, if applicable, coal-owner-specific basis. The requirement of a description on a surface-owner-specific basis is necessary for two reasons. First, all lands within the LMU must be under the *effective control of a single operator.* (See item 3 below.) Second, all surface and coal owners must be notified of the proposed LMU action pursuant to public participation procedures. Where the non-Federal coal owners are different from the surface owners, the legal land description is also required for that coal on a coal-owner-specific basis. The name and address of the surface and coal owners, if other than the Federal Government, must be included with the legal land description.

• A narrative describing the *surface*

Note.—These requirements are not to be confused with the "*surface owner consent*" provisions of SMCRA or the surface owner consultation process at 43 CFR Part 3420. Since all lands must be under the effective control of a single operator, all surface and all coal to be included in the LMU must be contained.

and underground coal reserve base, minable reserve base, and *recoverable coal reserves, by bed,* of *all* coal (Federal and non-Federal) within the proposed LMU boundary. Representative cross-sections are recommended; but, they are not required at the time of LMU application because they must be submitted with the R2P2, or R2P2 modification, that contains the entire life-of-the-mine for the LMU.

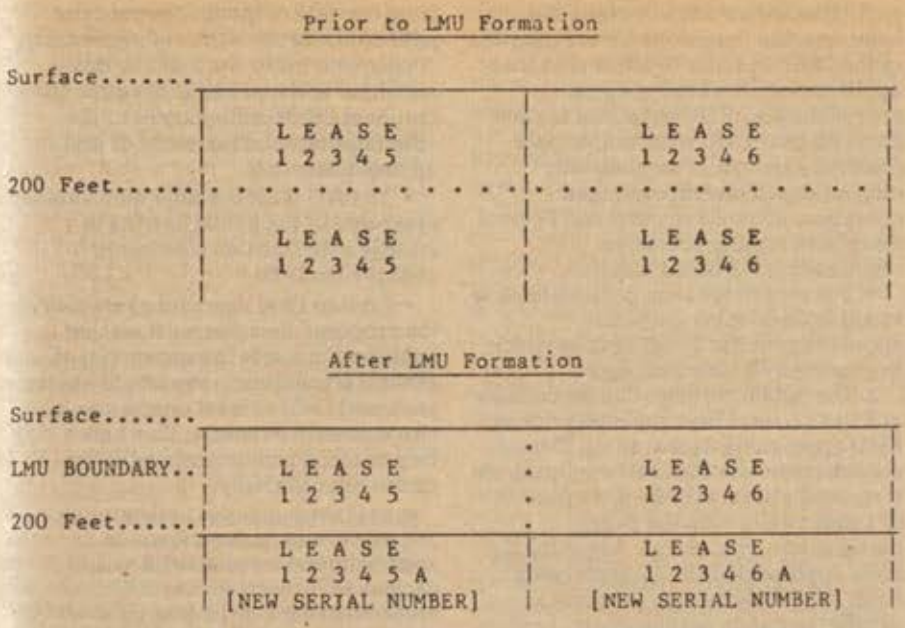
• A narrative describing that part of the *Federal coal reserve base* that the applicant intends to exclude (segregate) from the LMU, to relinquish, to assign, to not mine, or to render unminable. Represenative cross-sections are recommended; but, they are not requird unless the AO deems their submittal to be necessary in order to determine whether relinquishment would be in the public interest or that MER would not be achieved by exclusion or relinquishment, or to determine which coal will have to be segregated into another Federal coal lease(s) or LMU(s) by the exclusion [see § 3487.1(f)(3), concerning segregations and relinquishment].

Note.—If a portion of the Federal Coal reserve base contains coal that is not recoverable (e.g., could not be recovered economically by any entity or any operation), that coal does *not* fall in the category of "not to mine, or to render unminable" for the purposes of segreation into another Federal coal lease(s) or LMU(s). Otherwise, the situation could result where the lessee would hold a Federal coal lease, by segregation, from which no Federal coal could be mined.

It would serve no purpose to either segregate such coal from the LMU or to turn coal back to the Federal Government by relinquishment.

Example—Hypothetical Vertical Segregation of Federal Coal Leases Due to LMU Formation

Assume that a lessee holds two contiguous Federal coal leases. The lessee than applies for an LMU to include both Federal coal leases, but for *only* the coal at a depth less than or equal to 200 feet. If the LMU is approved, the Federal coal lease serial numbers for the coal *in* the LMU would remain the same. However, the coal not contained in the LMU would be assigned new serial numbers on a lease-specific basis, *prior to* approval of the LMU. See diagrams that follow.



Note.—In this example, the *lower* coal is segregated into two separate Federal coal leases, each with its own unique serial number (see **Special Note** below). Those Federal coal leases could have been assigned to a second lessee or the original lessee could still hold them as separate Federal coal leases. If the Federal coal leases that were segregated from the LMU would have to begin production to satisfy their lease-specific diligence requirements, then mining operations could be approved, with consideration of 3484.1(c)(4) regarding multiple coal bed mining. Although it might be preferable from a management standpoint to have the lessee relinquish the lower beds, that is only one of the options available to the lessee where the LMU applicant would propose to not mine certain coal.

Special Note.—Federal coal lease segregation and assignment of new lease serial numbers are *not* Federal coal lease readjustments. The terms and conditions of Federal coal leases 12345 and 12346 would apply to Federal coal leases 12345A and 12346A, respectively, as if no segregation had occurred. [Also, see § 3484.1(c)(4), concerning the restrictions on multiple coal bed mining in determining whether MER will be achieved.]

3. Documents and related information showing all lands are under the *effective control of a single operator* and capable of being *mined as a single operation.* [§ 3487.1(c)(3)]—:

• A narrative of agreements and their effective dates for *all* lands (surface owners and coal owners, if other than the Federal Government) within the proposed LMU boundary is sufficient. For example, where the surface of a Federal coal lease is under Federal ownership, the operator/lessee automatically obtained effective control of the land as of the date of Federal coal lease issuance, any other BLM-authorized surface uses *not* withstanding. If the surface of a Federal coal lease (issued after enactment of SMCRA) is private or if there is non-Federal coal, the narrative can state, for example: "On August 1, 1980, [LMU applicant] executed a surface-owner agreement [or lease, right-of-way, or other similar agreement] with [non-Federal entity], the surface owner [coal owner (if appropriate)] of the following described lands [coal (if appropriate)];" followed by a legal description of the surface or coal, as appropriate; if the legal description is the same as decribed in item 2, a cross-reference to the appropriate legal description is sufficient.

Note.—If the lessee holds a Federal coal lease that underlies private surface, and if that Federal coal lease was issued prior to enactment of SMCRA, no surface-owner consent is necessary because the Federal coal lease issuance conferred the right-to-mine *all* coal contained in the Federal coal lease, pursuant to the surface-owner compensation limitations of the Stock Raising Homestead Act, and other applicable Acts.

• Since all surface owners and all coal owners, other than the Federal Government, must be notified individually during the public participation procedures, a narrative of effective control of the surface and of the right to enter and mine *all* recoverable coal reserves is all that is needed here. If a surface or coal owner protests the LMU formation or if a public hearing is required, documentation of the effective control by the operator/lessee will have to be produced at that time. (See also the **Note** regarding surface-owner consent in item 2 above.)

• If more than one Federal coal lessee wants Federal coal leases combined to form an LMU, then the lessees must execute an agreement that *one* designated operator has effective control of *all* the land and coal within the proposed LMU boundaries. The LMU must be under the effective control of a single operator; however, two or more Federal coal lessees may execute an agreement resulting in a joint partnership or consortium. In such an event, that partnership or consortium could be the designated operator if the executed agreement(s) so states.

• If any conditions exist that cause the land in the proposed LMU to *not* constitute a *single operation*, the proposed LMU must be reconfigured so that the LMU would constitute a single operation. Otherwise, the LMU cannot be approved. The ultimate determination as to whether the LMU will be mined as a **single operation** must be made by the responsible mining engineer and the AO, using their best professional judgment. The following examples are provided for discussion purposes only, and are not intended to set forth the sole criteria for what constitutes a single operation:

a. If coal from a single mine on the LMU is marketed through more than one separate and distinct loadout facility, each of which has its own support facilities, that most probably would constitute a single operation and would not prohibit LMU approval.

b. If the coal to be mined from two different parts of the LMU were to go to market through separate and distinct loadout facilities, each having its own support facilities, that could constitute two different operations and not allow the LMU to be approved.

c. If two mines are "related" but have separate and distinct loadout facilities and markets, they might constitute a single operation (e.g., where the existence and sequencing of two mines are dependent on each other, such as two underground mines separated vertically, but not horizontally; see § 3484.1(c)(4) concerning multiple coal-bed mining).

4. Sufficient data to allow MER determination for the Federal recoverable coal reserves [§ 3487.1(c)(4)]:

• See item 2 above regarding narrative requirements and apply them in the same manner to any coal bed, or portion thereof, proposed to not be mined or to be rendered unminable. Sufficient information concerning the non-Federal coal must be provided to allow the AO to determine that MER of the Federal recoverable coal reserves

will be achieved. For this part of the application the narrative must be in sufficient detail to justify the unmined or rendered-unminable portions.

Note.—"Unmined or rendered-unminable" includes coal proposed to be: (a) Not mined; (b) rendered unminable; (c) assigned to another entity and not included in the LMU; (d) relinquished; or, (e) segregated into another Federal coal lease of LMU.

5. Any other information required [§ 3487.1(c)(5)]:

• In order to be able to develop the LMU approval stipulations, the AO may need to ask for a narrative of a preliminary schedule that would show the intent of the LMU applicant to satisfy the diligent development and continued operation requirements to be imposed on the LMU [§ 3487.1(e)(2)], as well as the 40-year mine out requirement [§ 3487.1(e)(6)].

• These should be simple narratives, because the R2P2, or R2P2 modification, for the LMU will have to contain all of the requirements of § 3482.1(c) for the life-of-the-mine for the LMU, and will have to show a life-of-the-mine schedule for a 40-year mine out. In addition, the estimates of the *recoverable coal reserves* will normally be preliminary and subject to revision based on new information. That information may come from exploration drilling prior to submittal of the R2P2, or R2P2 modification, for the LMU or prior to submittal of the permit application package, or from new information obtained during the mining operation such as a previously undiscovered fault that causes some of the LMU recoverable coal reserves to be rendered unminable. Once mining commences, the AO, through inspection and enforcement/production verification of the LMU, may determine that the recoverable factor is greater or lesser than originally planned. In such an event, the LMU recoverable coal reserves estimate and, LMU commercial quantities requirement would be revised accordingly.

6. Confidential information [§ 3487.1(c)(6)]:

• Treat such information in accordance with the provisions at § 3481.3

V. Consultation/Public Participation

1. Prior to approval of an LMU, the AO must consult with the LMU applicant concerning any *Federal* recoverable coal reserves that the LMU applicant either wishes to not mine, to render unminable, to assign, to relinquish or to segregate into another Federal coal lease or LMU. The AO must also consult with the LMU applicant about LMU approval stipulations that will supersede the lease-specific provisions for the duration of the LMU, in order to allow consistent application of the LMU diligence provisions (i.e., R2P2 submittal for the LMU, 40-year LMU recoverable coal reserves exhaustion requirement, diligent development, continued operation, advance royalty, and Federal rental and royalty collection requirements) [§ 3487.1(d)(1)].

• The reason for such consultations is to aid in developing the LMU stipulations under § 3487.1(e), to which the operator/lessee must agree.

2. The public participation procedures at § 3481.2, must be completed *prior to* LMU approval [§ 3487.1(d)(2)]. The consultation with the LMU applicant, as discussed above, may be done prior to *or* concurrently with the public participation procedures. Assuming the LMU application is in an approvable form, the following must be done to satisfy the public participation procedures.

• The LMU application (or application to modify an approved LMU) must be made available for public inspection in the office of the AO, with the exceptions of the confidential information, which is handled in accordance with the provisions at § 3481.3.

• The AO must post a notice of availability at his office and mail a notice of availability (*certified, return receipt requested*) to:

a. All surface and all coal owners, if other than the Federal Government, within the boundary of the proposed LMU.

b. All appropriate State and Federal Agencies (e.g., if only Federal coal and Federal surface is involved, it is only necessary to notify the Office of Surface Mining (OSM) or, if applicable, State Regulatory Authority and the Surface Management Agency, if other than BLM; however, if non-Federal coal or non-Federal surface is involved, it is necessary to notify the surface or coal owners and appropriate State Agencies, in addition to OSM).

c. The clerk or other appropriate officer in the County or Counties in which the proposed LMU would be located.

d. A local newspaper(s) of general circulation in the locality of the proposed LMU for publication at least once a week for two consecutive weeks.

• If the AO receives a written request for a public hearing from any person having a direct interest which is or may be affected adversely by the approval of the LMU, a public hearing must be held. However, the written request for such a hearing must be received within 30 days from the date of the *first newspaper publication of the notice of availability.* A complete transcript must be made available to the public at the BLM office that held the hearing. Copies of the transcript must be furnished *at cost* to anyone interested.

• The AO must consider all testimony presented at the public hearing in making a decision on whether to approve the LMU.

• Prior to final approval of an LMU, the proposed decision must also be published in a lcoal newspaper(s) of general circulation in the locality of the proposed LMU at least once a week for two consecutive weeks. This notice may be published concurrently with the notice of availability.

Note 1.—The example notice in Appendix A–2 incorporates both the notice of availability and the notice of proposed decision.) In either event, the LMU *cannot* be approved *before* 30 days, from the date of the *first* newspaper publication of the notice of availability, has expired.

Note 2.—Appendix A contains example form letters to be used for notification of pending LMU approvals, or for pending modifications to approved LMU's, as well as the notice of availability and proposed decision mentioned above. The words contained in the brackets in Appendices A and B are the alternative phrasing that should be used, depending on the specifics of the application, for either an LMU or LMU modification.

Special Note.—Although an LMU may not be approved prior to 30 days after the first newspaper publication of the notice of availability, the *effective date* of LMU approval can be made to be the date that the LMU application was submitted by the applicant.

VI. LMU Approval Stipulations

Prior to LMU approval, the AO must transmit the LMU approval stipulations to the LMU applicant. Appendix B–1 is an example of such notification. The letter transmitting the LMU approval stipulations to the LMU applicant must contain a narrative of the criteria the AO used to determine compliance with the LMU approval criteria. The approval date for an LMU must be at least 30 days *after* the first newspaper publication of the notice of availability. If a public hearing is requested, the date of the LMU approval will be dependent on the results of that hearing. For example, if the result of the hearing is to proceed with the LMU approval, the approval date could be 30 days after the first newspaper publication of the notice of availability (i.e., backdated from the date of the hearing). If the results show that the LMU should only be approved with special stipulations, the approval date could be the date that the LMU

applicant concurs with the special stipulations following the hearing. [See the **Special Note** at the end of section V, above regarding *effective date* of LMU approval.] The LMU approval stipulations must contain the following:

1. R2P2, or R2P2 modification, for the LMU must be submitted not later than 3 years from the effective date of the most recent Federal coal lease that is subject to the 1982 regulatory diligence system prior to LMU approval. The R2P2, or R2P2 modification, for the LMU must contain all the information required by § 3482.1(c) for the life-of-the-mine for all Federal and non-Federal lands/coal within the LMU.

Note.—The LMU operator has 3 years from the effective date the most recent Federal coal lease, which is subject to the 1982 regulatory diligence system prior to LMU approval, to submit either an R2P2 for the entire LMU or a modification to the existing R2P2 that will cover the entire LMU. This applies only if there is an approved R2P2 for at least one of the Federal coal leases to be included in the LMU and, *on the date of LMU approval*, there is *no production* occurring from anywhere within the LMU. See the **Note** and **Special Note** under section VII.A. regarding Resource Recovery and Protection Plan submittal where there are ongoing mining operations at the time of LMU approval.

2. A schedule for achieving diligent development and maintaining continued operation for the LMU.

• Production of coal from anywhere within the LMU is credited toward the LMU commercial quantities requirement for LMU diligent development and/or LMU contined operation.

3. Reporting periods for Federal rental and Federal royalty payments for Federal coal leases within the LMU must be exactly the same. This provision applies to the LMU, the Federal coal lease terms shall not be so amended.

4. The superseding, *for the duration of the LMU*, of Federal coal lease terms and conditions for the individual Federal coal leases within the LMU, in order to be consistent with the LMU stipulations. This provision applies to the LMU, the Federal coal lease terms shall not be so amended. Federal *royalty rates* will not be changed by LMU formation.

Note.—As Federal coal lease readjustments occur while the Federal coal leases are in the LMU, the royalty rates and other lease-specific terms and conditions will be changed in accordance with applicable regulations. A readjustment of a Federal coal lease contained in an approved LMU does not change the approval stipulations or conditions of the LMU.

5. Estimates of the Federal and non-Federal recoverable coal reserves using data acquired by generally acceptable exploration methods.

• These estimates, determined by the responsible mining engineer and the AO using their best professional judgment, are subject to revision at the time of R2P2 submittal for the LMU, or based on new information [see § 3482.2(c)].

6. Beginning the 40-year LMU recoverable coal reserves exhaustion requirement on the date that coal is first produced from the approved LMU. This is determined during the first royalty reporting period following that date, regardless whether the production occurs from Federal or non-Federal recoverable coal reserves.

Note.—If coal is being produced from anywhere within the LMU boundary on the date of LMU approval, the 40-year clock begins on the effective date of LMU approval [§ 3487.1(e)(6)].

Special Note.—Section 2(d)(4) of MLA states: "The Secretary *may amend* the provisions of any lease included in a logical mining unit so that mining under that lease will be consistent with the requirements imposed on that logical mining unit." (Emphasis added.) The rules at § 3475.6(b) state: "When a lease is included in an LMU with other Federal leases or with interests in non-Federal coal deposits, the terms and conditions of the Federal lease or leases shall be amended so that they are consistent with *or are superseded* by the requirements imposed on the LMU of which it has become a part." (Emphasis added.) The rules at § 3487.1(e)(4) provide for "[t]he revision * * * of terms and conditions of the individual Federal leases included in the LMU * * * [by amendment of the Federal coal lease terms] so that they are consistent with the stipulations of the LMU." The LMU approval stipulations apply to all Federal and non-Federal coal and land contained in the approved LMU. The LMU approval stipulations "amend" the lease-specific diligence provisions by *superseding*, but *not suspending*, the lease-specific diligence provisions for the life-of-the-LMU. If the LMU were to fail for whatever reason, the individual, lease-specific diligence provisions would apply to the Federal coal leases as if they had never been included in an LMU. Therefore, the individual Federal coal lease terms are not to be altered by adjudicative action at the time of LMU approval.

VII. Diligence for LMU Operations

Any Federal coal lease included in an LMU shall be subject to the diligent development and continued operation requirements imposed on the LMU *in lieu* of those diligent development and continued operation requirements that would apply to the Federal coal lease individually [§ 3483.1(c)]. See also the Appendix D entitled "Notification to Lessees Regarding, and the Monitoring of, Diligent Development and Continued Operation."

There are several methods by which a Federal coal lease becomes subject to diligence, as currently implemented by the 1982 regulatory diligence system, without LMU formation

Note.—Hereafter, for the purposes of these guidelines only, these Federal coal leases will be referred to as "subject to diligence."[3]

1. Issuance after August 4, 1976;
2. Readjustment after August 4, 1976;
3. Modification (to *add* acreage and/or recoverable coal reserves) after August 4, 1976;
4. Revision to the Federal coal lease form, to include diligence provisions, at the request of the Department of the Interior in 1980; or,
5. Election in August 1982, to have a Federal coal lease(s) be subject to the 1982 regulatory diligence system (43 CFR Part 3480) *in lieu* of the Federal coal lease terms regarding minimum production and minimum royalty.

If production has occurred from any of these Federal coal leases, after the date they became "subject to diligence" and prior to their inclusion in the LMU, then the LMU diligent development must be cedited with the production. Such production can be credited *only* toward the LMU diligent development requirement [§ 3482.2(a)(3)]. If the total credit exceeds 1 percent of the LMU recoverable coal reserves, the LMU diligent development is deemed to have been achieved on the effective date of the LMU approval. Thereafter, the LMU is subject to continued operation, beginning the first LMU royalty reporting period following the effective date of the LMU approval.

A. Resource Recovery and Protection Plan

The R2P2 for the LMU is due within 3 years from the effective date of the most recent (recent is relative to date of LMU approval) Federal coal lease that is "subject to diligence" prior to LMU approval. If the LMU contains at least one Federal coal lease that is *not* "subject to diligence," and if there is no production occurring within the LMU boundary on the date of LMU approval, the R2P2 for the LMU is due within 3 years from the effective date of LMU approval.

Note.—If there is an approved R2P2 for at least one of the Federal coal leases to be included in the LMU, and if there is no

[3] Technically, all Federal coal leases are subject to some form of diligence. For example, for Federal coal leases issued prior to August 4, 1976, the Federal coal lease terms regarding minimum production/minimum royalty are a form of diligence. Therefore, "subject to diligence" means only those Federal coal leases that are subject to the 1982 regulatory diligence system which implements the diligence provisions of MLA, as amended by FCLAA in 1976.

production occurring within in the LMU boundary on the date of LMU approval, the LMU operator has 3 years from the effective date of the most recent Federal coal lease or, if applicable, 3 years from the effective date of LMU approval (see the preceding discussion), to submit either an R2P2 for the life-of-the-mine for the LMU, or a modification to the existing R2P2 that will cover the life-of-the-mine for the LMU.

Special Note.—The 3-year R2P2 submittal time frame for the LMU stops at the end of the 3-year anniversary of the most recent (recent is relative to LMU approval) Federal coal lease that became "subject to diligence" prior to LMU formation. However, if the LMU contains at least one Federal coal lease that is not "subject to diligence" prior to LMU formation, the 3-year R2P2 submittal time frame stops 3 years from the effective date of the LMU approval, *with two exceptions. First,* where the Federal coal lease that would control the 3-year time frame is older than 3 years at the time of LMU application, the R2P2 for the entire LMU must be submitted with the LMU application. This is because if the Federal coal lease's 3-year time frame were to govern, there would be a situation where the R2P2 for the LMU would have had to have been approved prior to the LMU application being submitted for approval. *Second,* and more importantly, if there are *ongoing mining operations on Federal or non-Federal coal* at the time of LMU approval, the R2P2 for the entire LMU must be submitted with the LMU application. This is because any production from anywhere within the LMU is applied toward the diligence obligations for the entire LMU. Therefore, in such an instance, the R2P2 for the LMU must be approved at the same time that the LMU is approved.

1. For *nonproducing* LMU's containing *at least one* Federal coal lease issued prior to August 4, 1976, that is not "subject to diligence" prior to LMU approval:

Example "a":

Lease "A" issued: March 1, 1971
Lease "B" issued: February 1, 1981
Lease "C" issued: January 2, 1982
LMU approved containing leases "A", "B", and "C": March 30, 1983
R2P2 for LMU due not later than: March 30, 1986

Example "b":

Lease "D" issued: April 9, 1957
Lease "E" issued: June 12, 1964
Lease "D" readjusted: April 9, 1977
Lease "F" issued: January 15, 1981
LMU approved containing leases "D", "E", and "F": May 10, 1983 [Lease "E" readjusted: June 12, 1984]
R2P2 for LMU due not later than: May 10, 1986.

2. For *nonproducing* LMU's containing *only* Federal coal leases that are "subject to diligence" prior to LMU approval (may also include non-Federal coal; i.e., the LMU contains *no* Federal coal leases that are *not* "subject to diligence"):

Example "a":

Lease "A" issued: July 7, 1977
Lease "B" issued: August 8, 1978
Lease "C" issued: September 9, 1982
LMU approved containing leases "A", "B", and "C": April 1, 1983
R2P2 for LMU due not later than: September 9, 1985

Example "b":

Lease "D" issued: June 6, 1960
Lease "E" issued: May 5, 1979
Lease "D" readjusted: June 6, 1980
Lease "F" issued: October 10, 1982
LMU approved containing leases "D", "E", and "F": April 2, 1983
R2P2 for LMU due not later than: October 10, 1985.

3. For *nonproducing* LMU's containing *only* Federal coal leases that have been "subject to diligence" for *more than 3 years* prior to LMU approval (may also include non-Federal coal; i.e., the LMU contains *no* Federal coal leases that are *not* "subject to diligence"):

Example:

Lease "A" issued: July 7, 1977
Lease "B" issued: August 8, 1978
Lease "C" issued: September 9, 1982
LMU approved containing leases "A", "B", and "C": April 1, 1986
R2P2 for LMU due at the time of submittal of the LMU application
R2P2 for LMU approved: April 1, 1986.

4. For LMU's containing either a *producing* Federal coal lease or *producing* non-Federal coal, the R2P2, *must be submitted at the time of LMU application.* The LMU may not be approved without a simultaneous approval of the R2P2.

B. Diligent Development

"One percent of the total LMU recoverable coal reserves (i.e., Federal and non-Federal) contained in the approved LMU must be produced prior to the end of the LMU diligent development period." [3480.0-5(a)(13)].

The total LMU recoverable coal reserves figure (from which the 1 percent LMU commercial quantities requirement is derived) is that number estimated by the responsible mining engineer and the AO as of the date of approval of the R2P2 submitted for all Federal and non-Federal coal included in the LMU [3487.1(e)(1)]. However, if there are ongoing mining operations under a previously approved R2P2 and SMCRA permit on Federal coal or under an approved SMCRA permit on non-Federal coal, the estimate of the LMU recoverable coal reserves must be made at the time of LMU approval, based on information submitted in the LMU application and R2P2 for the life-of-the-mine for the LMU so that LMU commercial quantities production requirements can be determined.

Any adjustment to the LMU recoverable coal reserves may be accomplished by the responsible mining engineer and the AO after consultation with the operator/lessee.

Special Note.—If the LMU recoverable coal reserves are adjusted during the 10-year, LMU diligent development period, based on new information or LMU modification, the 1 percent LMU recoverable coal reserves production requirement to achieve diligent development must also be adjusted and will be effective *immediately.* (See also the *SPECIAL NOTE* under section VII.F. regarding Continued Operation.)

C. Production Crediting

The total LMU recoverable reserves figure at the time of LMU approval includes the recoverable coal reserves from Federal lands and non-Federal lands, and any production credited toward Federal coal lease diligent development *prior to* inclusion in the LMU. The time frames, from which the LMU recoverable coal reserves are estimated, follow:

1. All non-Federal recoverable coal reserves at the time of LMU formation;

2. All Federal recoverable coal reserves remaining at the time of LMU formation for Federal coal leases not yet "subject to diligence;"

3. All Federal recoverable coal reserves determined by the responsible mining engineer and the AO (for Federal coal leases "subject to diligence") to have been in existence *on the effective date that each of those Federal coal leases became "subject to diligence," not* only those recoverable reserves remaining at the time of LMU formation; and,

4. All Federal coal, produced after August 4, 1976, that the operator/lessee has requested to be credited toward Federal coal *lease* diligent development *prior to* LMU formation (i.e., *prior-production* credits).

Any *prior production* credited, at the lessee's request, toward diligent development for a Federal coal lease *prior to* inclusion of that Federal coal lease in an LMU, must also be credited toward diligent development for the LMU [§ 3482.2(a)(3)].

Note.—A request to credit prior production for a Federal coal lease contained in an approved LMU, *cannot* be accepted while that Federal coal lease is contained in the LMU. *Prior-production* crediting is only allowed toward lease-specific diligent development [§ 3483.5 (d) and (e)]. Once a Federal coal lease is included in an LMU, the

LMU-specific diligence requirements supersede the lease-specific diligence requirements. Therefore, there is no provision for allowing *prior LMU-production* credits toward LMU-specific diligent development while the Federal coal leases are contained in the approved LMU. If prior production has been credited toward lease-specific diligent development *prior to* LMU formation, that production must be credited toward LMU-specific diligent development at the time of LMU approval [§ 3483.5(g)]

D. Federal Coal Lease vs. LMU Production Credits

Under § 3483.5 (a), (b), and (c), any *production occurring after* a Federal coal lease is "subject to diligence" is credited toward diligent development for the Federal coal lease. If that Federal coal lease is included in an LMU, any production credited toward lease-specific diligent development and/or continued operation prior to LMU formation is credited toward LMU-specific diligent development. Any production from a Federal coal lease after it is included in an approved LMU is credited toward *both* lease-specific and LMU-specific diligent development and/or continued operation, if the Federal coal leases individually are "subject to diligence."

If a Federal coal lease is not "subject to diligence," production is only credited toward the LMU-specific diligent development and/or continued operation. After that Federal coal lease becomes "subject to diligence," production is also credited toward the lease-specific diligent development and/or continued operation. Once the lease-specific or, if in an LMU, the LMU-specific diligent development is achieved, the Federal coal lease or LMU is subject to its specific continued operation requirement.

Both § 3483.5(d) and (e) allow for *prior-production* credits for Federal coal leases. Those prior-production credits, by regulation, can only be applied toward *lease-specific* diligent development. Once a Federal coal lease is included in an LMU, the LMU-specific diligence requirements supersedes the lease-specific diligence requirements. Therefore, in accordance with § 3483.5(g), *no prior-production* credits can be applied to a Federal coal lease or LMU *while that Federal coal lease is contained in an approved LMU.* [See also Appendix C regarding potential ramifications of LMU failure.]

If production to achieve diligent development is occurring from non-Federal recoverable coal reserves contained in the LMU, then the AO must require the submittal of certified production reports and maps for non-Federal as well as Federal portions of the LMU. Since production from non-Federal coal would be used to satisfy a Federal requirement imposed on the LMU, section 2(d) of MLA allows the AO to require submittal of such information. Also, since non-Federal production is being used to satisfy a Federal requirement imposed on the LMU, the responsible mining engineer must verify the non-Federal production as part of his inspection and enforcement responsibilities. This requirement is addressed in Appendix B–2, LMU Approval Stipulations, under item 1. "Supervision."

Special Note:—"*Federal* coal leases" means Federal coal leases on public or acquired lands *only*. "*Non-Federal* leases" includes Indian tribal, Indian allotted, fee/private, and State coal. This is an extremely important distinction for the following reason. Production from anywhere (Federal or non-Federal coal) within the LMU is construed as occurring on all *Federal* coal leases within the LMU. However, the reverse is not true. Federal production within an LMU is *not* construed as occurring on any *non-Federal* coal leases within the LMU. For example, if an Indian coal lease, the lease form of which states that the lease lasts as long as production continues, is contained in an LMU, production from *other* non-Federal coal or from Federal coal does *not* satisfy the Indian, lease-specific production requirement, unless the Indian lease document so specifies.

E. Diligent Development Period Start Dates

1. For LMU's containing *only* Federal coal leases that are "subject to diligence" prior to LMU approval (may also include non-Federal coal; i.e., the LMU contains *no* Federal coal leases that are *not* "subject to diligence"):

• The LMU diligent development period begins on the effective date that the most recent (recent is relative to date of LMU approval) Federal coal lease became "subject to diligence" prior to LMU approval [§ 3480.0–5(a)(14)(ii)(B)].

Example "a":

Lease "A" issued: July 7, 1977
Lease "B" issued: August 8, 1978
Lease "C" issued: September 9, 1979
LMU approved containing leases "A", "B", and "C": April 1, 1983
LMU diligent development period begins: September 9, 1979
Latest date to achieve LMU diligent development: September 9, 1989.

Example "b":

Lease "D" issued: June 6, 1960
Lease "E" issued: May 5, 1979
Lease "D" readadjusted: June 6, 1980
Lease "F" issued: October 10, 1982
LMU approved containing leases "D", "E", and "F": April 2, 1983
LMU diligent development period begins: October 10, 1982 [Lease "D" readjusted: June 6, 1990]
Latest date to achieve LMU diligent development: October 10, 1992.

2. For LMU's containing *at least one* Federal coal lease issued prior to August 4, 1976, that is not "subject to diligence" prior to LMU approval:

• The LMU diligent development period begins on the effective date of LMU approval (regardless whether the LMU also contains at least one Federal coal lease that is "subject to diligence" *prior to* LMU approval) [§ 3480.0–5(a)(14)(ii)(A)].

Example "a":

Lease "A" issued: March 1, 1971
Lease "B" issued: February 1, 1981
Lease "C" issued: January 2, 1982
LMU approved containing leases "A", "B", and "C": March 30, 1983
LMU diligent development period begins: March 30, 1983 [Lease "A" readjusted: March 1, 1991]
Latest date to achieve LMU diligent development: March 30, 1993

Example "b":

Lease "D" issued: April 9, 1957
Lease "E" issued: June 12, 1964
Lease "D" readjusted: April 9, 1977
Lease "F" issued: January 15, 1981
LMU approved containing leases "D", "E", and "F": May 10, 1983
LMU diligent development period begins: May 10, 1983 [Lease "E" readjusted: June 12, 1984] [Lease "D" readjusted: April 9, 1987]
Latest date to achieve LMU diligent development: May 10, 1993.

The LMU diligent development period stops at the end of the royalty reporting period in which production of 1 percent of the LMU recoverable coal reserves is achieved, or at the end of the 10-year diligent development period for the LMU, whichever comes first. Stated another way, the LMU diligent development period stops no later than the tenth anniversary of the Federal coal lease that governs the beginning of the LMU diligent development period [§ 3480.0–5(a)(14)]. In the preceding example, the governing Federal coal lease is Lease "B". Therefore, the LMU diligent development period begins on the date of LMU approval.

Note.—A pre-August 4, 1976, Federal coal lease that is not "subject to diligence" *prior to* LMU approval does *not* affect the lease-specific diligence provisions of any other Federal coal lease contained in the approved LMU. LMU diligence *supersedes* lease-specific diligence, it does *not suspend* lease-specific diligence. See the discussion below regarding LMU failure and Appendix C.

Note.—Sections VII.H. and VII.I. clarify the interrelationship of lease-specific advance royalty vs. LMU-specific advance royalty and the number of years for which advance royalty may be paid.

Failure to achieve LMU diligent development *automatically* results in the LMU being terminated. At that time, the Federal coal lease(s) reverts to its individual Federal coal lease terms that would otherwise have governed the Federal coal lease had it not been included in an LMU.

- If, for whatever reason, the LMU fails, the Federal coal lease(s) contained in that LMU reverts to the diligence provisions that would have applied to that Federal coal lease(s), if that Federal coal lease(s) had not been included in the LMU.
- As long as the Federal coal leases are contained in an approved LMU and that LMU is in compliance with the LMU-specific diligence provisions, failure of a Federal coal lease to satisfy its lease-specific diligence provisions is of no consequence because the LMU-specific diligence provisions *supersede* the lease-specific diligence provisions. However, the LMU-specific diligence provisions do *not suspend* the lease-specific diligence provisions.

Example:

Federal coal lease "A" issued: April 1, 1984
Federal coal lease "B" issued: June 18, 1986
LMU approved containing leases "A" and "B": July 15, 1988
LMU fails, for whatever reason: July 15, 1993
Latest date for Federal coal lease "A" to achieve diligent development: April 1, 1994
Latest date for Federal coal lease "B" to achieve diligent development: June 18, 1996.

- Even though Federal coal leases "A" and "B" were contained in the LMU for 5 years, the 10-year, lease-specific diligent development periods for Federal coal leases "A" and "B" were not suspended, they were just superseded. Federal coal leases "A" and "B" must achieve diligent development by April 1, 1994, and June 18, 1996, respectively, or they will be automatically terminated by law.

F. Continued Operation

"Once the operator/lessee of a Federal coal lease or LMU has achieved diligent development, the operator/lessee shall maintain continued operation on the Federal lease or LMU for every continued operation year thereafter, except as provided in § 3483.3." [§ 3483.1(a)(2)].

1. The first LMU continued operation year begins on the first day of the royalty reporting period immediately following the royalty reporting period in which LMU diligent development was achieved. A continued operation year ends on the last day of the royalty reporting period that completes the 12-month period.

2. At least 1 percent of the *total* LMU recoverable coal reserves (Federal *and* non-Federal) must be produced *each* continued operation year for the first 2 continued operation years following the achievement of diligent development. Thereafter, 1 percent of the LMU recoverable coal reserves must be produced for each following continued operation year, averaged on 3-year intervals (i.e., the continued operation year in question, averaged with the two preceding continued operation years).

Note.—Any adjustment to the LMU recoverable coal reserves may be accomplished by the AO after consultation with the operator/lessee.

Special Note.—If the LMU recoverable coal reserves are adjusted during the course of any continued operation year, based on new information or LMU modification, the 1 percent LMU recoverable coal reserves production requirement to maintain continued operation must also be adjusted and will be effective *beginning the next continued operation year.* (See also the *SPECIAL NOTE* under VII.B. regarding Diligent Development.)

G. Advance Royalty

Advance royalty, accepted *in lieu* of continued operation for an LMU, is paid in an amount equivalent to the production royalty that would be owed on 1 percent of the *Federal* LMU recoverable coal reserves. For LMU's, the advance royalty rate is 8 percent if the Federal LMU recoverable coal reserves will be mined only by underground mining methods. The advance royalty rate is 12½ percent if the Federal LMU recoverable coal reserves will be mined only by other methods or a combination of methods [§ 3483.4(c)].

If some production has occurred, but that production is insufficient to maintain continued operation, then advance royalty must be paid. The amount of the advance royalty is assessed on the *difference* between the coal actually produced and the production that would have been required to maintain continued operation.

If an operator knows that, in the forthcoming continued operation year, he will not produce the required 1 percent, the operator must apply to the AO for approval to pay advance royalty for that year [§ 3483.4(a)]. Such request must be made no later than 30 days after the beginning of that continued operation year [§ 3483.4(b)].

If an operator requests authorization *later than* 30 days after the beginning of that continued operation year, the AO *may* condition his approval of the advance royalty payment on the payment of a late-payment charge on the amount of the advance royalty due [§ 3483.4(b)]. This provision allows for those instances where the operator is producing but, for whatever reason, fails to produce the required 1 percent of the LMU recoverable coal reserves during a continued operation year. The late payment charge, if required, shall be calculated by the Minerals Management Service in accordance with 30 CFR 218.200.

Production from anywhere within an LMU is construed as occurring on all Federal coal leases within the LMU; *this does not apply vice versa* (see the *SPECIAL NOTE* in VII.D. regarding "Federal" vs. "non-Federal" coal leases). Therefore, if *LMU* continued operation is not met, some advance royalty is due, prorated against the amount of Federal vs. non-Federal recoverable coal reserves in the LMU, regardless whether production was greater than 1 percent of the Federal portion of that LMU. The LMU ADVANCE ROYALTY FORMULA, based on such prorating, was developed to determine the amount of advance royalty due (see VII.H. below).

For example, if an LMU contains Federal recoverable coal reserves of 25 million tons and non-Federal recoverable coal reserves of 75 million tons, the 1 percent commercial quantities requirement is 1 million tons; however, the advance royalty is based on only 250,000 tons. If during a continued operation year only 500,000 tons were produced, the LMU continued operation requirement would not have been met. Therefore, advance royalty is due. Again LMU advance royalty is based only on the *Federal* portion of the total LMU recoverable coal reserves.

H. Amount of Advance Royalty Due

As with nonproducing Federal coal leases, nonproducing LMU's can satisfy the condition of continued operation by payment of advance royalty *either:* (1) During the continued operation year in question or, (2) averaged over a 3-year period (the continued operation year in question plus the 2 preceding continued operation years). As long as the condition of continued operation is being satisfied by payment of advance royalty in *either* instance, the LMU is in

compliance with the condition of continued operation.

In order to determine the amount of LMU advance royalty due, use the following:

1. Was 1 percent produced during the continued operation year?
   a. Yes, no advance royalty due.
   b. No, go to 2.
2. Was 3 percent or more produced during the continued operation year plus the 2 preceding continued operation years, thereby satisfying the regulatory 3-year rolling average provision?
   a. Yes, no advance royalty due.
   b. No, advance royalty *is* due.

Note.—For the first 2 LMU continued operation years, *advance royalty is paid on* 1 percent of the *Federal LMU* recoverable coal *reserves prorated against* the *total LMU* recoverable coal *reserves*. Thereafter, advance royalty is paid on 1 percent of the prorated Federal LMU recoverable coal reserves for the continued operation year in question *or* 3 percent of the prorated Federal LMU recoverable coal reserves for the continued operation year plus the 2 preceding continued operation years, *whichever is less.*

LMU Advance Royalty Formula

$$ARD = [COPR - COYP] \times \frac{ARB}{COYR} \times ARR \times UV$$

Where ARD = Advance Royalty Due
COYR = Continued Operation Year *Production Requirement* (i.e., 1 percent of total recoverable coal reserves, Federal plus non-Federal, in LMU)
COYP = *Total LMU Production Achieved,* Federal plus non-Federal, During Continued Operation Year
ARB-Advance Royalty Base (i.e., 1 percent of *Federal recoverable coal reserves* in LMU)
ARR = LMU Advance Royalty Rate (e.g., 12½ percent, or 8 percent, as applicable)
UV = Unit Value (determined under § 3485.2(g))

Note.—The COYR equals 1 percent of the *total* LMU recoverable coal reserves. The ARB equals 1 percent of the *Federal* recoverable coal reserves in the LMU. Therefore, COYR and ARB are equal *only if* the LMU contains no non-Federal coal.

The ARB and COYP are LMU-specific, regardless from which coal the conditions were being satisfied. If the LMU is in the 3-year rolling average for continued operation, a determination must be made as to whether the LMU produced 1 percent in the continued operation year in question *or* an average of 1 percent during the continued operation year in question plus the 2 preceding continued operation years.

To determine the amount of advance royalty due for an LMU, compare the *total tons* that should have been produced to maintain continued operation for the year in question with the *total tons* that should have been produced to maintain continued operation for the 3-year period consisting of the continued operation year in question plus the 2 preceding continued operation years. The LMU advance royalty due will be assessed on the lesser of the two amounts. After determining which of the two is the lesser *total tons* that would satisfy either condition of continued operation, use the LMU ADVANCE ROYALTY FORMULA to determine the amount due.

If the LMU is in one of its first 2 continued operation years, advance royalty must be paid for the continued operation year in question. The following formula shows how that calculation must be made. The formula incorporates the concept that, for LMU's, advance royalty is only owed on the prorated Federal portion of the total LMU recoverable coal reserves.

If the 3-year rolling average results in the lesser *total tons* the LMU ADVANCE ROYALTY FORMULA term "[COYR – COYP]" is calculated as follows:

COYR = 3 Continued Operation Years' *Production Requirement* (i.e., 3 percent of *total recoverable coal reserves,* Federal plus non-Federal, in LMU)
COYP = *Total LMU Production Achieved,* Federal plus non-Federal, During the Continued Operation Year *plus* the 2 Preceding Continued Operation Years

The rest of the LMU ADVANCE ROYALTY FORMULA remains unchanged.

The following shows one example of how the LMU ADVANCE ROYALTY FORMULA can be used to determine the amount of advance royalty due.

Example: Assume the total LMU recoverable coal reserves are 100,000,000 tons and the total Federal recoverable coal reserves are 75,000,000 tons. The 1 percent commercial quantities requirement is 1,000,000 tons. The LMU has achieved diligent development.

Continued Operation Year (COY)	1	2	3	4	5	6	7	8	9
Recoverable Coal Reserves Produced (Million Tons)	1.0	1.0	5.0	0.0	0.5	1.8	0.8	0.2	0.3
Production on which Advance Royalty Due (Million Tons)	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.2	0.7

Is advance royalty due and, if so, on what percent of the Federal recoverable coal reserves is the advance royalty to be paid?

COY–1: 1,000,000 tons produced, no advance royalty due.

COY–2: 1,000,000 tons produced, no advance royalty due.

COY–3: 5,000,000 tons produced, no advance royalty due.

COY–4: 0 tons produced, no advance royalty due.
COY–2 + COY–3 + COY–4 = 6,000,000 tons.
Therefore, the LMU has produced more than 3,000,000 tons over the 3 years in question; no advance royalty due.

COY–5: 500,000 tons produced, is advance royalty due?
COY–3 + COY–4 + COY–5 = 5,500,000 tons.
Therefore, the LMU has produced more than 3,000,000 tons over the 3 years in question; no advance royalty due.

COY–6: 1,800,000 tons produced, no advance royalty due.

COY–7: 800,000 tons produced, is advance royalty due?
COY–5 + COY–6 + COY–7 = 3,100,000 tons.
Therefore, the LMU has produced more than 3,000,000 tons over the 3 years in question; no advance royalty due.

COY–8: 200,000 tons produced, is advance royalty due?
COY–8 production is less than 1,000,000 tons.
COY–6 + COY–7 + COY–8 = 2,800,000 tons.
Therefore, the LMU has also not produced more than 3,000,000 tons over the 3 years in question; on what amount of production is advance royalty due?
COY–8: 1.0–0.2 = 800,000 tons.
COY–6/COY–7/COY–8:
3,000,000 – 2,800,000 = 200,000 tons.
Advance royalty must be paid on *200,000* tons, times the Advance Royalty Base, divided by *1,000,000* tons. This is the *lesser amount* required to satisfy either condition of continued operation.

$$ARD = [COYR - COYP] \times \frac{ARB}{COYR} \times APP \times UV$$

Because the *3-year rolling average concept applies* for COY–8,

[COYR – COYP] = [3,000,000 tons – 2,800,000 tons] = *200,000 tons*
COYR = 1,000,000 tons

ARB = 0.01 × 75,000,000 tons = 750,000 tons

Therefore:

$$ARD = [200{,}000 \text{ tons}] \times \frac{750{,}000 \text{ tons}}{1{,}000{,}000 \text{ tons}} \times ARR \times UV$$

COY–9: 300,000 tons produced, is advance royalty due?
COY–9 production is less than 1,000,000 tons.
COY–7 + COY–8 + COY–9 + 1,300,000 tons.
Therefore, the LMU has also not produced more than 3,000,000 tons over the 3 years in question; on what amount of production is advance royalty due?

COY–9: 1,000,000 − 300,000 = 700,000 tons.
COY–7/COY–8/COY–9:
3,000,000 − 1,300,000 = 1,700,000 tons.
Advance royalty must be paid on *700,000* tons, times the Advance Royalty Base divided by *1,000,000* tons. This is the *lesser amount* required to satisfy either condition of continued operation.

$$ARD = [COYR - COYP] \times \frac{ARB}{COYR} \times ARR \times UV$$

Because the *continued operation year in question applies* for COY–9,
[COYR − COYP] = [1,000,000 tons − 300,000 tons] = *700,000 tons*

COYR = 1,000,000 tons
ARB = 0.01 × 75,000,000 tons = 750,000 tons
Therefore:

$$ARD = [700{,}000 \text{ tons}] \times \frac{750{,}000 \text{ tons}}{1{,}000{,}000 \text{ tons}} \times ARR \times UV$$

Note.—See Appendix C for a discussion of potential ramifications of LMU failure.

I. Number of Times Advance Royalty May Be Paid for LMU's

Advance royalty can only be paid a total of 10 times. This is true regardless whether it is being paid *in lieu* of lease-specific or LMU-specific continued operation. However, the number of years for which LMU advance royalty may be paid is governed by the Federal coal lease that is *least harmful* to the LMU.

Note.—This specific condition is the only LMU, diligence-governing situation that *may* not be tied to the most recent (recent is relative to LMU approval) Federal coal lease that is "subject to diligence" prior to LMU formation. That is, the Federal coal lease with the fewest number of years for which advance royalty has been paid dictates the number of times that advance royalty can be paid for the LMU.

Example "a": LMU formed containing two Federal coal leases that are "subject to diligence." One of the Federal coal leases has paid advance royalty twice, the other has not paid advance royalty. How many times may advance royalty be paid for the LMU? *Ten.* This is because LMU diligence requirements supersede lease-specific diligence requirements for the duration of the LMU. Since one Federal coal lease has not paid advance royalty prior to LMU formation, it can have advance royalty paid for it ten times. Therefore, so can the LMU.

Example "b": LMU formed containing two Federal coal leases that are "subject to diligence." One of the Federal coal leases has paid advance royalty three times, the other has paid four times. How many times may advance royalty be paid for the LMU? *Seven.* This is because LMU diligence requirements supersede lease-specific diligence requirements for the duration of the LMU. The Federal coal lease with the fewest number of advance royalty payments dictates the number of times that advance royalty may be paid for the LMU.

Example "c": LMU formed containing two Federal coal leases; one is "subject to diligence," the other is not "subject to diligence." The one that is "subject to diligence" has paid advance royalty ten times. How many times may advance royalty be paid for the LMU? *Ten.* This is because KMU diligence requirements supersede lease-specific diligence requirements for the duration of the LMU. The Federal coal lease that is not "subject to diligence" has never had the option to pay advance royalty *in lieu* of continued operation; therefore, the LMU has the full ten times that advance royalty may be paid *in lieu* of LMU continued operation.

Note.—The *date* that the Federal coal leases, individually, became "subject to diligence" prior to LMU formation *does not affect* the number of times that advance royalty may be paid for an LMU.

Special Note.—See Appendix C concerning potential ramifications of LMU failure.

J. Initial 20-Year Period Available for Payment of Advance Royalty for LMU's

Advance royalty can *only* be paid during the initial 20-year period that a Federal coal lease is "subject to diligence." This limitation carries over to LMU's, where the LMU 20-year period is dictated by the most recent (recent is relative to LMU approval) Federal coal lease that is "subject to diligence" prior to LMU formation. The end of this initial 20-year period available for the payment of advance royalty is dictated by the fact that a Federal coal lease is effective " * * * for twenty years and for so long thereafter as coal is produced annually in commercial quantities * * *." 30 U.S.C. 207(a). Therefore, no advance royalty can be paid after the initial 20-year period has expired. Similarly, advance royalty paid during that initial 20-year period cannot be credited against production royalty after that initial 20-year period has expired.

The initial 20-year period for each individual Federal coal lease starts on the effective date that the Federal coal lease becomes "subject to diligence." The most recent (recent is relative to LMU approval) date of all Federal coal leases contained in the LMU dictates how many years of an initial 20-year period are left for the LMU.

1. For LMU's containing *only* Federal coal leases that are "subject to diligence" prior to LMU approval (may also include non-Federal coal; i.e., the LMU contains *no* Federal coal leases that are *not* "subject to diligence"):

Example "a":

Lease "A" issued and begins its initial 20-year period: July 7, 1977.

Lease "B" issued and begins its initial 20-year period: August 8, 1978.

Lease "C" issued and begins its initial 20-year period: September 9, 1982.

LMU approved containing leases "A", "B", and "C": April 1, 1983.

LMU initial 20-year period begins: September 9, 1982.

[Lease "A" readjusted: July 7, 1997.]

[Lease "B" readjusted: August 8, 1998.]

[Lease "C" readjusted: September 9, 2002.]

LMU initial 20-year period ends: September 9, 2002.

Example "b":

Lease "D" issued: June 6, 1960.

Lease "E" issued and begins its initial 20-year period: May 5, 1979.
Lease "D" readjusted and begins its initial 20-year period: June 6, 1980.
Lease "F" issued and begins its initial 20-year period: October 10, 1982.
LMU approved containing leases "D", "E", and "F": April 2, 1983.
LMU initial 20-year period begins: October 10, 1982.
[Lease "D" readjusted again: June 6, 1990.]
[Lease "E" readjusted: May 5, 1999.]
[Lease "D" readjusted again: June 6, 2000.]
[Lease "F" readjusted: October 10, 2002.]
LMU initial 20-year period ends: October 10, 2002.

2. For LMU's containing *at least one* Federal coal lease issued prior to August 4, 1976, that is not "subject to diligence" prior to LMU approval:
Example "a":
Lease "A" issued: March 1, 1971.
Lease "B" issued and begins its initial 20-year period: February 1, 1981.
Lease "C" issued and begins its initial 20-year period: January 2, 1982.
LMU approved containing leases "A", "B", and "C": March 30, 1983.
LMU initial 20-year period begins: March 30, 1983.
[Lease "A" readjusted and begins its initial 20-year period: March 1, 1991.]
[Lease "B" readjusted: February 1, 2001.]
[Lease "A" readjusted again: March 1, 2001.]
[Lease "C" readjusted: February 2, 2002.]
LMU initial 20-year period ends: March 30, 2003.
Example "b":
Lease "D" issued: April 9, 1957.
Lease "E" issued: June 12, 1964.
Lease "D" readjusted and begins its initial 20-year period: April 9, 1977.
Lease "F" issued and begins its initial 20-year period: January 15, 1981.
LMU approved containing leases "D", "E", and "F": May 10, 1983.
LMU initial 20-year period begins: May 10, 1983.
[Lease "E" readjusted and begins its initial 20-year period: June 12, 1984.]
[Lease "D" readjusted again: April 9, 1987.]
[Lease "E" readjusted again: June 12, 1994.]
[Lease "D" readjusted again: April 9, 1997.]
[Lease "F" readjusted: January 15, 2001.]
LMU initial 20-year ends: May 10, 2003.

VIII. LMU Modifications

The boundaries of an LMU may be modified upon application by the operator/lessee and approval by the AO, or the AO may direct that the LMU be modified; the AO may adjust the estimate of LMU recoverable coal reserves either upward or downward, based on new information such as a previously undetected fault that renders some of the LMU recoverable coal reserves unminable; the LMU may be enlarged by the addition of other Federal coal leases, with interests in non-Federal coal, or both; and, the LMU boundaries may also be enlarged as a result of the enlargement of a Federal coal lease. The LMU may be diminished by the deletion (e.g., assignment or relinquishment) of other Federal coal leases, deletion of non-Federal coal, or both; and, the LMU may be diminished as a result of the diminishment of a Federal coal lease (e.g., partial assignment).

1. Based on new information, any adjustment to the LMU recoverable coal reserves may be accomplished by the AO after consultation with the operator/lessee. For example, if development drilling shows that the initial LMU recoverable coal reserves estimate was too small, as verified by the responsible mining engineer, the AO shall notify the LMU operator of the revised LMU recoverable coal reserves estimate and the revised LMU commercial quantities requirements. These data must also be updated in the Solid Leasable Minerals System LMU data base. The LMU recoverable coal reserves, upon which the 1 percent commercial quantities requirement is based, *cannot decrease due to production* from the LMU.

2. If the LMU recoverable coal reserves are adjusted, based on new information or LMU modification, prior to the LMU achieving diligent development, the 1 percent LMU commercial quantities requirement must also be adjusted, effective on the date of the adjustment or LMU modification. However, the LMU 10-year diligent development period is *not* extended by an LMU modification.

• If unmined LMU recoverable coal reserves are *decreased* by the adjustment or modification, the LMU may already have produced 1 percent of the new LMU recoverable coal reserves figure; thus, the LMU would be deemed to have achieved diligent development on the effective date of the adjustment or modification. In this case, the first continued operation year would begin on the first LMU royalty reporting period following the effective date of the adjustment or modification. In this case, the first continued operation year would begin on the first LMU royalty reporting period following the effective date of the adjustment or modification. See also the discussion on DILIGENCE FOR LMU OPERATIONS.

3. The 40-year LMU recoverable coal reserves exhaustion date, that has already been determined due to the commencement of production from the approved LMU, cannot be extended due to the subsequent enlargement or diminishment of the LMU recoverable coal reserves [§ 3487.1(g)(4)], or based on new information that results in the revision of the LMU recoverable coal reserves. For example, were an LMU to be approved that contained the original LMU and other lands, the new LMU would still have the same 40-year mine-out requirement date as the original LMU. If land and/or recoverable coal reserves are added or deleted from the LMU, the 40-year requirement is unaffected. The effect of adding or deleting recoverable coal reserves and the LMU commercial quantities requirement for LMU-specific diligent development and continued operation.

IX. LMU Failure/Cancellation

An LMU may fail for various reasons. Appendix C addresses LMU failure based on several of these reasons. An LMU may be cancelled by State Director Decision, for just cause, stating the cause of the cancellation.

An LMU may be cancelled upon application of the operator/lessee and approval by the AO. For example, if an LMU contains one Federal coal lease and non-Federal coal, and if all of the Federal recoverable coal reserves have been mined out, there normally is no reason for continuation of the LMU. As long as the operator/lessee has complied with all applicable statutes, such as the reclamation obligations pursuant to SMCRA, and as long as the Federal coal lease royalty management account is in good standing, the operator/lessee may then apply for Federal coal lease relinquishment.

Upon cancellation of an LMU, the Federal coal leases are again "subject to diligence" on an individual, lease-specific basis. The lease-specific diligence provisions are those that would have applied to the Federal coal leases as if they had never been included in an approved LMU. See also Appendix C regarding potential ramifications of LMU failure.

X. General Statement on Processing LMU Applications

As stated in the Department's Draft Guidelines on section 2(a)(2)(A) of MLA (50 FR 6398, 6406), BLM will develop rules to provide for the timely processing of "* * * LMU's within a

specific period of time that will be established in the rules."

Appendix A–1—Example Notification Letter to Non-Federal Surface, or Non-Federal Coal, Owner

Must Be Mailed Certified, Return Receipt Requested

[Surface Owner]

[Address]

Dear Mr./Ms. ———:

Enclosed is a copy of a public notice of availability and proposed effective date for a logical mining unit (LMU) [modification (if appropriate)] for [insert the number of] Federal coal leases [and private and/or State lands and/or Indian lands (if there are any non-Federal lands to be included in the LMU)], part of which you are the surface [and/or coal (if appropriate)] owner. The LMU applicant has informed us that he has an agreement in the form of [insert the type of agreement: e.g., legal document, copy of a letter of agreement between the LMU applicant and the surface and/or coal owner] providing him effective control of the lands [and coal (if appropriate)] within the proposed LMU [modification (if appropriate)] boundaries. The lands stated to be covered by the agreement are contained in the public notice of availability. If you have any comments concerning the approval of this LMU application [modification to the approved LMU (if appropriate)], please inform this office within 30 days from receipt of this letter.

Sincerely yours,

[Authorized Officer]

Enclosure.
[Notice of Availability.]

Appendix A–2—Example Notice Incorporating Both the Notice of Availability and Notice of Proposed Decision

Notice

APPLICATION FOR LOGICAL MINING UNIT [MODIFICATION (if appropriate)] APPROVAL AND PROPOSED EFFECTIVE DATE OF APPROVAL [if both notices are combined, as in this example]

The [insert the appropriate name of the] Office of the Bureau of Land Management has received an application from [insert the name and address of the LMU applicant] for a logical mining unit (LMU) [modification of an approved LMU (if appropriate)] in accordance with 43 CFR Part 3487. The application for the proposed LMU [modification (if appropriate)] is available for review at [insert the address of the responsible BLM Office].

The proposed LMU [modification (if appropriate)] contains lands from [insert the number of] Federal coal leases [and non-Federal lands (if appropriate)]. The descriptions of the lands contained within each Federal coal lease [and other lands (if appropriate)] and which are to form the LMU [modification (if appropriate)] are as follows:

Federal coal		Land Description
Lease No.	Acreage	[in Principle Meridian/T [Township/Range/Section/] [Lot or, if appropriate,] [Latitude/Longitude/] [Metes/Bounds]
Non-Federal		
Lands	Acreage	[description, as above]

Total acreage: [Sum of the above].

The approval of this application is proposed to be effective [insert the date of the LMU application or other date, as appropriate (see **Special Note** in Section V.)].

Any comments concerning the approval of this LMU application [modification (if appropriate)] should be sent, within 14 days of this notice, to:

[Originating BLM Office]

[Address]

Appendix A–3—Example Notification Letter to Federal or State Agency

Must Be Mailed Certified, Return Receipt Requested

[Federal (or State) Agency]
[Address]

Dear Mr./Ms. ———: Enclosed is a copy of a public notice of availability and proposed effective date for a logical mining unit (LMU) [modification (if appropriate)] for [insert the number of] Federal coal leases [and non-Federal lands (if appropriate), located in [State name(s)].

According to 43 CFR Part 3487, a notice of availability for any proposed LMU or proposed modification to an approved LMU shall be sent to appropriate Federal and State Agencies. If you have any questions regarding this LMU application [proposed modification to the approved LMU (if appropriate)], please telephone [name of the Authorized Officer] directly at [commercial telephone number], FTS ——. If you have any comments on this LMU application [proposed modification to the approved LMU (if appropriate)], Please send them to [originating BLM Office address] within 14 days.

Sincerely yours,
[Authorized Officer]
Enclosure
[Notice of Availability]

Appendix A–4—Example Notification Letter to County Clerk

Must be Mailed Certified, Return Receipt Requested

[Name]
County Clerk, [Name of] County
[Address]

Dear Mr./Ms. ———: Enclosed is a copy of a public notice of availability and proposed effective date for a logical mining unit (LMU) [modification (if appropriate)] for [insert the number of] Federal coal leases [and non-Federal lands (if appropriate)], part [All (if appropriate)] of which is located in [name of] County.

According to 43 CFR 3481.2, a notice of availability for any proposed LMU or proposed modification to an approved LMU shall be posted for public viewing in appropriate County Offices in the County or Counties in which the proposed LMU [modification (if appropriate)] is located.

Please post a copy of this letter and notice in your office for 30 days, beginning upon receipt of this letter. If your have any questions regarding this LMU application [proposed modification to the approved LMU (if appropriate)], please contact [name of the Authorized Officer] on [commercial telephone number]. If you have any comments on this LMU application [proposed modification to the approved LMU (if appropriate)], please send them to [originating BLM Office address] within 14 days.

Thanks you for your time and consideration.

Sincerely yours,
[Authorized Officer]
Enclosure
[Notice of Availability]

Appendix A–5—Example Notification Letter to Newspaper

Must be Mailed Certified, Return Receipt Requested

Publisher: [Name of] Newspaper
[Address]

Dear Sir or Madam: Enclosed are three copies of the *Advertising Order*, Form SF–1143, Public Voucher for Advertising appears on the reverse of the *Advertising Order* and should be used by you for the purpose of settling accounts for amounts due.

To facilitate the settling of accounts, please furnish a copy of each publication to the above address, attention: [Name of Authorized Officer]. Include with this published copy all charges for publication. These charges should be placed on the Public Voucher form, as stated on the form.

Failure to comply with the above requirements may prevent or delay the settlement of your account.

Thank you for your time and consideration.

Sincerely yours,
[Authorized Officer]
Enclosures
[Advertising Order]
[Notice of Availability]

Appendix B–1—Notification, to LMU Applicants, of LMU Approval Stipulations, and Request for LMU Applicant Acceptance

Must be Mailed Certified, Return Receipt Requested

In Reply Refer To:
[Appropriate Code]
[List of Federal]
[Coal Lease Serial]
[Number(s)]
[LMU Applicant Name and Address]

Dear Mr./Ms.———: We have completed our review of your logical mining unit (LMU) application [application to modify your logical mining unit (LMU) (if appropriate)], and have determined that it is in conformance with the basic approval criteria

for LMU's. This determination is based on the following:

1. The LMU recoverable coal reserves are capable of being developed in an efficient, economical and orderly manner as a unit, with due regard to conservation of the recoverable coal reserves and other resources. [Insert a statement listing or discussing the criteria the AO used to arrive at this conclusion; e.g., "This statement is based on review by the responsible mining engineer of the LMU application and proposed sequencing and scheduling of development."]

2. All lands in the LMU are under the effective control of a single operator. [Insert justification statement; for example, cite the agreement of, or designation statement for, the designated operator and include the designated operator's name.]

3. All lands within the LMU will be developed and operated as a single operation. [Insert justification statement.]

4. All lands within the LMU boundaries are contiguous. [Insert justification statement; e.g., "A review of the legal land-descriptions for all land and coal shows that the lands and coal have at least one point in common."]

5. Mining operations will achieve maximum economic recovery of the Federal recoverable coal reserves within the LMU. [Insert brief justification statement.]

6. No Federal coal leases to be included in this LMU are included in another LMU. [Otherwise, the AO must segregate such Federal coal leases into two or more Federal coal leases.]

7. The *total* acreage of the proposed LMU does not exceed 25,000 acres. [Insert justification statement in the same format as in number 4. above.]

8. [If only a portion of a Federal coal lease is to be included in the LMU, a statement must be made that the remaining land must be segregated into another Federal coal lease or that the operator may apply to relinquish the remaining land in accordance with 43 CFR 3452.1, or may apply to assign the remaining land in accordance with 43 CFR Part 3453.]

Enclosed are two copies of the stipulations of approval for your LMU application [application to modify your approved LMU (if appropriate)]. If we do not receive a response from you within 30 days of your receipt of this letter, we will assume that you no longer want to have the LMU formed [modified (if appropriate)], and the Federal coal leases [existing LMU (if appropriate) will remain subject to their (its (if appropriate)] individual Federal coal lease [LMU (if appropriate)] terms. If you concur with the stipulations, please sign and date both copies and return one original to this office. The LMU [modification (if appropriate)] will be effective on [insert the date that is 30 days after the first newspaper publication of the notice of availability and proposed decision], unless a public hearing is requested. If a public hearing is requested, the effective date of LMU approval [approval of the LMU modification (if appropriate)] will be dependent on the results of that hearing. If you have any questions, please contact [Name of Authorized Officer] of this Office at [insert commercial telephone number].

Sincerely,

[State Director]

Enclosure: 2 copies of [Name] Logical Mining Unit Stipulations.

Note.— The *name* of the LMU should be the mine name to be] [associated with the LMU. If there is no mine name, use] [another identifier that would enable the name of the LMU] [to be distinctive. This is necessary because an operator] [may have two LMU's near each other. This is *not* the LMU] [*number*, which is assigned by WO-660 in the Solid Leasable] [Minerals System data base.

Appendix B-2—[Name (see Note at End of This Appendix)] Logical Mining Unit Stipulations

1. Supervision

The District Manager located at Bureau of Land Management, [insert appropriate office address], is responsible for the review and approval of exploration plans and operations, and modifications thereto, prior to the commencement of mining operations within a permit area approved pursuant to the Surface Mining Control and Reclamation Act of 1977. That District Manager is also responsible for review and approval of resource recovery and protection plans and modifications thereto. That District Manager is also responsible for inspection and enforcement, including production verification, of such operations and all lands and all coal within the logical mining unit (LMU) and for implementing all other applicable provisions of the 43 CFR Group 3400 rules.

2. Resource Recovery and Protection Plan

In accordance with the requirements of 43 CFR 3482.1(b), [insert name of LMU applicant] shall submit a resource recovery and protection plan (R2P2) to the District Manager no later than [insert the date that is 3 years from the effective date that the most recent Federal coal lease became "subject to diligence" prior to the proposed effective date of the LMU approval (or, if the LMU will contain at least one Federal coal lease that is not "subject to diligence" prior to LMU approval, insert the date that is 3 years from the proposed effective date of the LMU approval). See the guidelines—VII.A.3. for an exception that requires the R2P2 to be submitted prior to LMU approval; that R2P2 must be approved at the time of LMU approval.]. The R2P2 must contain all the requirements of 43 CFR 3482.1(c) for the life-of-the-mine for the LMU. If there is a previously approved R2P2 for at least one Federal coal lease contained in the LMU, [insert name of LMU applicant] may opt to submit an R2P2 for the entire LMU or submit a modification to the existing R2P2 to enable it to cover the life-of-the-mine for the LMU. If [insert name of LMU applicant] decides to modify the existing R2P2, such modification shall be submitted to the District Manager within 3 years from the date listed above. If production is occurring from anywhere within the LMU, the R2P2 must be submitted for approval prior to approval of the LMU; that R2P2 must be approvable and be approved at the time the LMU is approved.

3. Diligent Development and Continued Operation

Pursuant to 43 CFR 3480.0-5(a)(14)(ii)[(A)], the diligent development period for the LMU begins on the effective date of LMU approval [(OR) (B), the diligent development period for the LMU began on [insert the effective date that the most recent Federal coal lease became "subject to diligence" prior to the effective date of LMU approval

Note.—Paragraph (A) applies if at least one of the Federal coal leases to be included in the LMU was issued prior to August 4, 1976, and is not yet "subject to diligence." Paragraph (B) applies in all other cases.]]. Therefore, the LMU must have production of commercial quantities before [insert the date that is 10 years from the effective date of the 10-year diligent development period as stated in the previous sentence.] [Name of LMU applicant] must mine [insert 1 percent of the estimated *total* Federal and non-Federal recoverable coal reserves] from anywhere within the LMU to achieve diligent development and, thereafter, to maintain continued operation or request to be allowed to pay advance royalty in lieu of continued operation.

4. Advance Royalty

The number of years for which advance royalty may be paid *in lieu* of continued operation is [insert the maximum number of years that is left for the Federal coal leases considered individually (see section VII. I. of these guidelines)]. Advance royalty may be paid *in lieu* of continued operation only until [insert the date that is 20 years from the date that the most recent Federal coal lease became "subject to diligence" (see section VII. J. of these guidelines)]. No advance royalty paid prior to that date may be credited against production royalty after that date.

5. Reporting Period

The rental amount for each Federal coal lease is to be prorated to the effective date of the LMU. Thereafter, the LMU rentals for all Federal coal leases within the LMU will be due in lump sum on each annual anniversary of the effective date of LMU approval. Upon approval and for the duration of this LMU, no Federal rentals may be credited against production royalties for any Federal coal lease contained in the LMU, the Federal coal lease terms of which allowed for such credits prior to the effective date of the LMU.

Royalties for Federal recoverable coal reserves produced within the LMU will be paid in lump sum, identified by individual Federal coal lease on the Coal Production and Royalty Reporting Form 9-373A

Note.—When Royalty Management of the Minerals Management Service obtains approval for a new form and number, this title and number must be changed to reflect that new form.

every royalty reporting period. The LMU royalty reporting period will be on a monthly basis beginning the royalty reporting period after the date that coal is first produced from the LMU, following the effective date of LMU approval. If coal is being produced on the

effective date of LMU approval, the first royalty reporting period will begin the first day of the month following the effective date of the LMU approval. Since all production within an LMU is credited to the entire LMU, a certified record of all non-Federal LMU coal production must be provided to the District Manager every royalty reporting period. Progress maps and reports required by 43 CFR 3482.3 shall show *all* Federal *and* non-Federal production from anywhere within the LMU.

6. Recoverable Coal Reserves Exhaustion

The 40-year LMU recoverable coal reserves exhaustion period commences the date that coal is first produced from the LMU, following the effective date of LMU approval. If there is production occurring within the LMU on the effective date of LMU approval, the 40-year clock begins on the effective date of LMU approval.

7. Other

If the LMU, of which this [these (if appropriate)] Federal coal lease is [leases are (if appropriate)] a part, fails for whatever reason, the Federal coal lease[s] will automatically be subject to the diligence provisions that otherwise would have applied had the Federal coal lease[s] not been included in an LMU.

I hereby agree to the above-listed LMU approval stipulations.

[Signature of LMU Applicant] _____

[Name of LMU Applicant Company]

Date _____

[**Note.**—The *name* of the LMU should be the mine name to be] [associated with the LMU. If there is no mine name, use] [another identifier that would enable the name of the LMU] [to be distinctive. This is necessary because an operator] [may have two LMU's near each other. This is *not* the LMU] [*number*, which is assigned by WO–660 in the Solid Leasable] [Minerals System data base.]

[**Special Note.**— If these are LMU *Modification* Stipulations,] [stipulation 1 should be repeated from the] [original LMU approval stipulations; stipulation 2] [must be revised to state that the approved R2P2] [must be modified within 3 years of the effective] [date of the modification to address the modified] [area, or modified prior to commencement of mining] [operations in the modified area, whichever occurs] [first; and stipulation 3 should state that the] [original LMU approval stipulations are not] [altered by the approval of the modification.]

Appendix C–1—Potential Ramifications of LMU Failure

Special Note.—Any potential LMU failure must be coordinated with WO–660 in order to determine the Federal coal lease(s) compliance with the diligence provisions that will now govern the Federal coal leases on a lease-specific basis.

An LMU may fail for several reasons, including, but not limited to:

1. Failure to comply with LMU approval stipulations;

2. Failure to submit the R2P2 or modification to an approved R2P2, for the LMU within the applicable 3-year time period;

3. Failure to achieve diligent development within the 10-year LMU diligent development period;

4. Failure to maintain LMU continued operation or, *in lieu* thereof, to pay advance royalty;

5. Failure to achieve the LMU, 40-year recoverable coal reserves mine out; and,

6. For other reasons (e.g., failure to pay rental or royalty, or failure to comply with a notice of noncompliance).

There are several factors that must be considered on a lease-specific basis when an LMU fails, including, but not limited to:

1. The diligence provisions for each Federal coal lease apply as if the LMU never esisted. This is because the LMU diligence *superseded, but did not suspend,* the lease-sepecific diligence. Thus, in effect, it is necessry to now "look back" to see whether the Federal coal leases individually have been satisfying their lease-specific diligence obligations:

a. The Federal coal lease must achieve diligent development within 10 years from the date it is "subject to diligence" or it is terminated by law.

b. After diligent development is achieved, the Federal coal lease must maintain continued operation.

2. Advance royalty must be paid *in lieu* of continued operation when there is less than 1 percent of the Federal coal lease's recoverable coal reserves produced in the first 2 continued operation years and, thereafter, on a 3-year rolling average.

a. Advance royalty can only be paid *in lieu* of continued operation for a total of 10 continued operation years.

b. Advance royalty can only be paid *in lieu* of continued operation during the initial 20-year period that the Federal coal lease is "subject to diligence" after August 4, 1976.

For the duration of an LMU, lease-specific diligence provisions still apply to the Federal coal leases contained in the LMU. These provisions must be monitored in the Solid Leasable Minerals System *in addition to* the LMU-specific diligence provisions. LMU-specific diligence *supersedes,* but does *not suspend,* the lease-specific diligence. That is, the diligence clocks and requirements run simultaneously while the Federal coal leases are included in the LMU; but, the LMU clocks and requirements take precedence over the Federal coal lease clocks and requirements. Upon LMU failure, the compliance with lease-specific diligence will determine what, if any, administrative actions must be taken against the individual Federal coal leases.

Note.—Noncompliance/noncomformance with lease-specific diligence is *not* a factor that requires correction as long as that Federal coal lease is included in an LMU and the LMU operations are in compliance with *all* LMU-specific conditions (e.g., approval stipulations, LMU-specific diligence).

The following discussion addresses several examples of what can happen if an LMU fails; the discussion is not meant to be exhaustive or complete. The examples are solely to demonstrate some scenarios that could happen.

Example 1: Diligent Development Period

Sequence of Events

Lease "a" issued January 1, 1960.
Lease "b" issued January 1, 1978.
Lease "a" readjusted January 1, 1980.
LMU formed January 1, 1986. Neither Lease "a" nor Lease "b" has ever produced. Lease "a" controls the LMU 10-year diligent development period. Therefore, the LMU must achieve diligent development by January 1, 1990. LMU fails on January 1, 1989, for refusal to submit maps or to report non-Federal LMU production.
State Director issues Decision cancelling the LMU.

Question: What Is the Effect on Each Federal Coal Lease?

Federal coal lease "a" is unaffected at this time. It has until January 1, 1990, to achieve its diligent development.

Federal coal lease "b" is automatically terminated by law for failure to achieve its diligent development by January 1, 1988.

Example 2: Federal Coal Leases Individually Not Subject to Diligence Prior to LMU Formation

Sequence of Events

Lease issued January 1, 1975.
LMU formed January 1, 1988.
LMU achieves diligent development January 1, 1990.
LMU advance royalty paid for 3 years, then LMU fails on January 1, 1983, because the LMU operator refuses to produce or pay additional advance royalty.
State Director issues Decision cancelling the LMU.

Question: What Is the Effect on the Federal Coal Lease?

Individually, the Federal coal lease is not "subject to diligence" until readjustment on January 1, 1995. Therefore, *no* advance royalty can be applied toward that Federal coal lease *individually.* As of January 1, 1995, the

Federal coal lease would have 10 years to achieve diligent development. The Federal coal lease also has an initial 20-year period beginning on January 1, 1995, during which, once subject to continued operation, advance royalty could be paid up to a maximum of 10 years. This is because the Federal coal lease, individually, is not "subject to diligence" until January 1, 1995; therefore, advance royalty paid for the LMU does not count as advance royalty paid for the Federal coal lease.

Example 3: Initial 20-Year Period

Sequence of Events

Lease "a" issued January 1, 1978.
Lease "b" issued January 1, 1984.
Lease "a" achieves diligent development on January 1, 1988.
Lease "b" achieves diligent development on January 1, 1994.
Leases "a" and "b" maintain continued operation through production.
LMU formed on January 1, 1996.
LMU achieves diligent development on January 1, 1999.
LMU pays advance royalty for 3 years and on January 1, 2002,
LMU fails for refusal to pay further advance royalty.
State Director issues Decision cancelling the LMU.

Question: What is the Effect on Each Federal Coal Lease?

Federal coal lease "a" *must* be cancelled. Its initial 20-year period that it is subject to diligence ended January 1, 1998. Advance royalty paid for an LMU is counted as one year for which advance royalty is paid for *all* Federal coal leases in the LMU that are "subject to diligence" or after a Federal coal lease becomes "subject to diligence" after LMU approval. Since advance royalty was paid after the Federal coal lease "a" initial 20-year period, when the LMU fails the Federal coal lease is in noncompliance with the law and must be cancelled.

Federal coal lease "b" is currently unaffected. Its initial 20-year period ends on January 1, 2004. Therefore, Federal coal lease "b" is still in its initial 20-year period, has had advance royalty paid for 3 years, and has 2 continued operation years more during which advance royalty may be paid.

Example 4: Number of Advance Royalty Payments.

Sequence of Events

Lease "a" issued January 1, 1975.
Lease "b" issued January 1, 1978.
Lease "c" issued January 1, 1981.
LMU formed January 1, 1994. As of this date, Federal coal lease "a" is still under its 1975 terms and has never produced. Federal coal lease "b" has achieved diligent development and paid advance royalty for 8 years. Federal coal lease "c" has achieved diligent development and paid advance royalty for 3 years. After the LMU achieves diligent development, Federal coal lease "c" controls the LMU for purposes of advance royalty; therefore, the LMU has only 7 years during which advance royalty may be paid *in lieu* of LMU continued operation. LMU 10-year diligent development period begins on effective date of LMU approval as Federal coal lease "a" controls because Federal coal lease "a" is not yet "subject to diligence." Assume that production credited toward LMU diligent development, due to production from Federal coal leases "b" and "c," equals 1 percent of the total LMU recoverable coal reserves.

LMU status on January 1, 1994: LMU diligent development achieved January 1, 1994. LMU is subject to continued operation. Lease "a" readjusted on January 1, 1995. LMU pays advance royalty for 3 years, then fails on January 1, 1997, for refusal to produce or to pay further advance royalty.

Note.—There was *no* production during the life of LMU.

State Director issues Decision cancelling the LMU.

Question: What is the Effect on Each Federal Coal Lease?

Federal coal lease "a" is unaffected. It is beginning the third year of its lease-specified diligent development period, and has until January 1, 2005, to achieve diligent development.

Federal coal lease "b" *must* be cancelled by State Director Decision. Advance royalty can only be accepted for 10 years for any Federal coal lease. As long as the Federal coal lease was in the LMU, the LMU-diligence superseded the Federal coal lease diligence. Upon LMU failure, Federal coal lease "b" has now paid advance royalty for 11 total years which is a violation of the law. There is no other recourse but to cancel Federal coal lease "b".

Federal coal lease "c" is unaffected. Federal coal lease "c" has now paid advance royalty for a total of 8 years. Federal coal lease "c" is in its appropriate continued operation year and must comply with the lease-specific diligence requirements.

Example 5: Production Credits

Sequence of Events

Lease issued on January 1, 1960.
Produces 0.6% of recoverable coal reserves, *in existence on August 4, 1976,* between August 4, 1976, and January 1, 1980. Lease readjusted on January 1, 1980. "Subject to diligence." Produces 0.8% of recoverable coal reserves, *in existence on January 1, 1980,* between January 1, 1980, and January 1, 1983. Lease included in LMU on January 1, 1983.

LMU fails on January 1, 1993, for failure to achieve diligent development. During the LMU, only non-Federal coal was produced.

State Director isues Decision cancelling the LMU.

Question: What is the Effect on Each Federal Coal Lease?

Lessee immediately requests to credit production between 1976 and 1980 toward Federal coal lease diligent development, thus achieving a total greater than 1 percent of the recoverable coal reserves in existence in 1980 *plus* 1 percent of the production credited between 1976 and 1980.

The Federal coal lease is deemed to have achieved Federal coal lease diligent development on January 1, 1990 (the end of the lease-specific, 10-year diligent development period). However, it is now January 1, 1993.

If the lessee so requests, and if the AO so authorizes, the lessee may then pay 3 years of advance royality bringing the Federal coal lease into compliance with the lease-specific diligence provisions.

Note.—The initial 20-year period for the Federal coal lease began on January 1, 1980. Therefore, the lessee has until December 31, 1999, to exercise the option to pay advance royality *in lieu* of the lease-specific continued operation, as long as the number of payments does not exceed ten (see item number 3. above).

January 1, 1993, status: Federal coal lease beginning its fourth continued operation year. Federal coal lease has paid 3 of the 10 years of advance royalty to which it is entitled.

Appendix D-1—Notification to Lessees Regarding, and the Monitoring of, Diligent Development and Continued Operation

Due to the consequences of failing to achieve diligent development and to maintain continued operation, the importance of complete and accurate records should enforcement action be required, and to ensure nationwide consistency, the procedures set forth below are to be implemented immediately for Federal coal leases "subject to diligence" and for LMU's.

Notification Procedures (On a Lease-by-Lease Basis, for Federal Coal Leases "Subject to Diligence", and on an LMU-by-LMU Basis

1. Inititally notify each Federal coal lessee and each LMU designated operator (as well as the entity that applied, and subsequently received approval, for the LMU) of:

a. Date the diligent development period begins or began.

b. Date by which diligent development must be achieved.

c. Recoverable coal reserves estimate.

d. Commercial quantities requirement.

2. At the completion of *each* year during which the Federal coal lease or LMU is in the diligent development mode, notify each lessee and each designated LMU operator (as well as the entity that applied, and subsequently received approval, for the LMU) of the remaining tonnage that must be produced to achieve diligent development.

3. Upon the achievement of diligent development, confirm in writing that diligent development has been achieved for the Federal coal lease or LMU. The confirmation must include:

a. The date the royalty reporting period *during* which diligent development was achieved.

b. The date that the Federal coal lease or LMU is subject to continued operation (i.e., the beginning date of the royalty reporting period following the royalty reporting period during which diligent development was achieved).

c. The 12-month period which defines the continued operation year.

d. The tonnage that must be produced to maintain continued operation. Also, specify that this tonnage is required each of the first 2 continued operation years and on a 3-year average thereafter.

e. The fact that advance royalty may only be accepted *in lieu* of continued operation upon application to and approval by the AO. When applications to pay advance royalty are made after the thirtieth calendar day of the continued operation year, acceptance may be conditioned on the assessment of a late payment charge.

4. At the end of any continued operaton year during which continued operation was *not* maintained:

a. Issue a notice of noncompliance for failure to meet the continued operation requirement, and that failure to apply to pay advance royalty may result in Federal coal lease cancellation. For details on notices of noncompliance, see § 3486.3.

5. Where advance royalty is paid for a continued operation year where continued operation was *not* met, notify the Federal coal lessee or designated LMU operator (as well as the entity that applied, and subsequently received approval, for the LMU) that the advance royalty payment counts against the total of 10 years for which it can be paid. Specify the total number of years advance royalty has been paid to date *in lieu* of continued operation and the total number of remaining continued operation years for which the lessee or LMU operator has the option to apply to pay advance royalty.

6. Where advance royalty is paid for a continued operation year and continued operation subsequently *is met*, notify the Federal coal lessee or designated LMU operator (as well as the entity that applied, and subsequently received approval, for the LMU) that the advance royalty payment, *is not* counted against the total of 10 years for which it can be paid.

7. Upon approval of a revision of recoverable coal reserves based on new information, reissue the initial notification to reflect the AO's approval of the revision, with the revised commercial quantities requirement.

Note.—If the revision occurs while the Federal coal lease or LMU is subject to diligent development, the revised commercial quantities requirement is effective immediately. If the revision occurs while the Federal coal lease or LMU is subject to continued operation, the revised commercial quantities requirement is effective on the beginning of the *following* continued operation year.

Special Note.—Notifications for LMU's shall break down the production and recoverable coal reserves by "Federal" and non-Federal. **Note.**—The term "Federal" includes only Federal recoverable coal reserves that are either "public" or "acquired." The term "non-Federal" includes recoverable coal reserves that are "fee" (sometimes referred to as "private"), "State," "Indian tribal," and "Indian allotted."

These categories must also be separately broken down.

Monitoring Diligent Development and Continued Operation

On a lease-by-lease basis, for Federal coal leases that are "subject to diligence," and on an LMU-by-LMU basis, the diligent development, continued operation, commercial quantities, advance royalty, and LMU data elements *must be maintained* continuously up-to-date in the Automated Federal and Indian Leasable Minerals System data base, as well as its successor, the Solid Leasable Minerals System data base.

[FR Doc. 85-8535 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-84-M

[AA-6676-A2; 4310-JA 0062 5-000262-GP5-0062]

Alaska Native Claims Selection; Koliganek Natives Ltd.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14 of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1611(b), will be issued to Koliganek Natives Limited for approximately 1,919 acres. The lands involved are:

Seward Meridian, Alaska (Surveyed)

T. 5 S., R. 46 W.,
Sec. 26.
T. 5 S., R. 48 W.,
Secs. 23 and 26.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Anchorage Times. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 13, 1985 to file an appeal. However parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Barbara A. Lange,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85-8713 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-14912-B; 5-00262-GP5-057]

Alaska Native Claims Selection; Northway Natives Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Northway Natives Incorporated for the Native village of Northway for approximately 3,939 acres. The lands involved are within:

U.S. Survey No. 2784

Copper River Meridian, Alaska

Tps. 14 and 16 N., R. 17 E.,
Tps. 15 and 16 N., R. 18 E.

A notice of the decision will be published once a week for four (4) consecutive weeks, in THE FAIRBANKS DAILY NEWS-MINER. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960.)

Any party claiming a property interest which is adversely affected by the decision shall have until May 13, 1985 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal can be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E (1983) (as amended, 49 FR 6371, February 21, 1984) shall be deemed to have waived their rights.

Helen Burleson,

Section Chief, Branch of ANCSA Adjudication.

[FR Doc. 85–8712 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-JA-M

[5–00253]

Wild Horse and Burro Gathering; Public Hearing

Notice is hereby given in accordance with Pub. L. 92–195, as amended by Pub. L. 94–579, and Pub. L. 95–514, a public hearing will be held on May 7, 1985 at 7:00 p.m., at the City Hall, Caliente, Nevada.

The agenda for the meeting will include:

(1) The use of helicopters and motorized vehicles when conducting wild horse and burro gatherings.

(2) Implementation of the Herd Management Plan and Gathering Plan for all wild horse and burros within the Las Vegas District including those located on the Nevada Wild Horse Range portion of the Nellis Range Complex, located approximately 40 miles southeast of Tonopah, Nevada.

The authority for use of helicopters in gathering wild horses and burros is, 43 CFR 4730.7 and 4740.9–2.

The initial gatherings will take place from June 1, 1985 through August 14, 1985, and from August 15, 1985 through September 30, 1985. Subsequent gatherings will be conducted as necessary for management purposes.

The hearing is open to the public. Interested persons may make oral statements to the hearing moderator or file written statements for management consideration. Anyone wishing to make oral statements should notify the Area Manager, Caliente Resource Area, P.O. Box 237, Caliente, Nevada 89008, by April 26, 1985. Depending on the number of persons wishing to make oral statements a per-person time limit may be established by the moderator.

Summary minutes of the hearing will be maintained in the BLM Caliente Resource Area Office and will be available for public inspection (during regular business hours) within 30 days following the meeting.

Dated: March 25, 1985.

Kemp Conn,

District Manager.

[FR Doc. 85–8759 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-HC-M

[5–17440]

California Desert District Advisory Council; meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Meeting of the California Desert District Advisory Council.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92–463 and 94–579 that the California Desert District Advisory Council to the Bureau of Land Management, U.S. Department of the Interior, will meet May 16–17–18, 1985, at the Heritage Inn, 1050 N. Norma in Ridgecrest, CA. In conjunction with the meeting, the Council will make field trips to public land sites in the Ridgecrest area and in areas north of the City of Independence.

Agenda items for the meetings will include a review and recommendations on the 1985 proposals for amending the California Desert Plan, including the proposed revision of the Plan's Goals and Objectives; presentation of the Record of Decision on the 1984 amendments; a report on the results of the Grazing Fee Study; results of the study undertaken by the Council's Microwave Communications Task Force; updates and reviews on current issues, including pipeline projects and other rights-of-way; and a field review of local issues including the Bureau of Land Management/Forest Service interchange proposal.

All formal Council meetings are open to the public, with a specific time allocated for public comment and additional time made available by the Council Chairman if comment is necessary during the presentation of specific agenda items. Members of the public are welcome to participate in the scheduled field trip, but must provided their own transportation and/or meals.

Written comments on specific agenda items may be filed in advance of the meeting with Council Chairman Dr. Loren Lutz, c/o Bureau of Land Management Public Affairs, Office, 1695 Spruce Street, Riverside, CA 92507.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, California Desert District, Public Affairs Office, 1695 Spruce Street, Riverside, CA 92507, (715) 351–6383.

Dated: April 3, 1985.

Gerald E. Hillier,

District Manager.

[FR Doc. 85–8758 Filed 4–10–85; 8:45 am]

BILLING CODE 4310-40-M

Known Geothermal Resources Area; Idaho

Pursuant to the authority vested in the Secretary of the Interior by Section 21(a) of the Geothermal Steam Act of 1970 (84 Stat. 1566, 1572; 30 U.S.C. 1020), and delegations of authority in 220 Departmental Manual 4.1 H, Geological Survey Manual 220.2.3, Conservation Division Supplement (Geological Survey Manual) 220.2.1.G, and Secretarial Orders 3071, and 2087, and Bureau of Land Management Instruction Memorandum 83–384, the following-described lands are hereby revoked as the Crane Creek Known Geothermal Resources Area, effective February 1, 1985:

(12) Idaho

Crane Creek Known Geothermal Resources Area

Boise Meridian Idaho

T. 11 N., R. 3 W.
Secs. 5 through 8;
sec. 18.
T. 11 N., R. 4 W.
Secs. 1 and 12.

The revoked area aggregates 4,342 acres, more or less.

The subject lands will be made available to the first qualified applicant under regulations appearing at 43 CFR Part 3210 beginning with the first calendar month following the date of this notice.

Dated: April 3, 1985.

Bill R. Lavelle,

Deputy State Director for Mineral Resources.

[FR Doc. 85-8751 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-GG-M

Land Resource Management; Filing of Plats Survey; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey of the lands described below accepted January 4, 1985, were officially filed in the Montana State Office effective 10 a.m. on January 28, 1985.

Principal Meridian, Montana

T. 15 N., R. 25 E.

The plat, in four sheets, represents the dependent resurvey of a portion of the west boundary, and a portion of the subdivisional lines, and the survey of the subdivision of sections 1, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 18, 19, 20, 22, 25, 31, 32, 33, and 34, Township 15 North, Range 25 East, Principal Meridian, Montana. The area described is in Petroleum County.

Principal Meridian, Montana

T. 16 N., R. 25 E.

The plat, in four sheets, represents the dependent resurvey of a portion of the Fourth Standard Parallel North, through Ranges 24 and 25 East; a portion of the Coulson Guide Meridian, through Township 16 North; the south and west boundaries; the subdivisional lines; and a portion of the adjusted original meanders, and the survey of the subdivision of sections 2, 3, 5, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 21, 22, 24, 25, 26, 27, 29, 30, 31, 32, 33, 34, and 35, Township 16 North, Range 25 East, Principal Meridian, Montana. The area described is in Petroleum County.

These surveys were executed at the request of the Lewistown District Office for the administrative needs of the Bureau.

EFFECTIVE DATE: January 28, 1985.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: April 1, 1985.

Peggy J. Davidson,

Chief, Branch of Records.

[FR Doc. 85-8749 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-DN-M

Land Resource Management; Filing of Plats Survey; Montana

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of filing of plats of survey.

SUMMARY: Plats of survey of the lands described below accepted January 23, 1985, were officially filed in the Montana State Office effective 10 a.m. on February 4, 1985.

Principal Meridian, Montana

T. 3 S., R. 1 W.

The supplemental plat showing amended lottings created by the segregation of Mineral Surveys Nos. 480, 748, and 6405 in section 19, Township 3 South, Range 1 West, Principal Meridian, Montana, is based upon the plat approved October 30, 1869; the plats for Mineral Surveys Nos. 480, 748, and 6405, approved June 14, 1877, July 29, 1881, and June 21, 1902, respectively, and Amended plat showing mineral segregation in section 19, approved April 15, 1926; and was accepted January 23, 1985. The area described is in Madison County.

This plat was prepared at the request of the Butte District Office for the administrative needs of the Bureau.

EFFECTIVE DATE: February 4, 1985.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, 222 North 32nd Street, P.O. Box 36800, Billings, Montana 59107.

Dated: April 1, 1985.

Peggy J. Davidson,

Chief, Branch of Records.

[FR Doc. 85-8750 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-DN-M

Colorado; Craig District Advisory Council Meeting

In accordance with Pub. L. 94-579, notice is hereby given that there will be a meeting of the Craig District Advisory Council on April 24, 1985.

The meeting will begin at 10 a.m. at the Craig District Office, 455 Emerson Street, Craig, Colorado.

Agenda items will include:

1. FS/BLM Grazing Fee Evaluation Report.
2. Discussion about proposed changes in the Federal Oil and Gas Royalty Management Act.
3. Report on Wildlife/Livestock workgroup.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10:30 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement, should notify the District Manager, Bureau of Land Management, 455 Emerson Street Craig, Colorado 81625, by April 19, 1985.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: April 2, 1985.

William J. Pulford,

District Manager.

[FR Doc. 85-8872 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-JB-M

Bureau of Mines

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, D.C. 20503, telephone 202-395-7313.

Title: Nonferrous Metals surveys

Abstract: Respondents supply the Bureau of Mines with domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications, including the Mineral Industry Survey (MIS), Minerals Yearbook Volumes I, II, and III, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other government agencies.

Bureau Form Number: 6-1151-MA ET AL (41 Forms)

Frequency: Monthly, Quarterly and Annual

Description of Respondents: Producers and Consumers of Nonferrous Metals

Annual Responses: 16,672

Annual Burden Hours: 20,275

Bureau Clearance Officer: James T. Hereford (202) 634-1125

April 3, 1985.

Robert C. Horton,

Director.

[FR Doc. 85-8690 Filed 4-10-85; 8:45 am]

BILLING CODE 4310-53-M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Industrial Minerals Surveys

Abstract: Respondents supply the Bureau of Mines and domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Survey (MIS), Minerals Yearbook Volumes I, II, and III, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other government agencies.

Bureau Form Number: 6–1221–A ET AL. (44 Forms)
Frequency: Monthly, Quarterly, Semiannual, Biennial and Annual
Description of Respondents: Producers and Consumers of Industrial Minerals
Annual Responses: 16,952
Annual Burden Hours: 11,648
Bureau Clearance Officer: James T. Hereford (202) 634–1125

Robert C. Horton,

Director.

April 3, 1985.

[FR Doc. 85–8691 Filed 4–10–85; 8:45 am]

BILLING CODE 4310–53–M

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's Clearance Officer at the phone number listed below. Comments and suggestions on the requirements should be made within 30 days directly to the Bureau Clearance Officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7313.

Title: Ferrous Metals Surveys

Abstract: Respondents supply the Bureau of Mines and domestic production and consumption data on nonfuel mineral commodities. This information is published in Bureau of Mines publications including the Mineral Industry Survey (MIS), Minerals Yearbook Volumes I, II, and III, Mineral Facts and Problems, Mineral Commodity Summaries, Mineral Commodity Profiles, and Minerals and Materials/A Bimonthly Survey for use by private organizations and other government agencies.

Bureau Form Number: 6–1066–MA ET AL. (18 Forms)
Frequency: Monthly and Annual
Description of Respondents: Producers and Consumers of Ferrous Metals
Annual Responses: 11,343
Annual Burden Hours: 6,137
Bureau Clearance Officer: James T. Hereford (202) 634–1125

Robert C. Horton,

Director.

April 3, 1985.

[FR Doc. 85–8692 Filed 4–10–85; 8:45 am]

BILLING CODE 4310–53–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–43 (Sub-130X)]

Illinois Central Gulf Railroad Co.; Abandonment In Lauderdale County, MS; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its .93-mile line of railroad between milepost 4.67 and milepost 5.60 in Brockton, MS.

Applicant has certified (1) that no local traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line or may be rerouted, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected pursuant to *Oregon Short Line R. Co.-Abandonment-Goshen*,360 I.C.C. 91 (1979).

The exemption will be effective May 11, 1985 (unless stayed pending reconsideration). Petitions to stay must be filed by April 22, 1985, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by May 1, 1985 with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Richard M. Karnowski, 233 North Michigan Ave., Chicago, IL 60601.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: April 4, 1985.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85–8707 Filed 4–10–85; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–1 (Sub-163)B]

Chicago and North Western Transportation Co.; Abandonment Between Kelley and Slater, IA; Findings

The Commission has issued a certificate authorizing Chicago and North Western Transportation Company to abandon its 5-mile rail line between Kelley (milepost 28.4) and Slater (milepost 23.4) in Story County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the

envelope containing the offer: "Rail Section, AB–OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85–8773 Filed 4–10–85; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Manufacturer of Controlled Substances; Application; Janssen Inc.

Pursuant to §1301.43(a) of Title 21 of the Code of Federal Regulations (CFR), this is notice that on February 15, 1985, Janssen Inc., P.O. Box JPH, State Road 933 KM 0.1, Mamey Ward, Gurabo, Puerto Rico 00658, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the basic classes of controlled substances listed below:

Drug	Schedule
Sufentanil (9740)	II
Fentanyl (9801)	II

Any other such applicant and any person who is presently registered with DEA to manufacturer such substances, may also file comments or objections to the issuance of the above application and may file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, NW., Washington, D.C. 20537, Attention: DEA Federal Register Representative (Room 1112), and must be filed no later than May 13, 1985.

Dated: April 2, 1985.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 85–8687 Filed 4–10–85; 8:45 am]

BILLING CODE 4410–09–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Materials Research; Postponement of Meeting

The meeting of the Advisory Committee for Materials Research scheduled for April 18–20, 1985, is being postponed until mid-May. A new meeting notice will be published in the **Federal Register.**

The notice of the April meeting appeared in the **Federal Register** on April 2, 1985.

M. Rebecca Winkler,

Committee Management Officer.

April 8, 1985.

[FR Doc. 85–8704 Filed 4–10–85; 8:45 am]

BILLING CODE 7555–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC–14454; File No. 811–3149]

Application and Opportunity for Hearing; Carnegie/KILICO Variable Annuity Account

April 4, 1985.

Notice is hereby given that Carnegie/KILICO Variable Annuity Account ("Applicant"), 120 S. LaSalle Street, Chicago, Illinois 60603, registered as a unit investment trust under the Investment Company Act of 1940 (the "Act"), filed an application on Form N–8F on February 27, 1984, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on March 13, 1981, and that its depositor, Kemper Investors Life Insurance Company, filed a registration statement for variable annuity contracts on Form S–6 on March 13, 1981, but that the registration statement never became effective and no public offering of securities was ever made. Applicant submits that it is an insurance company separate account created on March 6, 1981, under the laws of California, and that the Board of Directors of Kemper Investors Life Insurance Company will rescind the resolution creating Applicant at the next practicable opportunity. Applicant submits that it has no securityholders, no assets, and no outstanding debts or other liabilities. Applicant states that it is not a party to any litigation or administrative proceeding, has made no sales of securities of which it is the issuer, and is not now engaged or proposed to be engaged in any business activities other than those necessary for winding up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, and 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. 85–8677 Filed 4–10–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14455; File No. 811–3180]

Application and Opportunity for Hearing; CEF/KILICO Variable Annuity Account

April 4, 1985.

Notice is hereby given that CEF/KILICO Variable Annuity Account ("Applicant"), 120 S. LaSalle Street, Chicago, Illinois 60603, registered as a unit investment trust under the Investment Company Act of 1940 (the "Act"), filed an application on Form N–8F on February 27, 1984, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on May 7, 1981, and that its depositor, Kemper Investors Life Insurance Company, filed a registration

statement for variable annuity contracts on Form S–6 on May 7, 1981, but that the registration statement never became effective and no public offering of securities was ever made. Applicant submits that it is an insurance company separate account created on May 1, 1981, under the laws of California, and that the Board of Directors of Kemper Investors Life Insurance Company will rescind the resolution creating Applicant at the next practicable opportunity. Applicants submits that it has no security holders, no assets, and no outstanding debts or other liabilities. Applicant states that it is not a party to any litigation or administrative proceeding, had made no sales of securities of which it is the issuer, and is not now engaged or proposed to be engaged in any business activities other than those necessary for winding up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such 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. 85–8676 Filed 4–10–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23654; 70–7081]

Central Ohio Coal Company, et al.; Supplemental Notice of Guaranty by Lease Payments

April 5, 1985.

Ohio Power Company ("Ohio Power"), an electric utility subsidiary of American Electric Power Company, Inc., a registered holding company, and Ohio Power's coal mining subsidiaries Central Ohio Coal Company ("COCCo"), Southern Ohio Coal Company ("SOCCo") and Windsor Power House Coal Company ("Windsor") (collectively the "Applicants"), 1 Riverside Plaza, Columbus, Ohio 43215, have filed a post-effective amendment to the application-declaration in this proceeding subject to sections 9, 10, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 45 thereunder.

On March 29, 1985 (HCAR No. 23646) this Commission authorized each Applicant to enter into a Master Leasing Agreement with non-affiliates ("Lessors") pursuant to which Lessors will commit to lease through June 30, 1986 to such companies, mining equipment with a total aggregate acquisition cost not exceeding $50 million. COCCo's participation in the Leasing Agreement is contingent upon approval of Ohio Power's guaranty of certain obligations of COCCo's under the Leasing Agreement.

Applicants now propose that Ohio Power execute a Guaranty Agreement in favor of the parties to the Participation Agreement, other than Applicants (the "Participants"), providing that Ohio Power shall unconditionally and irrevocably guarantee payment of all amounts payable by COCCo to any participant under the Leasing Agreement. This guaranty is necessary because COCCo previously made a partial assignment of revenues under its Coal Supply Agreement with Ohio Power.

The amended application-declaration and any additional amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by April 29, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notifed of any hearing, if ordered, and will receive a copy of any notice or order issued in this mater. After said date, the amended application-declaration, as filed or as it may be amended, may be authorized.

For the Commission, by the Division of Investment Managment, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–8679 Filed 4–10–85; 8:45 am]

BILLING CODE 8010–01 M

[Release No. IC–14456; File No. 811–3059]

Application and Opportunity for Hearing; Hutton UIT Variable Account

April 4, 1984.

Notice is hereby given that Hutton UIT Variable Account ("Applicant"), 120 S. LaSalle Street, Chicago, Illinois 60603, registered as a unit investment trust under the Investment Company Act of 1940 (the "Act"), filed an application on Form N–8F on February 27, 1984, pursuant to section 8(f) of the Act, for an order declaring that Applicant has ceased to be an investment company. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it registered under the Act on May 6, 1980, and that its depositor, Kemper Investors Life Insurance Company, filed a registration statement on Form S–6 on May 6, 1980, but that the registration statement never became effective and no public offering of securities was ever made. Applicant submits that it is an insurance company separate account created on March 12, 1980, under the laws of California, and that the Board of Directors of Kemper Investors Life Insurance Company will rescind the resolution creating Applicant at the next practicable opportunity. Applicant submits that it has no security holders, no assets, and no outstanding debts or other liabilities. Applicant states that it is not a party to any litigation or administrative proceeding, has never made any sales of securities of which it is the issuer, and is not now engaged or proposed to be engaged in any business activities other than those necessary for winding up its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 29, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for such request, and the specific issues, if any, of fact or law that are disputed. Such request should be addressed: Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of such request should be served personally or by mail upon Applicants at the address stated above. Proof of such 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. 85-8575 Filed 4-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14457 (File No. 812-6022)]

Salomon Brothers Unit Investment Trust, Insured Tax-Exempt Series One, et al.; Application and Opportunity for Hearing

April 4, 1985.

Notice is hereby given that Salomon Brothers Unit Investment Trust, Insured Tax-Exempt Series One ("Series One") and all subsequent and similar series of Trust ("Trusts"), and their sponsor, Salomon Brothers Inc ("Sponsor") (the Trusts and Sponsor collectively, "Applicants"), c/o Salomon Brothers Inc, One New York Plaza, New York, New York 10004, filed an application on January 10, 1985, for an order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicants from section 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit them to sell units of beneficial ownership of the Trusts ("Units") on the date of deposit of the Trust at a price based upon the net asset value determined with reference to the value of the securities deposited therein on the business day preceding the date of deposit. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of all applicable provisions thereof.

Applicants state that the Trusts are unit investment trusts organized under the laws of the State of New York whose investment objectives are the receipt of federally tax-exempt interest income consistent with the preservation of capital through an investment in a diversified portfolio of municipal bonds (the "Securities"). Applicant further states that each insured series of the Trust will invest only in insured Securities.

Applicants state that Series One is, and each future Trust will be governed by a trust indenture (the "Indenture") under New York law and a Standard Terms and Conditions of Trust (the "Agreement") for that Trust, under which the Sponsor will act as depositor, a banking corporation or trust company meeting the requirements of the Act will act as trustee ("Trustee") and Standard & Poor's Corporation and Kenny Information Systems will act as evaluator. Applicants state that the Sponsor will initially deposit in Series One insured tax-exempt municipal bonds or contracts for the purchase of such bonds with the Trustee in exchange for certificates representing ownership of all of the Units of the Trust. Later that day (the "Date of Deposit"), an amendment to a registration statement with respect to the Trust on Form S-6 under the Securities Act of 1933, which describes the deposit and execution of the Indenture, will be filed with the Commission. Applicants further state that upon the grant of effectiveness of such registration statement, the Units will be sold by the Sponsor to the public pursuant to the Prospectus contained therein and at the price described in said Prospectus which shall include a sales charge.

Applicants state that holders of Units ("Unitholders") can dispose of their Units through their brokers or dealers or through redemption by the Trustee. Applicant states that while the Sponsor is not obligated to do so, it is the Sponsor's present intention to purchase Units tendered to brokers or dealers or to the Trustee for redemption. Applicants further state that the Sponsor may terminate such purchases at any time.

Applicants propose to sell Units of each Trust pursuant to purchase orders received on the Date of Deposit for that series at a public offering price which is based on the net asset value per Unit determined with reference to the value of the Securities at 4:00 p.m. on the business day preceding the Date of Deposit. The Sponsor agrees, however, as a condition to the requested exemptive order, that if the public offering price determined on the basis of the net asset value per Unit as of the close of business on the Date of Deposit is more than 2.5% below the public offering price determined at the close of the preceding business day (a $25 decline on a $1,000 unit), it will effect all purchase orders received on the Date of Deposit at the lower (forward) price.

Applicants represent that beginning on the business day following the Date of Deposit, the public offering price will be based on the current net asset value per unit next determined after receipt of the purchase order, plus the sales charge. Applicants further represent that the net asset value next determined also will be used in calculating the unit price for all redemptions, and for all purchases and sales by the Sponsor in connection with its secondary market activities.

Applicants believe that Rule 22c-1 has two purposes: (1) To eliminate any dilution in the value of investment company shares which might occur through the practice of selling securities at a price based on a previously established value which permits a potential investor to take advantage of an increase in the value of investment company shares which is not yet reflected in the price for such shares; and (2) to eliminate certain speculative trading practices.

Applicants assert that where, as here, a sponsor forms a trust by depositing portfotlio securities in return for all units of the trust, trust assets are in no way affected by the method of pricing the units in the initial public offering. Applicants further assert that the method proposed for pricing units on the Date of Deposit is analogous to "backward pricing" used with respect to secondary market transactions on the offering side in connection with "eligible trust secrities", such as municipal, bonds, permitted by Rule 22c-1. Like those secondary market activities, Applicants state, this proposal cannot result in dilution of the interests of Unitholders.

Applicants state that the forward pricing rquirements of Rule 22c-1 can be confusing to investors in unit trusts that forward price on the date of deposit. Applicants state that brokers seeking indications of interest from potential investors generally give an estimated price per unit (e.g. $1,000 per unit) based on the sponsor's intention to establish units of approximately that value in forming the trust. Applicants assert that though the effective prospectus for a trust that sells units at a forward price on the date of deposit sets forth the calculation of the public offering price, the price given is that which would have been effective had the trust been formed on the business day preceding the date of deposit. Accordingly, Applicants state that the price set forth in the prospectus is not the price at which any purchases of units will be effected. Rather, purchases are effected and confirmations are sent out at a different (forward) price established pursuant to Rule 22c-1. Applicants assert that upon receipt of the confirmation and prospectus, the purchaser may be confused and concerned by the difference between the price in the prospectus and the price on the confirmation (neither of which is the round number of the estimated price), particularly wher the transaction is confirmed at a price higher than that set forth in the prospectus. Applicants submit that if the order requested herein

is granted, purchasers of Trust units on the Date of Deposit will have their purchase orders effected and confirmed at the price set forth in the final prospectus.

Applicants submit that the possibility of speculation from backward pricing on the Date of Deposit will be minimal. Applicants state that in order for a speculator to benefit from a purchase and immediate redemption, the net asset value increase would have to be in excess of the sale charge which will probably be approximately 4.00% of the public offering price (approximately $40). Applicants further state that because the redemption price is determined as of the close of business on the day the redemption requet is received, the speculator would be required to tender the Units for redemption prior to the time the price was fixed, thereby taking at least a temporary market risk. In light of the applicable sales charges and the difference between offering prices of the Securities (which are the prices used to compute the initial public offering price) and the bid prices thereof (which are used to compute redemption prices) (generally a difference of between $10 and $20 per Unit), Applicants assert that such one day price changes will not approach the transactioanl costs related to any attempted speculation by investors. Applicants maintain that even though Series One will be comprised of long term securities, the volatility of market prices in any one day is not likely to be of such a magnitude to overcome the related costs of speculation.

Applicants state that in order to eliminate any possiblity of speculation on the part of the Sponsor, the Sponsor agrees, as a condition to the granting of the exemptive order, that during the initial public offering period for any Trust, it will not tender back to the Trustee for redemption any of its unsold Units. Applicants further state that the Sponsor will not allow its registered representatives (or any broker or dealer through which it might in the future distribute Units) to convert an increase in the market into a speculative gain by tendering any Units they might purchase to the Trustee for redemption during the initial public offering period.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than April 30, 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. 85-8674 Filed 4-10-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-21924; File No. SR-NYSE-85-9]

Self-Regulatory Organizations; Proposed Rule Change and Notice of Immediate Effectiveness; New York Stock Exchange, Inc.; Relating to the Confirmation of Good 'Til Cancelled (G.T.C.) Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1985, the New York Stock Exchange, Inc. ("NYSE") filed with the Securities and Exchange Commission the proposed rule change described herein. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The NYSE is proposing to require members and member organizations on April 20, 1985, to use confirmation slips prepared by the Exchange when they confirm so-called Good 'Til Cancelled ("G.T.C.") orders [1] rather than preparing the confirmation slips themselves. The proposed rule change will affect the application of Exchange Rule 123A.55.[2]

Under the proposed procedures, member organizations that use the NYSE's As-Of-Status Request System [3] will prepare magnetic tapes containing their G.T.C. files in the manner and form prescribed by the Exchange and deliver them to SIAC on Saturday, April 20, 1985, by 2:00 a.m. Those members and member organizations that cannot prepare a magnetic tape will list their G.T.C. files on the form prescribed by the Exchange and deliver them to SIAC by 11:00 p.m. on the Friday preceding the Saturday confirmation day. From this input, SIAC will prepare single confirmation slips for each member and member organization, and several copies of a log listing each order. The slips will be delivered to the Exchange, which will have personnel available to deliver them to the specialists.[4]

According to the NYSE the purpose of the proposed rule change is to bring the preparation of the confirmation of "open order" or G.T.C. slips into one central location. The NYSE believes that this will permit the Exchange to monitor and control the preparation of the confirmation slips. When members and member organizations prepare their slips independently, the NYSE has found that from time to time a small number of these members are not able to produce their slips at the designated time due to some operational problem.

The NYSE believes that the proposed rule change will enable it to better carry out the purposes of the Act as enunciated in section 6(b)(5) and section 11A(a)(1), by facilitating transactions in securities, creating the opportunity for more efficient market operations, and enhancing the economically efficient execution of securities transactions. The proposed rule change will enable the NYSE to streamline, monitor, and control the process of confirming G.T.C. orders, and take rapid remedial action where necessary. Under the proposal the NYSE would know early in the day if a member or member organization had a problem. In addition, the NYSE believes that under the proposal members and member organizations should find it less costly to confirm their

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[1] A G.T.C. order is an order to buy or sell which remains in effect until it is either executed or cancelled.

[2] Exchange Rule 123A.55 now requires members and member organizations to prepare their own confirmation slips with duplicate receipt stubs, and requires specialists to sign or stamp the duplicate receipt stubs before they are returned to the members or member organizations that issued them. Under the proposal the confirmation slips issued to specialists by the Exchange on behalf of members and member organizations will not contain a duplicate receipt stub. Specialists will retain the single slip confirmations for their own records, while members and member organizations will be provided with a log listing the G.T.C. orders that were sent to the specialists.

[3] The NYSE's As-Of-Status Request System is a system whereby automated firms, rather than preparing their limited price order slips themselves, can have them printed by the Securities Industry Automation Corporation ("SIAC"). The firms send the limited price order information to SIAC. SIAC prints this information and sends a print-out to the Exchange early each morning. Specialists then respond to the printed requests.

[4] This system of automatically preparing confirmation tickets was tested last year. According to the NYSE, the test proved extremely successful; therefore, this year all firms that confirm G.T.C. orders will be required to use the new procedure.

G.T.C. orders because they would not have to prepare individual confirmation slips and sort them according to Trading Post and specialist unit order.

The foregoing change has become effective, pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b–4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days after the date of publication in the **Federal Register.** Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 450 5th Street NW., Washington, D.C. 20549. Reference should be made to File No. SR–NYSE–85–9.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 5th Street NW., Washington, D.C. Copies of the filing and of any subsequent amendments also will be available at the principal office of the NYSE.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

John Wheeler,

Secretary.

April 4, 1985.

[FR Doc. 85–8878 Filed 4–10–85; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Notice of Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of Action Subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund one of its 39 Small Business Development Centers (SBDC's), the New York-upstate SBDC, during fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to the SBDC to be refunded. This publication is being made to provide the State single point of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through July 1, 1985.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Mrs. Johnnie L. Albertson, 202–653–6768.

SUPPLEMENTARY INFORMATION: SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published three months in advance of the date of refunding of this existent SBDC. Relevant information identifying this SBDC and providing its mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to the affected State single point of contact which has been established under the Executive Order.

The State single point of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of 60 days from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 60 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization received SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information, and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association), exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business venders such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small business that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All conseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: April 4, 1985.

James C. Sanders,

Administrator.

Address of Relevant SBDC Director: Mr. James L. King, SBDC Director, SBDC, State University of New York, State University Plaza, Albany, New York 12246 (518) 473-5398.

[FR Doc. 85-8657 Filed 4-10-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 04/04-0235]

Hickory Venture Capital Corp.; Issuance of a License To Operate as a Small Business Investment Company.

On February 12, 1985, a notice was published in the **Federal Register** (50 FR 5840), stating that Hickory Venture Capital Corporation located at 200 West Court Square, Suite 624, Huntsville, Alabama 35801 had filed an application with the Small Business Administration pursuant to 13 CFR 107.102 (1985), for a license to operate as a small business investment company under the provisions of Section 301(c) of the Small Business Investment Act of 1985, as amended.

The period for comment expired on March 25, 1985, and no significant comments were received.

Notice is hereby given that considering the application and other information, SBA has issued License No. 04/04-0235 to Hickory Venture Capital Corporation to operate as small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: April 3, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-8660 Filed 4-10-85; 8:45 am]

BILLING CODE 8025-01-M

Action Subject to Intergovernmental Review

AGENCY: Small Business Administration.

ACTION: Notice of action subject to Intergovernmental Review Under Executive Order 12372.

SUMMARY: This notice provides for public awareness of SBA's intention to refund two of its 39 Small Business Development Centers (SBDC's), the Oklahoma SBDC and the Houston, Texas SBDC, during fiscal year 1985. It also provides a description of the SBDC program by setting forth a condensed version of the program announcement which has been furnished to each of the SBDC's to be refunded. This publication is being made to provide the State single points of contact, designated pursuant to Executive Order 12372, and other interested State and local entities, the opportunity to comment on the proposed refunding in accord with the Executive Order and SBA's regulations found at 13 CFR Part 135.

DATE: Comments will be accepted through August 9, 1985.

ADDRESS: Comments should be addressed to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT: Same as above.

SUPPLEMENTARY INFORMATION: SBA is bound by the provisions of Executive Order 12372, "Intergovernmental Review of Federal Programs." SBA has promulgated regulations spelling out its obligations under that Executive Order. See 13 CFR Part 135, effective September 30, 1983.

In accord with these regulations, specifically § 135.4, SBA is publishing this notice to provide public awareness of the pending application of presently existent Small Business Development Centers (SBDC's) for refunding. Also, published herewith is an annotated program announcement describing the SBDC program in detail.

This notice is being published five months in advance of the date of refunding of these existent SBDC's. Relevant information identifying these SBDC's and providing their mailing address is provided below. In addition to this publication, a copy of this notice is being simultaneously furnished to each affected State single point of contact which has been established under the Executive Order.

The State single points of contact and other interested State and local entities are expected to advise the relevant SBDC of their comments regarding the proposed refunding in writing as soon as possible. Copies of such written comments should also be furnished to Mrs. Johnnie L. Albertson, Deputy Associate Administrator for SBDC Programs, U.S. Small Business Administration, 1441 L Street NW., Washington, D.C. 20416. Comments will be accepted by the relevant SBDC and SBA for a period of four months (120 days) from the date of publication of this notice. The relevant SBDC will make every effort to accommodate these comments during the 120 day period. If the comments cannot be accommodated by the relevant SBDC, SBA will, prior to refunding the SBDC, either attain accommodation of any comments or furnish an explanation of why accommodation cannot be attained to the commentor prior to refunding the SBDC.

Description of the SBDC Program

The Small Business Development Center Program is a major management assistance delivery program of the U.S. Small Business Administration. SBDC's are authorized under section 21 of the Small Business Act (15 U.S.C. 648). SBDC's operate pursuant to the provisions of section 21, a Notice of Award (Cooperative Agreement) issued by SBA, and a Program Announcement. The Program represents a partnership between SBA and the State-endorsed organization receiving Federal assistance for its operation. SBDC's operate on the basis of a State plan which provides small business assistance throughout the State. As a condition to any financial award made to an applicant, an additional amount equal to the amount of assistance provided by SBA must be provided to the SBDC from sources other than the Federal Government.

Purpose and Scope

The SBDC Program has been designed to meet the specialized and complex management and technical assistance needs of the small business community. SBDC's focus on providing indepth quality assistance to small businesses in all areas which promote growth, expansion, innovation, increased productivity and management improvement. SBDC's act in an advocacy role to promote local small business interests. SBDC's concentrate on developing the unique resources of the university system, the private sector, and State and local governments to provide services to the small business community which are not available elsewhere. SBDC's coordinate with other SBA programs of management assistance and utilize the expertise of these affiliated resources to expand services and avoid duplication of effort.

Program Objectives

The overall objective of the SBDC Program is to leverage Federal dollars and resources with those of the State academic community and private sector to:

(a) Strengthen the small business community;

(b) Contribute to the economic growth of the communities served;

(c) Make assistance available to more small businesses than is now possible with present Federal resources; and

(d) Create a broader based delivery system to the small business community.

SBDC Program Organization

SBDC's are organized to provide maximum services to the local small business community. The lead SBDC receives financial assistance from the SBA to operate a statewide SBDC Program. In states where more than one organization receives SBA financial assistance to operate an SBDC, each lead SBDC is responsible for Program operations throughout a specific regional area to be served by the SBDC. The lead SBDC is responsible for establishing a network of SBDC subcenters to offer service coverage to the small business community. The SBDC network is managed and directed by a single full-time Director. SBDC's must ensure that at least 80 percent of Federal funds provided are used to provide services to small businesses. To the extent possible, SBDC's provide services by enlisting volunteer and other low cost resources on a statewide basis.

SBDC Services

The specific types of services to be offered are developed in coordination with the SBA district office which has jurisdiction over a given SBDC. SBDC's emphasize the provision of indepth, high-quality assistance to small business owners or prospective small business owners in complex areas that require specialized expertise. These areas may include, but are not limited to: Management, marketing, financing, accounting, strategic planning, regulation and taxation, capital formation, procurement assistance, human resource management, production, operations, economic and business data analysis, engineering, technology transfer, innovation and research, new product development, product analysis, plant layout and design, agribusiness, computer application, business law information,

and referral (any legal services beyond basic legal information and referral require the endorsement of the State Bar Association,) exporting, office automation, site selection, or any other areas of assistance required to promote small business growth, expansion, and productivity within the State.

The degree to which SBDC resources are directed towards specific areas of assistance is determined by local community needs, SBA priorities and SBDC Program objectives and agreed upon by the SBA district office and the SBDC.

The SBDC must offer quality training to improve the skills and knowledge of existing and prospective small business owners. As a general guideline, SBDC's should emphasize the provision of training in specialized areas other than basic small business management subjects. SBDC's should also emphasize training designed to reach particular audiences such as members of SBA priority and special emphasis groups.

SBDC Program Requirements

The SBDC is responsible to the SBA for ensuring that all programmatic and financial requirements imposed upon them by statute or agreement are met. The SBDC must assure that quality assistance and training in management and technical areas is provided to the State small business community through the State SBDC network. As a condition of this agreement, the SBDC must perform but not be limited to the following activities.

(a) The SBDC ensures that services are provided as close as possible to small business population centers. This is accomplished through the establishment of SBDC subcenters.

(b) The SBDC ensures that lists of local and regional private consultants are maintained at the lead SBDC and each SBDC subcenter. The SBDC utilizes and provides compensation to qualified small business vendors such as private management consultants, private consulting engineers, and private testing laboratories.

(c) The SBDC is responsible for the development and expansion of resources within the State, particularly the development of new resources to assist small businesses that are not presently associated with the SBA district office.

(d) The SBDC ensures that working relationships and open communications exist within the financial and investment communities, and with legal associations, private consultants, as well as small business groups and associations to help address the needs of the small business community.

(e) The SBDC ensures that assistance is provided to SBA special emphasis groups throughout the SBDC network. This assistance shall be provided to veterans, women, exporters, the handicapped, and minorities as well as any other groups designated a priority by SBA. Services provided to special emphasis groups shall be performed as part of the Cooperative Agreement.

Advance Understandings

(a) Lead SBDC's shall operate on a 40-hour week basis, or during normal State business hours, with National holidays or State holidays as applicable excluded.

(b) SBDC subcenters shall be operated on a full-time basis. The lead SBDC shall ensure that staffing is adequate to meet the needs of the small business community.

(c) All counseling assistance offered through the Small Business Development Center network shall be provided at no cost to the client.

Dated: April 4, 1985.

James C. Sanders,

Administrator.

Addresses of Relevant SBDC Director

Lloyed Miller, State Director, SBDC, Southeastern Oklahoma State University, Kerr Industrial Application Center, Durant, Oklahoma 74701, (405) 924-0277

Dr. Jon P. Goodman, State Director, SBDC, University of Houston, University Park, College of Business Administration, 4800 Calhoun, Houston, Texas 77004, (713) 749-4176.

[FR Doc. 85-8658 Filed 4-10-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 85-018]

Lower Mississippi River Waterway Safety Advisory Committee; Meeting; Cancellation

AGENCY: Coast Guard, DOT.

ACTION: Cancellation of meeting.

SUMMARY: The meeting of the Lower Mississippi River Waterway Safety Advisory Committee scheduled for Tuesday, April 16, 1985, as published in Vol. 50 No. 60, page 12433 of the **Federal Register** on March 28, 1985, is hereby cancelled.

FOR FURTHER INFORMATION CONTACT: Commander R.A. Brunnell, Executive Secretary, Lower Mississippi River Waterway Safety Advisory Committee, c/o Commander, Eighth Coast Guard District (mps), Room 1341, Hale Boggs Federal Building, 500 Camp Street, New Orleans, LA 70130, Telephone number (504) 589-6901.

Dated: April 3, 1985.

L.C. Kindbom,

Captain, U.S. Coast Guard, Acting Chief, Office of Boating, Public, and Consumer Affairs.

[FR Doc. 85-8717 Filed 4-10-85; 8:45 am]

BILLING CODE 4910-14-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petitions; Bennett, Walters, Perlah, Howell, Box, Zweigle

This notice sets forth the reasons for denial of six petitions submitted to NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*).

On September 19, 1984, Pauline and Howard Bennett of Wheaton, MD, asked the agency to commence an investigation into the shoulder harness anchorage location in 1983 Toyota Camry passenger cars. The Bennetts complained that when the shoulder harnesses are used they touch the neck rather than crossing the shoulder.

The agency contacted the importer and reviewed NHTSA's information concerning shoulder harnesses on 1983-85 Toyota Camry vehicles. Toyota reported two telephone complaints, while NHTSA found none in its own records. Further, NHTSA examined harness fit in a 1984 Camry, and did not observe the condition complained of. The manufacturer provides an auxiliary anchor point in the Camry which can be used if the first location causes discomfort to the harness wearer.

Since the problem appeared to be infrequent, there was no reasonable possibility that the manufacturer would be ordered to recall the vehicles at the conclusion of the investigation, and the petition was denied on January 2, 1985.

Rick Walters of Norcross, GA, asked the agency on August 14, 1984, to examine the performance of Dunlop SP Sport D3 radial tires in wet conditions, alleging "*Severe* tendency to hydroplane." Both 1982 and 1984 Toyota Celica Supras owned by Mr. Walters were equipped with the tires. The agency examined its files and found no similar complaints from Supra owners regarding Dunlop tires. Because hydroplaning can occur from vehicle factors or a combination of vehicle and tire factors as well as from tire factors

alone, there was no reasonable possibility that the manufacturer would be ordered to recall the tires at the conclusion of the investigation, and on January 4, 1985, the petition was denied.

Philip M. Perlah of Westport, CT, petitioned on December 6, 1984, for an investigation based upon the failure of a protective rubber boot and/or a constant velocity joint in his 1980 front-wheel drive Volkswagen Dasher.

The agency has received no other reports relating to boot or joint failure in the 1980 Dasher. The Volkswagen Dasher Warranty and Maintenance Manual recommends that the boots be inspected at 15,000 miles and at 15,000 miles intervals thereafter as an owner maintenance item. Failure of the joint would be preceded by persistent sounds which increase in intensity as the mileage increases. Because warning occurs long before complete failure the agency believes that such a problem does not represent a widespread defect with safety related implications. Since there was no reasonable possibility that the manufacturer would be ordered to recall the vehicles at the conclusion of the investigation, Mr. Perlah's petition was denied in February 1985.

Dan Howell of the Center for Auto Safety, Washington, D.C. petitioned on September 20, 1983, alleging steering lockup or sudden loss of control on 1981–82 Ford Escort/EXP and Mercury Lynx/LN7 passenger cars.

Agency analysis of the petition revealed that the only dominant failure mode was loss of steering due to tie rod failure. NHTSA had already conducted two investigative actions into tie rod failure on these vehicles, the most recent of the two indicating that the failure phenomenon had all but vanished. As a consequence there appeared to be no reasonable possibility that the manufacturer would be required to recall the vehicles at the end of an investigation, and the petition was denied on August 14, 1984.

On February 26, 1984, Robert P. Box of Yuma, Arizona, alleged that 1981 Mercury Lynx vehicles contain a safety related defect due to timing chain failure.

In reviewing its records NHTSA discovered 20 additional reports of timing belt failure on 1981–82 Ford Escort and Mercury Lynx vehicles. Ford Motor Company, the manufacturer of the Lynx, advised NHTSA that the company had taken several actions in connection with the timing belts: Improvement of belt material, and extension of warranty to cover belt breakage for 5 years or 60,000 miles and to cover engine damage associated with timing belt failure. It had also made engine changes in 1983 and subsequent models to eliminate the possibility of internal damage to the engine if failure occurred.

Neither NHTSA had nor Ford received reports of front wheel lockup or accidents associated with timing belt failure. Accordingly there appeared to be no reasonable possibility that at the end of an investigation the manufacturer would be required to recall the vehicles, and Mr. Box's petition was denied on August 14, 1984.

Fuel vapors and foam consequent upon vehicle stalling occasioned a petition from Mr. and Mrs. Charles A. Zweigle of Stanhope, NJ, who on October 29, 1984, asked for an unvestigation of 1983 Plymouth Fury cars equipped with Slant Six engines.

Chrysler Corporation, the manufacturer of the vehicle, reported no accidents or injuries to the condition complained of, and NHTSA found no similar reports in its files. The manufacturer had developed a field service fix for the problem, and had issued a technical service bulletin covering it. Accordingly there appeared to be no reasonable possibility that at the end of an investigation Chrysler Corporation would be required to recall the vehicles, and the petition was denied on February 5, 1985.

Sec. 124, Pub. L. 93–492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on April 2, 1985.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 85–8686 Filed 4–10–85; 8:45 am]

BILLING CODE 4910–59–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of December 17, 1982 (47 FR 57600, December 27, 1982), I hereby determine that the painting entitled "Rhinoceros" to be included in the exhibit, "Stubbs: An Exhibition in Honor of Paul Mellon" imported from abroad for the temporary exhibition without profit within the United States is of cultural significance. This object is imported pursuant to a loan agreement between the Royal College of Surgeons, London, England and the National Gallery of Art. I also determine that the temporary exhibition or display of the painting at the National Gallery of Art, Washington, D.C., beginning on or about May 3, 1985, to on or about June 2, 1985, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Thomas E. Harvey

General Counsel and Congressional Liaison.

Dated: April 5, 1985.

[FR Doc. 85–8861 Filed 4–10–85; 8:45 am]

BILLING CODE 8230–01–M

VETERANS ADMINISTRATION

Agency Form Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains a new collection and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies.

ADDRESSES: Copies of the form and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW, Washington, DC 20420, (202) 389–2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW, Washington, DC 20503, (202) 395–7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: April 8, 1985.

By direction of the Administrator.

Dominick Onorato,

Associate Deputy Administrator for Information Resources Management.

New

1. Department of Medicine and Surgery
2. National Vietnam Veterans Readjustment Survey
3. VA Form 10–20769(NR)
4. One-time
5. Individuals or households
6. 3,910 responses (For 3 years)
7. 11,980 hours (For 3 years)
8. Not applicable

[FR Doc. 85–8700 Filed 4–10–85; 8:45 am]

BILLING CODE 8320–01–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 70
Thursday, April 11, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Change in Subject Matter of Agency Meeting

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 2.00 p.m. on Monday, April 8, 1985, the Corporation's Board of Directors determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of the application of Tustin Thrift and Loan Association, an operating noninsured industrial bank located at 530 East First Street, Tustin, California, for Federal deposit insurance.

The Board further determined, by the same majority vote, that no earlier notice of this change in the subject matter of the meeting was practicable.

Dated: April 8, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-8787 Filed 4-9-85; 11:07 am]

BILLING CODE 6714-01-M

2

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, April 16, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED: Compliance. Litigation. Audits. Personnel.

* * * * *

DATE AND TIME: Thursday, April 18, 1985, 10:00 a.m.

PLACE: 1325 K Street, NW., Washington, DC. (Fifth floor.)

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Setting of dates of future meetings
Correction and approval of minutes
Eligibility for candidates to receive Presidential primary matching funds
Management report on enforcement and proposed revisions to the enforcement process
Classification—Assistant Staff Director for Public Disclosure
Classification—Administrative Clerk for Public Disclosure
Routine Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Information Officer, 202–523–4065.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 85-8844 Filed 4-9-85; 3:13 pm]

BILLING CODE 6715-01-M

3

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 49 FR 13912, April 9, 1985.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: April 10, 1985, 10:00 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added:

Item No., Docket No. and Company

CAP–20
EL80–38–002 and Project No. 405, Philadelphia Electric Power Company and Susquehanna Power Company
Project No. 1025–003, Safe Harbor Water Power Corporation
Project No. 1881–002, Pennsylvania Power & Light Company
Project No. 1888–002, York Haven Power Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-8801 Filed 4-9-85; 12:55 pm]

BILLING CODE 6717-02-M

4

INTERNATIONAL TRADE COMMISSION

[USITC SE-85-17]

TIME AND DATE: Monday, April 15, 1985, at 2:00 p.m.

PLACE: Room 117, 701 E Street, NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and Complaints:
(a) Certain apparatus for the disintegration of urinary calculi (Docket No. 1178).
(b) Powdered impression material (Docket No. 1181).
5. 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. 85-8775 Filed 4-9-85; 9:28 am]

BILLING CODE 7020-02-M

5

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., May 6, 1985.

PLACE: On board MV MISSISSIPPI at foot of Eighth Street, Cairo, IL.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Memphis District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, Telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85-8861 Filed 4-9-85; 4:03 pm]

BILLING CODE 3710-GX-M

6

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., May 7, 1985.

PLACE: On Board MV MISSISSIPPI at City Front, vicinity of Beale Street, Memphis, TN.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; and (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85–8862 Filed 4–9–85; 4:03 pm]

BILLING CODE 3710–GX–M

7

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 3:30 p.m., May 8, 1985.

PLACE: On board MV MISSISSIPPI at City Front, foot of Crawford Street, Vicksburg, MS.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in Vicksburg District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85–8863 Filed 4–9–85; 4:03 pm]

BILLING CODE 3710–GX–M

8

MISSISSIPPI RIVER COMMISSION

TIME AND DATE: 9:00 a.m., May 10, 1985.

PLACE: On board MV MISSISSIPPI at foot of Prytania Street, New Orleans, LA.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: (1) Report on general conditions of the Mississippi River and Tributaries Project and major accomplishments since the last meeting; (2) Views and suggestions from members of the public on any matters pertaining to the Flood Control, Mississippi River and Tributaries Project; and (3) District Commander's report on the Mississippi River and Tributaries Project in New Orleans District.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rodger D. Harris, telephone 601–634–5766.

Rodger D. Harris,

Executive Assistant, Mississippi River Commission.

[FR Doc. 85–8864 Filed 49–85; 4:03 pm]

BILLING CODE 3710–GX–M

9

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 1:00 p.m., Wednesday, April 17, 1985.

PLACE: Williamsburg Hilton, 501 Kingmill Road, Williamsburg, Virginia, (804) 220–2500.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Review of Central Liquidity Facility Lending Rate.
3. Final Rule: Reimbursement under Part 721, NCUA Rules and Regulations.
4. Appeal of Regional Director's Denial of Charter Application for Funeral Service FCU (Region IV).
5. Report on Supervisory Committee Manual.
6. Legislative update.

TIME AND DATE: 11:00 a.m., Wednesday, April 17, 1985.

PLACE: Williamsburg Hilton, 501 Kingmill Road, Williamsburg, Virginia, (804) 220–2500.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meetings.
2. Special Assistance to Prevent Liquidation under section 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8) and (9)(A)(ii).
3. Personnel Actions. Closed pursuant to exemptions (2) and (6).

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 85–8793 Filed 4–9–85; 11:50 am]

BILLING CODE 7535–01–M

federal register

Thursday
April 11, 1985

Part II

Environmental Protection Agency

40 CFR Part 228

Ocean Dumping; Notice of Final Determination To Deny Petitions To Redesignate the 12-Mile Site

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 228

[OW-2-FRL-2816-1]

Ocean Dumping; Notice of Final Determination To Deny Petitions To Redesignate the 12-Mile Site

AGENCY: Environmental Protection Agency.

ACTION: Notice of final determination to deny petitions to redesignate New York Bight Sewage Sludge Dump Site.

SUMMARY: EPA today announces its final determination to deny petitions by several current municipal sewage treatment sludge ("municipal sludge") dumpers to amend 40 CFR 228.12(b)(4) to redesignate the 12-Mile Sewage Sludge Dump Site in the New York Bight Apex. The designation of the 12-Mile Site as an EPA-approved ocean dumping site expired on December 31, 1981. Since that time, the ocean dumping of municipal sludges has continued under court order. Today's determination will result in the need to transfer municipal sludge dumping operations from the 12-Mile Site to the Deepwater Municipal Sludge Dump Site designated on May 4, 1984 (the former EPA-approved interin 106-Mile Ocean Waste Dump Site). Under the court order, dumping at the Deepwater Municipal Sludge Dump Site may continue until a final determination is made by EPA on the municipalities' permit applications.

ADDRESSES: The record supporting this action may be examined at:

EPA Public Information Reference Unit (PIRU), Room 2904 (rear), 401 M Street, SW., Washington, DC 20460

EPA Region II Library, Room 1002, 26 Federal Plaza, New York, New York 10278.

FOR FURTHER INFORMATION CONTACT: Mr. Frank G. Csulak, Environmental Analysis Branch (WH-556), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

SUPPLEMENTARY INFORMATION:

I. Statute and Regulations

Section 102 of the Marine Protection, Research, and Sanctuaries Act (MPRSA) of 1972, as amended (33 U.S.C. 1401 et seq.), authorizes EPA to grant permits for the ocean dumping of various materials. Under EPA's Ocean Dumping regulations (40 CFR Parts 220–229), approval of ocean dumping activities is dependent upon designation of an ocean disposal site and the issuance of a permit in accordance with criteria found at 40 CFR Part 227. These permit criteria include: (1) Specific limitations on the types and quantities of materials which may be dumped into ocean waters; (2) an assessment of the need for ocean dumping; (3) an assessment of the availability and impact of alternatives to ocean dumping; and (4) an assessment of the impact of the proposed dumping on aesthetic, recreational, and economic values and on other uses of the ocean. In applying for such a permit, an applicant must also indicate the site at which the dumping activity is proposed to take place. The applicant may propose to conduct dumping at a site already designated by EPA or at another site. In either case, EPA regulations require that the site be designated as an approved site according to procedures and criteria found at 40 CFR Part 228 before or at the same time that a permit is issued.

Section 102(c) of the MPRSA provides that the EPA Administrator may, considering the criteria established pursuant to Section 102(a), designate sites or times for dumping. On September 19, 1980, the Administrator delegated authority to designate ocean dumping sites to the Assistant Administrator for Water and Waste Management, now the Assistant Administrator for Water.

EPA has promulgated implementing regulations which provide criteria for the designation and management of approved sites for ocean dumping (40 CFR Part 228). Criteria for the selection of dumping sites are found at 40 CFR (§ 228.4 to 228.6. Generally, these regulations provide procedures for designation (§ 228.4), general criteria for site selection § 228.5), and specific criteria for site selection (§ 228.6). Application of these criteria to the 12-Mile Site is discussed below.

The 12-Mile Site has been used since 1924 for the ocean dumping of municipal sludges. In 1973 (subsequent to enactment of the MPRSA), EPA designated this area as an "interim" site to be used primarily for the dumping of municipal sludges (38 FR 12875). However, small amounts of industrial materials also have been dumped at the site.

While more than 200 sewage treatment plants have previously dumped municipal sludges at the site, only 26 plants (operated by nine municipal sewerage authorities) are now authorized (all under Federal court order) to use this site for municipal sludge disposal. Although the number of municipal sludge dumpers has decreased since passage of the MPRSA, the volume of sludge dumped at the 12-Mile Site has increased from 4.6 million wet tons in 1973 to more than 8.3 million wet tons in 1983. This increase has resulted primarily from the upgrading of sewage treatment facilities and the resultant increase in municipal sludge production in the New York/New Jersey metropolitan area.

On May 18, 1979, the 12-Mile Site was designated as an approved municipal sludge disposal site (45 FR 29052). This site designation, which expired on December 31, 1981, was based on the information and analysis presented in the "Final Environmental Impact Statement (EIS) on the Ocean Dumping of Sewage Sludge in the New York Bight." A notice of availability of the EIS was published in the **Federal Register** on October 16, 1978. The underlying assumption of the EIS was that, by December 31, 1981, the ocean dumping of municipal sludge in the New York/New Jersey metropolitan area would cease and environmentally acceptable alternatives would have been implemented. Requirements to implement an alternative to ocean dumping on or before the end of 1981 were included in all permits for ocean dumping of municipal sludge issued by EPA. Therefore, pending development of land-based disposal alternatives, the EIS recommended continued use of the existing dumping site.

EPA believed that so long as the required safeguards (i.e., permit restrictions for disposal, efficient monitoring programs, etc.) were in effect, disposal for a limited period of time at the 12-Mile Site was preferable to use of a new, undisturbed area which would be impacted if dumping were to occur there. However, EPA recognized that with the required upgrading of sewage treatment facilities and the construction of various new plants, the quantity of municipal sludge needing disposal would increase and could cause additional impact at the existing disposal site.

Since the end of 1981, the ocean dumping of municipal sludge at the 12-Mile Site has been authorized by court orders. Those court actions are discussed below.

II. Court Actions

In 1981, New York City and several other municipalities brought suits against EPA, challenging EPA's refusal to renew their permits to ocean dump municipal sludge at the 12-Mile Site after December 31, 1981. In the New York City case, Judge Sofaer held that EPA could not deny ocean dumping permit applications without considering the availability and impact of land-based alternatives. "City of New York v. EPA" 543 F. Supp. 1084 (S.D.N.Y. 1981).

The Judge's order barred EPA from taking any action to prohibit New York City from dumping municipal sludge at the 12-Mile Site (as long as certain conditions of previously issued EPA permits were met) until the Agency ruled on the City's petition to redesignate that site. EPA has now denied the City's petition to redesignate the 12-Mile Site. Therefore, under the terms of the court order, New York City will now be required to take all steps necessary for a rapid and orderly shift of its municipal sludge dumping operations to such sites as are designated by EPA. On May 4, 1984, EPA designated a Deepwater Municipal Sludge Dump Site (49 FR 19005).

Orders similar to that issued in the "City of New York" litigation were entered on the consent of the parties in cases involving EPA and eight other municipal sewerage authorities in the New York/New Jersey metropolitan area which are currently dumping municipal sludge at the 12-Mile Site.

Thus, in light of these court orders and EPA's designation of a Deepwater Municipal Sludge Dump Site, today's denial of petitions to redesignate the 12-Mile Site will result in the need to transfer municipal sludge dumping operations from the 12-Mile Site to the Deepwater Municipal Sludge Dump Site. Under the court orders, dumping at the Deepwater Municipal Sludge Dump Site may continue until EPA makes final determinations on each municipalities' permit applications.

III. Petitions

On December 20, 1982 (47 FR 56665), EPA requested comments on the possible redesignation of the 12-Mile Site. The Agency's consideration of the redesignation of the 12-Mile Site was based on petitions submitted by the New York City Department of Environmental Protection, the Bergen County Utilities Authority, the Joint Meeting of Essex and Union Counties, the Linden Roselle Sewerage Authority, the Passaic Valley Sewerage Commissioners, the Rahway Valley Sewerage Authority, and the Middlesex County Utilities Authority.

The original petitions filed by New York City and the six New Jersey authorities cited the lack of degradation outside the dump site, the unlikelihood of improvement if dumping were stopped there, and the additional cost of moving to a new dump site as reasons for redesignation. Since no additional factual information on the site was presented, EPA granted the petitioners additional time to provide further technical information to support their petitions. All submitted additional documentation.

IV. Tentative Denial of Petitions

On May 4, 1984 (49 FR 19042), EPA announced its tentative determination to deny petitions by several current municipal sludge dumpers to initiate rulemaking to redesignate the 12-Mile Sewage Sludge Dump Site in the New York Bight Apex. EPA's tentative determination was based upon a finding that designation of the site would be inconsistent with the criteria set forth in section 102(a) of the MPRSA and in regulations issued pursuant thereto (40 CFR Part 228).

Recognizing the considerable interest by the affected parties, EPA scheduled a series of public hearings in June 1984, at three locations in the New York/New Jersey area to receive comments concerning the tentative decision (49 FR 21700). On June 18, 1984, a public hearing was held at Monmouth College in West Long Branch, New Jersey. On June 20, 1984, a second public hearing was held at the City of New York Graduate School in New York. The third public hearing was held June 22, 1984, at Hofstra University in Hempstead, Long Island. The public comment period ended July 3, 1984. Transcripts of the public hearings and comments are available for public inspection at the locations listed above under **ADDRESSES.**

V. Findings Upon Which the Final Determination Is Based

A. Site Selection Criteria

EPA's final determination to deny petitions to redesignate the 12-Mile Site continues to be based upon the findings that designation of the site would be inconsistent with the criteria set forth in section 102(a) of the MPRSA and in regulations issued pursuant thereto (40 CFR Part 228).

1. General Criteria

Five general criteria (40 CFR 228.5) are used in the selection and approval for continuing use of ocean disposal sites. Sites are to be selected so as to: (1) Minimize the interference of disposal activities with other activities in the marine environment; (2) to limit impacts to temporary perturbations in water quality or other environmental conditions caused by disposal operations anywhere within the disposal site; (3) permit the implementation of effective monitoring to prevent adverse impacts; (4) whenever feasible, designate ocean dumping sites beyond the edge of the Continental Shelf; and (5) terminate interim sites that do not satisfy the criteria for site selection upon designation of a suitable alternative disposal site. The characteristics of the 12-Mile Site are summarized below in terms of the five general criteria.

Three navigational lanes established by the U.S. Coast Guard converge and intersect in the New York Bight Apex. As a result, the 12-Mile Site is located in an area of heavy commercial and recreational ship traffic. Because of this, strict limits have had to be placed on the time municipal sludge barges may occupy the site for dumping. Also, the individual barges utilizing the site are numerous enough at this time to cause concern about the potential hazards to navigation that may result from increased utilization of the site in the future. EPA has concluded that far more than a doubling of the current dumpsite usage will be needed for all the dumpers to meet the limiting permissible concentration (LPC) requirement imposed by 40 CFR 227.27. The U.S. Coast Guard has concluded that, in order to dispose of current municipal sludge volumes, comply with the LPC requirement, and prevent navigational hazards, a series of single barges would have to occupy the site for a total of 44 hours per day. It is obvious that a 44 hour per day demand is impossible to accommodate, and the proposed scheme unworkable. Therefore, it would be impossible to dump the current volumes of municipal sludge in a manner that meets the LPC without creating serious navigational concerns.

The 12-Mile Site is also located in an area that is extensively used for breeding, spawning, nursery, feeding and passage by living resources in both adult and juvenile phases. Valuable commercial and recreational fisheries exist in the vicinity of the 12-Mile Site. In addition to fish and shellfish, wildlife species including dolphins, whales, turtles, and sea birds occasionally may be found in the vicinity of the site.

The New York Bight is bordered by the Long Island coast on the north and the New Jersey coast on the west. The 12-Mile Site is located slightly to the east of the center of the Apex. The Christiaensen Basin which is a topographical low lies just to the northwest of the site. The lower Hudson Shelf Valley starts at the southern end of the Basin and extends in a southeasterly direction toward the open sea.

The water column in the vicinity of the 12-Mile Site undergoes regular seasonal changes in stratification because of heating and cooling, wind mixing and influx of low salinity water

from the Hudson-Raritan estuary. Average currents are toward the southwest, but vary widely under the influence of local winds and stratification.

Summaries of currents and hydrography in the waters of the inner portion of the New York Bight show long-term mean flows to the southwest, ranging from 5–6 cm/sec in the surface layer to less than 2 cm/sec in the bottom water. On shorter time scales, the currents are stronger and highly variable in direction and speed. Wind driven surface currents can occur in any direction and compensating flows in bottom waters can result from some wind conditions, producing either shoreward advance and upwelling of bottom water off New Jersey and in the Hudson Shelf Valley, or with different wind conditions the offshore retreat of bottom water.

These currents disperse the municipal sludge throughout the Bight, but especially toward the Christiaensen Basin and the Hudson Shelf Valley where they eventually settle out. Local currents transport some municipal sludge constituents toward the Long Island shoreline.

At least three other sources contribute contaminants to the New York Bight Apex. The Hudson-Raritan estuary, which contains contaminants from all the industries and municipalities that discharge into these rivers, contribute the largest contaminant loads. The fresh water river plume, however, generally flows southward, directly along the New Jersey coastline. The strong ocean current returning south along the coastline creates a hydraulic "wall" which prevents the river plume water—and its associated contaminants—from flowing to the eastern half of the Apex, where the Christiaensen Basin, the Hudson Shelf Valley, and the 12-Mile Site are located. Coastal runoff from point and non-point sources in both New York and New Jersey contributes relatively small amounts of contaminants. Studies show that contaminants from Long Island "disappear" within 5 nautical miles south of the coast, masked by the greater contributions from the municipal sludge dump site.

The ocean dumping of dredged materials also contributes a significant amount of contaminants. The dredged material site (Mud Dump Site) is west of the 12-Mile Site, the Christiaensen Basin, and the Hudson Shelf Valley. Prevailing currents generally carry materials away from the dredged material site and toward the shoreline. Moreover, since dredged material contains a much higher proportion of solids than sludge, much more dredged material settles and remains on site.

This combination of locations, prevailing currents, and waste characteristics lead EPA to conclude that municipal sludge dumped at the 12-Mile Site is the primary source of the sewage-related contaminants found in the Christiaensen Basin, the Hudson Shelf Valley, and the ocean floor north of the site up to approximately 5 nautical miles south of Long Island. Municipal sludge may also be partly responsible for contamination in other areas of the Apex.

The site is within 12 nautical miles of coastal beaches in New Jersey and Long Island and adjacent to geographically important fishing areas. Oceanographic conditions at the 12-Mile Site are such that dumping operations cause perturbations in water quality in and near the site. Elevated levels of bacteria due to municipal sludge dumping have resulted in an area 6 nautical miles in radius (150 mi^2) surrounding the site being closed by the Food and Drug Administration (FDA) to commercial shellfishing. Levels of toxic metals and organohalogens in botton sediments are increased over normal ambient levels in areas near the site, including known fishing areas. Changes in relative abundance and diversity of species in areas affected by municipal sludge dumping have been observed, as have indications of sublethal effects including bioaccumulation. Other alterations that have been identified include: decreased species diversity compared to communities in sedimentologically similar habitats; species shifts to pollution-tolerant species; and the disappearance of pollution-sensitive crustaceans. Municipal sludge also results in an increased biochemical oxygen demand and contains nutrients that contribute to anaerobiosis when ocean dumped. As explained above, the ocean dumping of municipal sludge at the 12-Mile Site is probably the primary cause of these impacts in the eastern portion of the Bight Apex. Municipal sludge dumping is also a contributing factor to the overall degradation of the New York Bight.

The site's location near other significant sources of contaminant inputs affecting the overall Bight area (e.g., the Hudson-Raritan estuary plume and dredged material dump site) severely restricts EPA's ability to isolate, identify, and control the immediate impacts of municipal sludge dumping and to implement an effective monitoring and surveillance program to detect long-term impacts. With increased utilization of this site in the future, the inability to identify impacts on a continuing basis could result in more serious damage to the Bight Apex and surrounding environment before sufficient conclusive information becomes available to take mitigative measures.

The 12-Mile Site location, while historically used for municipal sludge dumping, does not satisfy the statutory preference for sites to be located off the Continental Shelf whenever feasible. While this statutory preference embodies a degree of judgment as to what is feasible, EPA has determined that it is indeed feasible to use the Deepwater Municipal Sludge Dump Site, which is located off-the-Shelf. Moreover, the Deepwater Municipal Sludge Dump Site is environmentally preferable. Municipal sludge dumped at the Deepwater Municipal Sludge Dump Site would be largely dispersed in the upper part of the water column, thus allowing for sufficient dilution to background levels. The much greater ocean depths would allow solids to disperse over a much larger area before they settled on the ocean bottom, reducing the potential for sediment contamination. It is technically feasible to monitor and isolate the impacts of such dumping, especially without compounding impacts of pollution from other sources which occurs at the 12-Mile Site. The greater distance from shore of such a site would reduce the possibility of any impacts on shorelines and beaches or interference with nearshore fisheries and shellfisheries. The cost to the municipalities using an off-the-Shelf site would be greater. However, EPA believes that municipal sludge disposal at the Deepwater Municipal Sludge Dump Site is economically feasible.

Municipal sludge dumped at the 12-Mile Site does not remain at the site but disperses throughout the Bight Apex. The site was originally designated for a finite period on the presumption that municipal sludge dumping in the New York/New Jersey metropolitan area would be terminated at the end of 1981. However, this has not been the case. The present municipal sludge dump site does not meet the criteria for an acceptable site. Moreover, an environmentally preferable off-the-Shelf site has been designated by EPA. Therefore, for all the reasons described throughout this notice, EPA has determined to deny the petitions to redesignate the 12-Mile Site.

2. Specific Factors

Eleven specific factors (40 CFR 228.6) are used in evaluating a proposed disposal site to ensure that the general criteria are met.

EPA established these specific factors (§ 228.6), to identify the key elements in the environmental assessment of the impact of the site for disposal. These factors are used to make critical environmental determinations of ocean disposal and are the basis for final site selection.

The eleven specific factors considered in site designation are discussed below as they relate to the 12-Mile Site.

Factor 1—Geographical position, depth of water, bottom topography and distance from coast.

- The site is centrally located in the New York Bight Apex on the Continental Shelf.
- It is bordered north and northwest by the Christiaensen Basin and west and southwest by the Hudson Shelf Valley.
- Water depth is approximately 27 meters (88 feet).
- Bottom topography is flat, and elevated relative to the adjacent Hudson Shelf Valley and Christiaensen Basin.
- The nearest point of land in New Jersey is approximately 10.3 nautical miles away and on Long Island, 9.9 nautical miles from the site.
- The site occupies an area of about 6.6 square nautical miles with coordinates of 40°22'30" to 40°25'00" N Latitude and 73°41'30" to 73°45'00" W Longitude.

Factor 2—Location in relation to breeding, spawning, nursery, feeding or passage areas of living resources in adult or juvenile phases.

- Substantial valuable living marine resources are associated with the 12-Mile Site and adjacent areas. These resources are heavily utilized by both commercial and recreational fishing interests.
- The site is located within an area in which commercial shellfishing is prohibited by the FDA due to bacteriological contamination.
- The area including the 12-Mile Site is utilized by fish and shellfish for breeding, spawning, nursery, feeding, and passage in both juvenile and adult phases.

Factor 3—Location in relation to beaches and other amenity areas.

- The site is near coastal beaches, resorts, state and Federal parks, and other amenity areas in New Jersey and Long Island. The nearest Long Island coastline is 9.9 nautical miles away. The nearest New Jersey coastline is 10.3 nautical miles away.
- Municipal sludge-derived waste constituents have been detected above normal ambient values in bottom sediments as close as 5 nautical miles from the coast of Long Island.

Factor 4—Types and quantities of wastes proposed to be disposed of, and proposed methods of release.

- Individual dumpers currently using the 12-Mile Site would be required to comply with the permissible discharge rate established by EPA's Ocean Dumping regulations (40 CFR 227.8, 227.27). Because of the significant volume of municipal sludge to be dumped, the limited size of the dump site, concern for navigational hazards, the relative toxicity of the sludge dumped, and other technical factors, it will not be possible for the present dumpers, in combination, to comply with the required discharge rate. This is further discussed in detail in Section VI, response to Comment No. 3.
- All authorized municipal sludges would be transported by vessels with subsurface release mechanisms.
- From 1973 to 1983, more than 63 million wet tons of municipal sludges were dumped at the 12-Mile Site. In 1973, 4.5 million wet tons were dumped. This increased in 1983 to more than 8.3 million wet tons.

Factor 5—Feasibility of surveillance and monitoring.

- Environmental monitoring at the 12-Mile Site is greatly facilitated by its proximity to shore and shallow depths. However, because of the long history of waste disposal at the site, true baseline conditions are difficult to define. Also, the presence of several major pollution sources to the Bight Apex (e.g., Hudson-Raritan plume, wastewater discharges, and other ocean dump sites) makes it difficult to precisely identify distinct cause-and-effect relationships.
- Surveillance of disposal activities at the 12-Mile Site is being accomplished by using patrol boats, aircraft, or shiprider provided by the U.S. Coast Guard, or remote observation such as by radar or satellite.
- The site can also be monitored by ocean-going vessels. EPA, NOAA, the permittees, and others have conducted extensive monitoring/research activities in and near the site during the past.

Factor 6—Dispersal, horizontal transport and vertical mixing characteristics of the area, including prevalent current direction and velocity.

- Circulation in the Bight Apex is highly variable and is affected by winds, tides, and discharge from the Hudson-Raritan estuary. The mean flow direction is to the southwest at average velocities of 5–6 cm/sec at the surface and less than 2 cm/sec at the bottom.
- Vertical density stratification typically occurs from April to October, with a surface mixed layer as shallow as 5 meters. A horizontal density front exists west of the Hudson Shelf Valley axis and the dump site between the relatively freshwater disharge of the Hudson-Raritan estuary which flows southward along the coast of New Jersey and the relatively saline water of the Bight Apex.
- The hydraulic residence time of the Bight Apex has been estimated to be from 5 to 10 days.
- Field measurements of municipal sludge dispersion demonstrate the dispersive nature of the water column at the 12-Mile Site. Dispersion is most rapid when the meteorological and hydrographic conditions include high winds and an unstratified water column. However, high background levels of contaminants from the Hudson-Raritan estuary contribute to the apparent "rapid dispersion" by masking the detection of dumped municipal sludge after longer periods of time.
- The 12-Mile Site is located within an area where substantial shoreward currents have been observed and assist in transporting the dumped municipal sludge towards Long Island's beaches.
- Much of the municipal sludge dumped at the 12-Mile Site is transported to the Christiaensen Basin where the most severe benthic impacts are observed.

Factor 7—Existence and effects of current and previous discharges and dumping in the area (including cumulative effects).

- The 12-Mile Site has been used for the disposal of municipal sludge from the New York/New Jersey metropolitan area since 1924, and limited quantities of industrial wastes were disposed of at the site prior to 1976.
- Three other major ocean disposal sites for the dumping of dredged material, cellar dirt, and acid wastes are located in the New York Bight Apex.
- Quantities of municipal sludges dumped in the Bight have increased from about 4.6 million wet tons in 1973 to approximately 8.3 million wet tons in 1983. Quantities of dredged material dumped at the Mud Dump Site in the Bight Apex decreased from over 13 million tons in 1973 to 4.1 million tons in 1983. Acid wastes dumped at the Acid Waste Disposal Site decreased from about 2.7 million wet tons in 1973 to 38 thousand wet tons in 1983. Cellar dirt dumping decreased from 900 thousand tons in 1973 to 89 thousand tons in 1980; no cellar dirt was dumped between 1981 and 1983.
- Currently, approximately 200 million gallons of raw, 133 million gallons of primary treated, and 1,883 million gallons of secondary treated wastes are discharged daily to the Hudson-Raritan estuary from municipal

treatment plants and ultimately enter the Bight Apex. Approximately 275 million gallons per day of industrial wastes (excluding cooling waters) also are discharged to the estuary.

• Monitoring by EPA, NOAA, and others has indicated that the New York Bight Apex is significantly degraded and has adversely affected shellfish, fin fish, and other living marine resources in and beyond the Bight Apex.

• The relative mass loading of the different contaminant inputs to the Bight Apex varies considerably. The largest contributions by weight are those associated with discharges in the Hudson-Raritan estuary (including municipal and industrial discharges). The next largest contributions are those associated with the ocean dumping of dredged materials, municipal sludges, and industrial wastes. However, the quantities of contaiminant inputs do not necessarily represent the proportional environmental impact on the New York Bight environment. The availability of toxic substances to the biota is a function of processes occurring within the environment and has been shown in many cases not to be correlated with total contaminant loads. Repeated measurements of levels of heavy metals, organic materials, petroleum hydrocarbons, and bacteria in the Apex all indicate a region of higher concentrations encompassing the depositional center of the 12-Mile Site and the dredged material dump site. Municipal sludge, which consists of approximately 5 percent solids and 95 percent water with other dissolved contaminants, disperses rapidly when ocean dumped and, its widespread dispersion enhances its bioavailability. In contrast, dredged material has a much greater solids content. With the exceptions of ammonia and manganese, most nutrients, metals, and toxic organics associated with dredged material remain within the site.

• Municipal sludge contributes up to 30 percent or approximately 1,300 to 4,400 pounds per year of the total polychlorinated biphenyls (PCB's) loading to the Bight. Municipal sludge is also responsible for much of the Bight's inputs of chlorinated hydrocarbon pesticides, such as DDT and dieldrin. DDT from municipal sludge ranges from approximately 234 to 510 pounds per year. Because of the large quantity of water associated with municipal sludge, these contaminants are biologically available to marine organisms. This creates a risk of human exposure through consumption of contaminated seafood.

• Sewage associated contaminants have been found to the north of the site within 5 nautical miles of Long Island beaches. They have also been found as far as 22 miles south of the 12-Mile Site, including portions of the Christiaensen Basin, the Hudson Shelf Valley, and other important fishing areas.

• Sediments from the center of the Christiaensen Basin are unconsolidated, soupy in texture, and high in material which researchers have indicated are likely derived from ocean dumped municipal sludge.

• Negative impacts on the benthic species have been observed in a 7 to 11 square nautical mile area within the Christiaensen Basin which is adjacent to the 12-Mile Site.

• Fecal coliform levels associated with municipal sewage and detected in bottom sediments show a high degree of sewage related contamination as far south as 22 miles down the Hudson Shelf Valley.

• Concentrations of chromium, copper, lead, mercury, cadmium, nickel, and zinc in bottom sediments are approximately 10 times greater near the municipal sludge dumpsite than in other areas of the New York Bight.

• Ecological effects which can be attributed wholly or in part to the ocean dumping of municipal sludge includes: closure of shellfish beds; introduction of viral, bacterial, fungal and protozoan pathogens into the Apex which remain viable for long periods of time; elevated levels of heavy metals and toxic orgainic compounds (e.g., PCB's and Polyclic Aromatic Hydrocarbons (PAH's)) in bottom sediments and marine organisms; reduced bottom dissolved oxygen levels; reduced catches of bony fishes; alterations in the benthic biological community, particularly in the proliferation of stress-tolerant polychaete worms; observed sublethal effects in organisms, including reduction of reproductive functions, increased incidences of fin rot and black gill disease, mutation of fish larvae, decreased survival of offspring; and introduction of carbon and nutrients, which contributes to planktonic blooms and anaerobiosis.

Factor 8 —Interference with shipping, fishing, recreation, mineral extraction, desalination, fish and shellfish culture, areas of special scientific importance and other legitimate uses of the ocean.

• The site is located in the heavily trafficked entrance to New York Harbor. It is within the Precautionary Zone established by the U.S. Coast Guard for commercial and recreational traffic. The imposition of more stringent discharge rate requirements meeting EPA requirements on municipal sludge dumpers would require vessels to remain at the 12-Mile Site for many additional hours. This provision would also require more than one barge to occupy the site at the same time. This would pose a navigational hazard which is unacceptable to the U.S. Coast Guard.

• Dumping activities at the 12-Mile Site are interfering with fishing and recreational use of the Bight Apex. Valuable living marine resources associated with the site and adjacent areas are substantial and heavily utilized by commercial and recreational fishing industries. The ability of the Bight Apex to sustain living resources harvested by man has been seriously impaired. An area of 6 nautical mile radius from the center of the dumpsite (150 mi^2) plus adjacent areas reaching to the Long Island and New Jersey beaches have been closed for the taking of bivalves for human consumption based on elevated coliform bacteria levels.

Factor 9—The existing water quality and ecology of the site as determined by available data or by trend assessment or baseline surveys.

• Elevated levels of heavy metals, including cadmium, nickel, zinc, mercury, lead, copper, and chromium have been found in and adjacent to the 12-Mile Site, the Christiaensen Basin and Hudson Shelf Valley. In addition, elevated levels of chlorinated hydrocarbons such as PCB's, petroleum hydrocarbons, and other contaminants have been measured in the sediments.

• A fecal steroid, *Coprostanol*, *Escherichia coli*, and a pathogenic protozoan, *Acanthamoeba*, which are associated with municipal sludge and are utilized as sludge tracers, are found at elevated levels outside the dumpsite.

• Densities of spores of the fecal indicator, *Clostridium perfringens*, are high in the Christiaensen Basin and gradients have been observed in the direction of the Long Island coast and up to 50 nautical miles down the Hudson Shelf Valley.

• Changes in relative abundance and diversity of species in areas affected by municipal sludge disposal have been observed, as have indicators or sublethal effects, including bioaccumulation, mutations, and increased bacterial resistance to antibiotics and toxic metals.

• The incidence of disease in fish and shellfish is elevated in the New York Bight relative to other areas in the mid-Atlantic ocean. Diseases include fin erosion, ulcers, and exoskeletal anomalies in shellfish, including crabs, lobsters, and shrimp.

• High prevalence of chromosomal aberrations have been found in fish eggs and larvae taken from the New York Bight. Greater mortality of eggs and

larvae have also been associated with the Apex and Hudson Shelf Valley than in other areas of the Bight.

• The areas outside the 12-Mile Site receiving municipal sludge (e.g., Christiaensen Basin) have been characterized by benthic populations which are greatly reduced in diversity and species richness.

• Many of the benthic species, particularly tube-dwelling amphipods, which are extremely important in the food web and normally found in these water depths and sediment types, are rare or absent in the areas adjacent to the 12-Mile Site.

Factor 10—Potentiality for the development or recruitment of nuisance species in the disposal site.

• Species shifts to pollution-tolerant species such as the archetypal opportunist, *Capitella capitata*, have been observed in the Christiaensen Basin. This species can be classified as an undesirable species.

• Impacts to the benthic fauna at and adjacent to the site have altered the biological community, resulting in the loss of the preferred food sources for important fin fish.

Factor 11—Existence at or in close proximity to the site of any significant natural or cultural features of historical importance.

• The site is located in close proximity to Gateway National Recreational Area, one of the most heavily utilized national parks in the United States.

• The site also is located near a number of important Federal, state and local parks, including Fire Island National Seashore and Jones Beach State Park on Long Island, and Island Beach State Park in New Jersey.

• Due to its proximity to the metropolitan area, the site is close to various features of historical importance, including the Marconi Twin Lights, various forts, and Liberty Island.

• There have not been any reported adverse impacts.

B. Impact Category I

EPA has established an "Impact Category I" in the Ocean Dumping regulations (40 CFR 228.10) which specifies that the effects of activities at the disposal site must be categorized in "Impact Category I," when one or more of five specified conditions exist and can reasonably be attributed to ocean dumping activities.

EPA is required to place limitations on the use of any Impact Category I site "as are necessary to reduce the impacts to acceptable levels." As explained in EPA's response to New York City's comment, Section VI, Response to Comment No. 1, EPA's decision not to redesignate the 12-Mile Site for municipal sludge disposal is a necessary part of reducing the impacts summarized below.

As explained below, EPA has determined that conditions (i), (iii), and (v) are present in the New York Bight Apex. It is likely that condition (ii) also exists. The City of New York has conceded in its own comments that (iii) can reasonably be attributed to municipal sludge dumping. Accordingly, EPA today is classifying the 12-Mile Site as an "Impact Category I" site. The basis for EPA's findings are described in detail in the response to Comment No. 2 in Section VI of this notice.

(i) There is identifiable progressive movement or accumulation, in detectable concentrations above normal ambient values, of any waste or waste constituent from the disposal site within 12 nautical miles of any shoreline, marine sanctuary designated under Title III of the Act, or critical area designated under Section 102(c) of the Act.

From 1973 to 1983, more than 83 million wet tons of municipal sludges were dumped at the 12-Mile Site. In 1973, sludges were dumped at a rate of 4.5 million wet tons per year. This increased in 1983 to approximately 8.3 million wet tons.

Analysis of sediments in the Bight Apex indicates a high level of contamination by organic carbon, heavy metals, and hydrocarbons in areas outside the 12-Mile Site. The highest levels of organic carbon were found adjacent to the municipal sludge and dredged material dumpsite. High levels of spores of the virus, *Clostridium perfringens*, have been found within 5 nautical miles of Long Island beaches. This virus is a "tracer" for human pathogens found in municipal sludge. Since the quantities of municipal sludge disposal at the site have risen steadily and progressively since 1973, EPA believes it is reasonable to conclude that contaminants have been accumulating and have also been progressively moving off the site.

(ii) The biota, sediments, or water column of the disposal site, or any area outside the disposal site where any waste or waste constituent from the disposal site is present in detectable concentrations above normal ambient values, are adversely affected by the toxicity of such waste or waste constituent to the extent that there are statistically significant decreases in the populations of valuable commercial or recreational species, or of specific species of biota essential to the propagation of such species within the disposal site and such other area as compared to populations of the same organisms in comparable locations outside such site and area.

Studies have shown that the benthic community in the vicinity of the 12-Mile Site shows low species diversity compared to near-by ecologically similar areas. The benthic community is an important source of food for many commercial and recreational species. Studies also show that valuable commercial and recreational species caught in the New York Bight suffer a high incidence of disease and physical abnormality. EPA has found sufficient evidence relating alterations in species to contaminants present in municipal sludge that it can conclude that municipal sludge dumping at the 12-Mile Site is contributing to these conditions. This is particularly likely in the case of the benthic organisms in the areas, where most of the municipal sludge dumped at the 12-Mile Site ultimately accumulates. Since benthic organisms are not very mobile, the adverse impacts exhibited are likely due in large part to contaminants contained in municipal sludge dumped at the 12-Mile Site.

New York City states in their comments that this criterion cannot be shown to be violated because EPA has not demonstrated that these are "statistically significant" decreases in populations of valuable commercial or recreational species or a specific species of biota essential to the propagation of such species within the 12-Mile Site.

Site designation regulations define "statistically significant" as a 95 percent confidence level (40 CFR 228.2(f)). The purpose of this "statistical significance" requirement is to discount the occurrence of an observation that might be attributable exclusively to chance, natural variation, or other pollution sources. As stated throughout the technical evaluations prepared by both New York City and EPA, substantial marine research has been done by many scientists over a considerable period of time in the New York Bight Apex. It is evident that from the results of their studies that there is substantial impact on the benthic community, commercial species, and recreational species. Moreover, it is highly likely that at least part of this impact can be attributed to disposal of municipal sludge at the 12-Mile Site. New York City did collect their own data and stated that no "statistically significant" differences exist. However, New York City has not provided original data to substantiate this claim nor have they indicated that they had evaluated the studies published in the literature and refuted the "statistical significance" of those

studies. Accordingly, EPA concludes that given the evidence, municipal sludge dumping has resulted in decreases in the populations of valuable commercial and recreational species and specific species of biota essential to the preparation of such species.

(iii) Solid waste material disposed of at the site has accumulated at the site or in areas adjacent to it, to such an extent that major uses of the site or of the adjacent areas are significantly impaired and the Federal or State agency responsible for regulating such uses certified that such significant impairment has occurred and states in its certificate the basis for its determination of such impairment.

New York City has acknowledged that the FDA has closed shellfishing in an area with a radius of six nautical miles (approximately 150 mi^2) surrounding the site. EPA believes it is likely that if all other sources were eliminated, the shellfish restriction would continue to be necessary due to the disposal of municipal sludge at the 12-Mile Site. Studies show that a gradient of progressively higher concentrations of bacteria and *Clostridium perfringens* spores can be drawn from a point approximately 5 nautical miles from Long Island's beaches to the 12-Mile Site. This gradient includes the shellfish closure area. The presence of this gradient strongly suggests that the 12-Mile Site is the source of these contaminants.

(iv) There are adverse effects on the taste or odor of valuable commercial or recreational species as a result of disposal activities.

EPA acknowledges that adverse effects on the taste or odor of commercial or recreational species has not been identified.

(v) When any toxic waste, toxic waste constituent, or toxic byproduct of waste interaction, is consistently identified in toxic concentrations above normal ambient values outside the disposal site more than four hours after disposal.

Repeated measurements of levels of heavy metals, organic materials, petroleum hydrocarbons, and bacteria show that high levels persist in the sediments of the New York Bight above ambient values for more than four hours after disposal. The measurements reveal regions of higher concentrations encompassing the depositional centers of the municipal sludge and dredged material sites. However, dredged material studies indicate that, except for ammonia and manganese, most nutrients, metals and toxic organics associated with dredged material are not readily available. Therefore, municipal sludge from the 12-Mile Site is the most likely source of these contaminants. The areas of municipal sludge deposition have also been shown to be high in fish disease and abnormalities associated with toxic contaminants. For a more complete discussion of these toxic effects, refer to EPA's response to Comment No. 7 in Section VI of this document.

C. Conclusion

Based on its analysis of the petitions and supporting documents, the EIS and comments thereon, public hearing records, public comments, and EPA/NOAA documents containing the results of scientific studies of ocean dumping activities at and near the 12-Mile Site, EPA concludes that redesignation of this site would not be in compliance with statutory and regulatory criteria for ocean dump site designation.

The cessation of municipal sludge disposal in the New York Bight, along with the implementation of a series of other Agency programs, will help to improve the overall quality of these waters which serve as a source of food and provide recreation for millions of people annually and are vital to the economic well-being of the entire New York and New Jersey metropolitan area. The other Agency actions include financing for the construction of improved sewage treatment facilities and critical evaluation of marine discharge waivers under section 301(h) of the Clean Water Act.

EPA has consistently worked towards meeting the goal of restoring the quality of the Nation's marine environment. Based on this goal, the current state of the environment in the New York Bight Apex, and the existence of an environmentally preferable and feasible off-the-Shelf ocean disposal site, EPA has determined that further contamination of the nearshore area by municipal sludge dumping is no longer justifiable, nor is it permitted by EPA's regulatory criteria. Thus, discontinued use of the 12-Mile Site is consistent with the statute, the implementing regulations, and the goals of environmental restoration.

VI. Response to Comments

EPA received a substantial number of responses to its request for comments on the tentative denial of petitions to redesignate the 12-Mile Site (49 FR 19042). The petitioners and only a few other commenters favor the redesignation of the 12-Mile Site. However, EPA has received hundreds of comments, signed petitions by thousands of citizens, resolutions from approximately 100 municipalities, and letters of concern from numerous elected officials and the general public objecting to the redesignation of the 12-Mile Site. Responses to New York City's comments on the tentative denial of petitions to redesignate the 12-Mile Site follow. New York City's comments cover all of the major issues raised by the other commenters who favor redesignation. The number in parentheses at the beginning of each comment identifies the comment according to the numbering system that New York City used.

1. *Comment (1.1)*: New York City believes that there is no justification for EPA's statement that volumes of sewage sludge or quantities of solids and contaminants to be disposed at the 12-Mile Site will increase significantly within the next 5 years. Nevertheless, if the Agency is concerned about the potential effect of increased sewage sludge disposal at the 12-Mile Site, the appropriate response should not be to deny redesignation of the site. Instead, EPA should place reasonable limits on the increased quantities of sewage sludge that could be disposed at the site. New York City believes that such reasonable limits would easily accommodate all sewage sludge generated by the nine permittees during the next 5 years. Alternatively, EPA could place limitations on the total quantity of specific contaminants of concern disposed at the 12-Mile Site, such that the total quantity of these contaminants disposed would not be significantly increased. Such a management approach would be consistent with EPA's efforts to ensure that the quality of sewage sludges is maintained or improved through industrial pretreatment programs.

In developing its estimates of sewage sludge volumes to be disposed, EPA ignored the changes in the characteristics of sewage sludge that are caused by the increased treatment which also leads to the increased volume of sewage sludge to be disposed. Sewage sludge is composed primarily of water, and only less than 2–11 percent solid material which contains all of the contaminants. When wastewater is subjected to additional treatment (e.g., secondary versus primary), the total volume of sewage sludge is increased, while the total quantity of solids, and therefore, of contaminants, in the sewage sludge is not significantly changed. The increased volume is due to the increased water content, since water is more difficult to remove from suspended solid material which is of a finer-grained nature following secondary treatment. Because the total quantity of contaminants contained in

sewage sludge is more properly represented by the total solids in sewage sludge, the total weight in solids (as opposed to the total volume of sewage sludge) gives a more accurate picture of the yearly changes that occur in contaminant loading due to sewage sludge disposal.

EPA's Response: Whether or not predictions on future volumes are precise, municipal sludge volumes have increased from 5.9 million wet tons in 1979 to over 8.3 million wet tons in 1983. Moreover, municipal sludge dumping at 1979 levels had already created unacceptable environmental impacts. When EPA designated the site for use in 1979, it explained that the New York Bight was already severely degraded, and continued municipal sludge disposal would be acceptable only as a temporary measure until New York City could identify a feasible alternative. EPA specified that the designation would expire on December 31, 1981. Since that time, the volume of municipal sludge has increased, and this has resulted in further adverse impacts to the New York Bight. EPA has decided to base its decision on existing degradation caused by current dumping levels. Therefore, the amount of the anticipated increase is not relevant.

Nevertheless, EPA continues to believe that New York will be producing greater amounts of sewage sludge in the future. Major new treatment plants will be constructed in New York (Red Hook and North River), and upgraded to secondary treatment capacity in New York (Newtown Creek) and New Jersey (Passaic Valley). Both the new and improved treatment facilities will remove contaminants from wastewaters that are currently discharged directly to rivers which flow into the New York Bight Apex. The process of removing these contaminants will generate new quantities of sludge.

Contrary to New York's assertions, upgrading from primary to secondary treatment does significantly increase the amount of solids in municipal sludge by at least fifty percent. Moreover, in terms of the wet tons vs. dry tons issue, it is misleading to suggest that the liquid component of municipal sludge has no adverse environmental impacts. Although many contaminants adhere to the surface of the solid particles in sludge, the water contains dissolved materials that can also be detrimental to the marine environment.

As an alternative to closing the 12-Mile Site, New York City has requested EPA to place limits on either the total quantity of sludge or on specific contaminants of concern. EPA has considered New York City's suggestion, but found it unworkable. As New York City maintains throughout it comments, it is difficult to identify precisely all the impacts caused by municipal sludge dumped at the 12-Mile Site, because at least three other major sources of contaminants impact the New York Bight Apex: the dredged material site, the Hudson-Raritan estuary, and coastal point and non-point sources. All of these sources contain some sewage-related contaminants, and all contribute to some of the degradation observed in the Bight. However, two factors have prevented experts from precisely identifying the relative contributions from these additional contaminants sources. First, the physical characteristics of the Bight, which include a complex pattern of currents and widely varied topography, make it difficult to track or predict the dispersion of contaminants. Second, waste characteristics affect the impact of contaminants on the Bight environment. For example, contaminants from muncipal sludge, which is largely liquid, are transported offsite rapidly and easily. Contaminants associated with dredged materials, which are largely solid, tend not to move offsite in significant amounts because the heavier solids settle and mound within the site.

While it might be possible to learn more about the relative contributions of the various sources, such studies would be expensive and time-consuming. Furthermore, EPA is not convinced that they would produce definitive answers, and in the interim, the environment of the Bight Apex would not improve. Moreover, EPA believes that the Deepwater Municipal Sludge Disposal Site (DMSDS) would be environmentally preferable even to limited use of the 12-Mile Site. The DMSDS site is farther from shellfish beds and beaches than the 12-Mile Site. The great depths (ranging from 4,700 feet to 9,000 feet) and active hydrodynamics at the DMSDS provide for much more extensive dispersion and dilution of wastes than the shallower depths (approximately 88 feet) at the 12-Mile Site. Therefore, it is unlikely that significant amounts of municipal sludge would reach the bottom and result in benthic impacts at the DMSDS. Living marine resources associated with the DMSDS appear to be less valuable relative to those adjacent to the 12-Mile Site, which are substantial and heavily used by the public. The DMSDS also satisfies Congress' preference for utilizing wherever feasible locations beyond the edge of the Continental Shelf. In addition, New York City has not suggested that using the DMSDS site is infeasible.

Accordingly, EPA has concluded that all disposal of municipal sludge at the 12-Mile Site should be prohibited. This conclusion was also expressed by the National Oceanic and Atmospheric Administration (NOAA) in testimony on July 21, 1983, before the Subcommittee on Water Resources of the Committee on Public Works and Transportation.

Finally, New York City suggested that setting contaminant limits for municipal sludge at the 12-Mile Site will provide incentives for new industrial pretreatment programs. However, discontinuance of the 12-Mile Site will not remove all incentives for new local pretreatment programs. Effective pretreatment could increase the potential for the disposal of municipal sludge by other environmentally preferable alternatives. Pretreatment might also make municipal sludge a useful and economically valuable resource.

2. *Comment (1.2):* New York City believes that EPA has not demonstrated that the 12-Mile Site should be classified as "Impact Category I." In addition, the regulations specify that, even if a site were to be classified as "Impact Category I," this is not cause to deny redesignation of a site. Instead, the regulations specify that withdrawal of a designation is only one of several management options which can be applied to a site which is designated in "Impact Category I." These options also include changes in the total specified quantities or in the types of wastes to be discharged at a specific disposal site.

EPA Response: EPA has responded to New York City's specific criticisms in the discussion of "Impact Category I" in Section V.B of this notice. As explained in the response to New York City's comments on municipal sludge quantities, EPA has found limiting municipal sludge quantities at the 12-Mile Site to be unworkable.

3. *Comment (228.5(a)):* While it is true that the 12-Mile Site is partially located in a heavily-trafficked, navigational Precautionary Zone, the use of the 12-Mile Site has been proved not to be hazardous to navigation. In response to concerns voiced by various groups, the U.S. Coast Guard requested an opinion from the Captain of the Port of New York regarding the navigational safety aspects of sludge disposal at the 12-Mile Site. In a letter dated 8 April, 1982, to the Commander of the Third Coast Guard District, B.E. Joyce, Captain of the Port of New York stated: ". . . sludge dumping has occurred in that area since 1924, with no reported accidents" (Joyce

1982). He additionally stated: ". . . the twelve-mile dumpsite could still accommodate its present (traffic) load and absorb a 100 percent increase . . ." Ongoing sewage sludge disposal operations are, in fact, safe. Further, projected sludge production could be accommodated. There have been no accidents in the precautionary zone in the Bight Apex involving sewage sludge vessels or barges despite the large number of trips to the site that have occurred over many years of disposal.

EPA's Response: The Agency acknowledges that there have not been any reported hazards to navigation as the result of past and current sludge dumping at the 12-Mile Site. However, because conditions will change as discussed below, the Agency has concluded that future use of the site will very likely pose hazards to navigation.

In 1979, the 12-Mile Site was designated to be used only on an interim basis. Therefore, EPA did not enforce its requirements limiting the rate of sludge discharge from vessels using the site in order to avoid navigational hazards. EPA allowed a faster rate of sludge discharge in order to decrease the duration of dumps and reduce barge traffic at the site. This action was taken because it was the opinion of the U.S. Coast Guard's Captain of the Port that municipal sludge dumping at the site must be confined to one ship at a time in order to avoid hazards to navigation.

The high rate of discharge, however, violates the limiting permissible concentration (LPC) specified in 40 CFR 227.26. This limitation restricts the concentration of the liquid phase of municipal sludge, after initial mixing. While the Agency has, for reasons noted above, allowed discharge rates above those that exceed the LPC in the past, it is inconceivable that the continued use of the site would be permitted without enforcing the requirement for a reduced rate of discharge.

The letter New York City cited did not discuss the issue of meeting the LPC. In a second letter, dated November 23, 1983, the Captain of the Port concluded that it would be impossible to meet the LPC while disposing current municipal sludge volumes without requiring more than one barge to occupy the site at the same time. The Captain of the Port rejected this solution because he believed that multiple simultaneous dumps would pose unacceptable threats to navigation.

For this reason, the Agency considers hazard to navigation a serious threat and determines that the criteria of the Ocean Dumping Regulations are not met.

4. *Comment (228.5(b)):* While it is true that sludge particles are widely dispersed throughout the Bight Apex, it has not been demonstrated that any impacts directly caused by sewage sludge disposal have occurred beyond the site. Sporadic incidences of elevated bacterial levels in the water column have been reported in the vicinity of the site and, therefore, the FDA has imposed a precautionary shellfish closure. However, water quality measurements in the vicinity of the 12-Mile Site typically reveal very low or no detectable counts of fecal coliforms.

Levels of toxic metals and organohalogens are elevated in bottom sediments of the Christiaensen Basin and the Hudson Shelf Valley, both of which are near the 12-Mile Site. However, it is generally recognized that these contaminants are associated with fine-grained sediment particles, which naturally characterize these topographically low areas of the Bight Apex. Numerous sources of these fine-grained particulates, with associated contaminants, contribute to the contaminant levels found in these areas, including the Hudson River plume, dredged material disposal, cellar dirt disposal, etc. The disposal of sewage sludge at the 12-Mile Site contributes only 4 percent of the total solid material entering the Bight Apex and less than 2–11 percent of the contaminants of concern. Indeed, NOAA testimony (Ehler 1983) states that "[the Christiaensen Basin and the Hudson Shelf Valley] . . . would be expected to accumulate contaminants of coastal or estuarine origin even if dumping at the 12-mile site were discontinued." For these same reasons, contaminants detected in sediments within 5 nautical miles of coastal beaches cannot be ascribed to sewage sludge disposal and are likely to be from nearshore sources.

EPA, in identifying sewage sludge disposal as a contributor to the overall degradation of the Bight Apex, fails to properly characterize the true contaminant loading to the Bight. NOAA testimony (Ehler 1983) states:

> It is probable that the contaminant contribution of sewage sludge to environmental loadings, body burdens and ecological effects for a given toxicant is approximately proportional to the sludge input to the Bight as a whole. For most contaminants, the proportion added to the New York Bight regions via sewage sludge dumping is generally small. . .

EPA should explicitly state that sewage sludge disposal can, at most, bear only a small culpability for the contaminant concentrations that exist in the New York Bight Apex, and that the environmental condition of the Apex will not be appreciably improved should the 12-Mile Site be closed to sewage sludge disposal.

It should also be noted that this criterion states that elevated contaminant levels should be reduced to normal ambient levels before reaching any beach, shoreline, etc. Certainly, there have never been data demonstrating that contaminants or effects from sewage sludge disposal have approached any shoreline or geographically limited fishery. Despite the vague allegations in the EPA notice, this criterion is certainly met by the 12-Mile Site. Further, only a slight increase in sewage sludge quantities to be disposed at the 12-Mile Site might occur in the near future; and there is no scientific or technical evidence that would suggest that such a slight increase would potentially affect shorelines.

EPA's Response: EPA agrees that no data conclusively indicate that contaminants from the municipal sludge dump site exceed ambient levels at any beach or geographically limited fishery. Consequently, EPA cannot conclude that the site specifically violates the general criterion described in 40 CFR 228.5(b). However, EPA does not agree with the remaining claims in this comment.

Numerous studies cited throughout this document indicate that sewage-related contamination is primarily responsible for a variety of impacts outside the 12-Mile Site. Elevated levels of bacteria due to municipal sludge dumping have resulted in the area surrounding the site being closed to commercial shellfishing by the FDA. Levels of toxic metals and organohalogens in bottom sediments are increased over normal ambient levels in areas near the site, including known fishing areas. Changes in relative abundance and diversity of species in areas affected by municipal sludge dumping have been observed, as have indications of sublethal effects, including bioaccumulation. In addition, other alterations that have been reported include: decreased species diversity compared to communities in sedimentologically similar habitats; species shifts to pollution-tolerant species; and the disappearance of pollution-sensitive crustaceans.

Contrary to New York City's assertions and to Ehler's 1983 study, proportional contaminant contribution is not the best measurement of the impact of municipal sludge dumping. It is important to recognize when performing mass balance analyses that the contaminant inputs are not instantaneously and completely mixed with all waters of the Bight. In the

eastern portion of the Bight Apex, including the Christiaensen Basin, the Hudson Shelf Valley, and the area between the dump site and Long Island, municipal sludge is probably a much more important contributor of contaminants than any other source. Although the greatest bulk load of contaminants is introduced by discharges into the Hudson and Raritan Rivers, the surface plume, which contains most of these contaminants, principally flows south very close to the New Jersey coastline. Prevailing currents moving towards the southwest contain the plume and prevent significant amounts of its contaminants from spreading east toward the Christiaensen Basin, the Hudson Shelf Valley and the municipal sludge site. Coastal runoff from the New Jersey and Long Island shore is not a significant input because of its relatively low volume. Studies have been unable to trace the contaminants from the Long Island shore farther than 5 nautical miles south of the coast. At that point, contributions spreading north from other pollution sources (i.e., 12-Mile Site) are strong enough to mask the coastal input.

Repeated measurements of heavy metals, organic materials, petroleum hydrocarbons and bacteria all indicate regions of high concentrations centered on the municipal sludge and dredged material dump sites. The municipal sludge dump site is probably a much more important source of these contaminants than the dredged material site. General studies of dredged material dump sites indicated that, with the exception of ammonia and manganese, most nutrients, metals, and toxic organics associated with dredged materials are not readily bioavailable (Lee and Jones, 1979). Because dredged materials contain much greater amounts of solids, a much higher portion of these solids and their associated contaminants are sequestered on the bottom of the site and remain there.

New York City implied that the transfer of pathogens from surf clams and ocean quahogs is of little importance because they do not occur in great abundance in the vicinity of the 12-Mile Site, and also suggested that "shellfishing closure is a mere formality" "given the lack of harvestable populations of shellfish in the area of the 12-Mile Site." Contaminated shellfish do not have to be harvested commercially to pose a threat to the public health. Such contaminated shellfish may be gathered by non-commercial fishermen as well. Certainly the closure of shellfish beds is not considered by the authorities to be a "mere formality."

5. *Comment (228.5(d)):* Since no adverse long-range impacts have been detected, the monitoring and surveillance programs in effect at the 12-Mile Site have performed their intended purpose. New York City has concluded that the impacts from the disposal are controlled and that the monitoring and surveillance that are currently conducted will continue to be effective in prohibiting any adverse long-term effects.

EPA's Response: As stated above, isolating the impacts of municipal sludge dumping from other sources of pollution is extremely difficult, but EPA disagrees that monitoring has shown no long term impacts. For further discussion, see EPA's responses to Comments Nos. 13, 14, 17, and 19.

6. *Comment (228.5(e)):* New York City estimates that annual costs of dumping at the Deepwater Municipal Sludge Dump Site will be approximately $26.71 million, compared to an estimated annual cost of only $4.09 million at the 12-Mile Site. Disposal at the 106-Mile Site will be economically feasible, but burdensome. Any limited environmental benefits that might result from moving disposal to the 106-Mile Site are outweighed by adverse environmental impacts and economic costs. EPA's contention that disposal at the 106-Mile Site is environmentally preferable to disposal at the 12-Mile Site is technically unsupported.

EPA's Response: EPA has considered New York City's argument, but did not find it persuasive. EPA acknowledges that disposal costs will certainly be higher for the Deepwater Municipal Sludge Dump Site than for the 12-Mile Site. EPA believes, for all the reasons discussed elsewhere in this notice, that the Deepwater Municipal Sludge Dump Site is environmentally preferable. EPA had concluded that the environmental benefits of using the Deepwater Municipal Sludge Dump Site outweigh the additional costs. NOAA has also testified before Congress that the Deepwater Municipal Sludge Dump Site is environmentally preferable to the 12-Mile Site. Moreover, EPA carefully considered the feasibility of using the 106-Mile Site when it designated that site, and concluded that sludge dumping would be feasible. New York City was the only commenter that submitted information on the relative costs of ocean disposal at these sites.

Also, EPA's ocean dumping regulations provide for the consideration of economic issues in the permit process. Each of the municipal sludge dumpers currently using the 12-Mile Site will have an opportunity to raise issues concerning the costs of alternatives including land-based alternatives, in the permit application process that will follow this decision to deny the petitions for redesignation of the 12-Mile Site.

7. *Comment:* (2.4.1) EPA Region II has issued interim permits to nine sewage authorities in the New York Bight Apex. These permits set limits for maximum discharge rates and minimum vessel speeds. Present permit conditions for the nine sewage authorities are a maximum discharge rate of 15,500 gallons per minute (gpm) and a minimum speed of 3 nautical miles per hour (knots). In 1983, EPA considered revising the interim permit conditions. EPA Region II sent notices of draft proposed revisions to the interim permits of all the permittees except New York City. These draft proposed revisions would lower the maximum discharge rates by 26–87 percent for individual dumpers, from 15,500 gpm to as low as 2,000 gpm. The effect of this revision would be to increase the time that a transport vessel must remain at the 12-Mile Site while discharging. Depending on the sludge and the transport vessel used, EPA calculated up to 15.75 hours per trip would be required.

New York City claims that EPA's calculation of the proposed permit condition discharge rates is premised on several errors. In the following discussion, EPA describes each alleged error and presents its response.

a. EPA selected the second worst LC50 value for *Mysidopsis bahia* reported by the permittee during the previous two years of compliance monitoring data.

EPA's Response: New York City objects to EPA's use of second worst LC50 value reported during previous two years of compliance monitoring data.

The City discusses the variability of the LC50 test due to biological variability of species; procedural details during test operation and non-homogeneity of test samples. New York City further suggests that where multiple acute toxicity test results for a waste exist, they should be used to calculate a species mean acute value and indicates use of the mean value for LC50 tests has become standard practice in establishing national water quality criteria for the protection of aquatic life (presumably under the Clean Water Act).

The purpose of the Marine Protection, Research, and Sanctuaries Act is to prevent or strictly limit the dumping into ocean waters of any material which would adversely affect human health,

welfare, amenities or the marine environment, ecological systems or economic potentialities. Given this intent, the use of the second worst case observation is not precluded. Moreover, New York City's suggested use of the mean could be too liberal. If the applicant wanted to present alternative statistical analysis, EPA believes a more appropriate alternative approach would be to provide the LC50 value at the 95 percent significance level and compare that value to the second worst observed value. The City references a large data base, but has not provided information for either a 95 percent significance level or a mean level for this organism.

b. This LC50 was multiplied by an application factor of 0.01 to obtain the maximum sewage sludge concentration to be allowed 4 hours after dumping. A more appropriate application factor would be 0.05.

EPA's Response: New York City suggests increasing the application factor out from 0.01 to 0.05 based upon toxicity tests where ammonia concentration was held constant and metals and organics were varied. New York City concludes from these LC50 values that metals and organics showed no effect and, therefore, the higher application factor is more appropriate.

The purpose of the application factor of the Ocean Dumping regulations is to provide a safety factor to the acute LC50 values in order to account for the chronic toxic effects these toxicants could exert over a longer exposure time. Chronic toxic effects (e.g., fish disease) are observed in the New York Bight Apex in the vicinity of the municipal sludge dump site. Accordingly, the City's proposal is not persuasive.

c. EPA used LC50 values for *Mysidopsis bahia* when calculating the draft revised dumping rates for New York Metropolitan Area permittees. The confounding effect of particulate matter in interpreting *Mysidopsis bahia* toxicity tests results brings into question the utility of this species as the most sensitive estimator of potential sewage sludge toxicity. These effects exhibited at the high concentrations of particulates used in laboratory test conditions may dramatically alter direct chemical toxicity effects, as well as produce mortality through mechanical disruption in a manner that may be dissimilar to actual field effects where suspended particulate concentrations are quickly reduced far below laboratory test concentrations. Short-term lethality tests do not provide sufficient resolution to distinguish between the two component effects. Several authors (e.g., Stern and Stickle 1977; Peddicord and McFarland 1978) have concluded that ecological effects of suspended solids in water were generally minimal and transitory. As such, it is unrealistic to assess long-term ecological effects by employing data points from tests where short-term mortality may be controlled more by a mechanical disruption.

EPA's Response: New York City argues that *Mysidopsis bahia* is an inappropriate organism for use in the LC50 tests because such organisms may be affected by the particulate rather than chemicals in the City's municipal sludges. EPA's Ocean Dumping regulations (§ 227.27(c)) require that tests species be chosen from among the most sensitive species documented in the scientific literature or accepted by EPA as being reliable test organisms to determine the anticipated impact of the wastes on the ecosystem at the disposal site. New York City further indicates that of the three test species tested by New York City, *Mysidopsis bahia* has the lowest LPC when exposed to total municipal sludge which indicates to EPA that this is the most sensitive species. EPA finds the City's speculation that the toxicity may be due to particulates, not chemicals, is not sufficient evidence that the organism is inappropriate.

d. Historically, regulatory compliance assessments under the Ocean Dumping regulations have employed the EPA/COE Release Zone Method to predict dispersion and dilution of ocean-dumped wastes. The Regulations, however, state that field data should be used in conjunction with an appropriate mathematical model to predict initial mixing and dispersion. New York City undertook a modeling effort incorporating the unique characteristics of sewage sludge, as well as the available hydrodynamic data at the 12-Mile Site, to refine the prediction of plume dispersion, and to provide a basis for calculating minimum dilution ratios that exist following a sewage sludge dump at the 12-Mile Site. The Release Zone Method was found to predict less plume dispersion than the mathematical mixing model which was verified by actual field data. Observations from field studies on dispersion and dilution of ocean-dumped sewage sludge have also shown that the Release Zone Method does not predict as much dilution as typically occurs under actual field conditions.

EPA's Response: New York City argues that use of the EPA/COE Release Zone Method to predict dispersion and dilution of ocean dumped wastes is found to predict less plume dispersion than as shown by a New York City model and available hydrodynamics data at the 12-Mile Site.

EPA cannot evaluate whether this approach would be more appropriate since insufficient detail is provided in these comments. However, the EPA/COE Release Zone Method is used extensively and generally presents acceptable predictions of dispersion and dilution. Even if the model is somewhat conservative, its use is not inconsistent with the stated purpose of the MPRSA to strictly limit adverse impacts.

8. *Comments (2.2.1, 2.2.2, 2.2.3):* Commercial fish catches from the Bight have decreased in size since the 1950s. The average size of many species has also decreased. There is, however, no evidence linking these decreases to the disposal of municipal sludge. Overfishing is the most probable cause.

Considering that most of the current recreational fishing occurs inshore of the dump site and on shoal areas adjacent to the 12-Mile Site, it does not appear that dumping activity interferes with this fishery. Furthermore, since much of the fishing effort is guided by bottom topography, cessation of dumping is not likely to result in a significant increase in recreational fishing activities within the dumpsite since the dumpsite does not provide structures preferred by fishermen or fish.

The available data indicate that current dumping practices and, specifically, dumping at the 12-Mile Site are compatible with spawning or nursery requirements of fishery stocks of the area (NOAA 1977). Because of the limited areal extent of the dump site, any adverse conditions that might occur at the site are extremely unlikely to affect the reproductive success of any species. The fish community is dominated by migratory coastal species, some of which do use the area as a small part of their spawning and nursery ground. However, none of these species are limited geographically to the Bight and none require a specific habitat unique to the Bight or the 12-Mile Site at any stage of their life history.

There is no evidence to suggest that any species of wildlife or seabird cited in EPA's proposal uses the 12-Mile Site or the adjacent areas of the New York Bight Apex as a unique habitat. Consequently, it is unlikely that the disposal of sewage sludge at the 12-Mile Site, or any other site in the Middle Atlantic Bight, would adversely impact these populations.

EPA's Response: As New York City observes, fin fish populations and size have decreased. The causes of the decrease have not been determined. Overfishing would certainly contribute to these decreases. EPA believes that contamination from municipal sludge

dumping is very likely to be responsible for part of the decreases in commercial fishing. EPA bases its conclusion on two observed phenomena: the high incidence of disease in species that spend most of their time in areas where sediments have been contaminated by municipal sludge, and the reductions in the same areas of the benthic species that serve as food for commercial and recreational species.

Diseases observed in species inhabiting the ocean bottom of the Bight Apex include fin erosion in flatfishes (Murchelano and Ziskowski, 1982), and blackgill disease in lobster and other shell fish (Sawyer, 1982; Sawyer et al, 1983; Sawyer et al, 1984). Studies have also shown that fin fish found in the vicinity of the 12-Mile Site show a higher incidence of lesions than in the Bight as a whole (Murchelano and Ziskowski, 1979). Evidence of changes in the benthic macro-invertebrate community is ever more striking. The areas adjacent to these municipal sludge and dredged material disposal sites exhibit even lower species diversity than the surrounding ecologically similar areas of the Christiaensen Basin and Hudson Shelf Valley. The most affected zone covers an area of approximately 7-11 square nautical miles west of the 12-Mile Site. This area supports a depauperate community dominated by dense populations of the otherwise rare polychaete *Capitella capitata* (Boesch, 1982). This species is generally considered an opportunist and is typically associated with highly polluted environments (Steimle et al, 1982). Moreover, most of the Christiaensen Basin beyond this zone is described as an enriched transition zone, covering an area greater than 176 square nautical miles (Boesch, 1982). The transition zone is populated by a dense community of species characteristic of muddy fine sands except that crustaceans, particularly amphipods which are pollution-sensitive, are virtually absent. Amphipods are dominant members of the macrobenthos of similar but less polluted, topographically low, silty areas of the Middle Atlantic Bight (Boesch, 1979; Steimle et al, 1982).

Boesch (1982) recognized that comparisons of benthic communities must be made between habitats similar in sediment properties but with varying contaminant levels, and, therefore, made comparisons "along a gradient from the Christiaensen Basin down the Hudson Shelf Valley, along which sediment properties remain relatively constant, but contaminant levels (such as trace metals and organic carbon) decline rapidly away from their source [the sewage sludge and dredged material dumpsites]."

Boesch stated that "[i]n the New York Bight Apex, most of those species of macrobenthos apparently advantaged by waste discharges [dumping] are not known to be important prey for fishes in the western North Atlantic. On the other hand, those species largely excluded from the upper Valley and the Christiaensen Basin, but abundant in similar sediments of the Hudson Shelf Valley, are among the most important prey species known for demersal fishes in the New York Bight region." These findings led Boesch to state that "it is reasonable to conclude on the basis of literature that the trophic resource 'potential' of a substantial portion of the Bight Apex has been reduced" and that "it appears that the ability of the . . . Bight Apex to sustain living resources harvested by man has been impaired."

It is true as New York City stated that the Christiaensen Basin would be characterized by a different benthic community than adjacent coarser sediments in the absence of man's activites—this topographically low area would be expected to support a naturally more diverse macrobenthic community than adjacent coarser sediment areas. Therefore, the fact that the fine-grained areas of the Apex support less diverse macrobenthic communities than surrounding coarser-grained areas further demonstrates that the former have been degraded ecologically.

In addition to this indirect evidence of adverse impacts on commercial finfish, there is at least one study linking contaminants from municipal sludge directly to decreases in catch sizes. NOAA, in 1976, found that catch weight per ton was lower in "high carbon" areas of the Bight. NOAA also observed "consistently lower fish population densities" in these areas. NOAA defined high carbon areas as those with greater than one percent carbon in sediments, and included the Christiaensen Basin and the Hudson Shelf Valley. Since ocean-disposed municipal sludge is a principal contributor of carbon to these two areas, EPA believes it is reasonable to conclude that municipal sludge dumping has affected the size of the catch and the population in these areas.

Finally, New York City's comment ignores the impact of the 12-Mile site on commercial shellfishing. As previously stated, the FDA closed a large area centered on the site to commercial shellfishing because of elevated coliform levels in the water column. Moreover, a study shows that commercial fisherman do not harvest the dense beds of clams off Long Island that are located outside of the FDA closure area (Sinderman, 1981). Thus, municipal sludge dumping has had a significant adverse effect on commercial shellfishing.

With regard to recreational fishing, EPA agrees that physical dumping activities probably cause little or no interference because recreational fishermen probably do not use the dump site in large numbers. However, EPA expects that the higher incidence of disease and the decreases in the benthic food supply described above would have an adverse effect on the quantity and quality of fish available.

With regard to spawning and nursery activities, EPA agrees that there are no species which use the Bight as their sole spawning ground. However, EPA expects that the high concentrations of heavy metals and organic chemicals found in sediments where sludge has settled do affect species which spawn or nurse in the Bight. One study shows a high incidence of chromosomal aberrations in Atlantic mackerel embryos (Longwell et al., 1984).

Wildlife including birds, cetaceans, and turtles occur in the vicinity of the 12-mile site. The presence of these wildlife species in the New York Bight Apex ranges from common to rare and from permanent to seasonal. EPA agrees with the comment that the disposal of municipal sludge at the 12-Mile Site has apparently not adversely impacted the New York Bight wildlife population.

Because EPA has decided not to redesignate the 12-mile site, EPA has not coordinated with the U.S. Fish and Wildlife Service (USFWS) nor National Marine Fisheries Service (NMFS) regarding the potential for impacts on endangered on threatened species. Resolution of any potential effects on endangered or threatened species under the jurisdiction of the USFWS and NMFS would be necessary before the 12-Mile Site could be redesignated.

9. *Comment (2.3.1, 2.3.2, 2.3.3):* The **Federal Register** announcement states that the 12-Mile Site is near coastal beaches and parks. In contrast to the Agency's conclusion, New York City demonstrated that because of the distance of the site from the shoreline and the general hydrographic conditions within the Bight, adverse impacts from the continued disposal at this site are not anticipated; and the Agency itself previously concluded that continued use of the existing site is not a present threat either to public health or to water quality along the Long Island or New Jersey beaches (EPA 1978).

New York City also questions why EPA considers the 12-Mile Site to be too near the shoreline when the dredged material site is even closer. New York City also claims that EPA relied on inaccurate sources when it concluded that sludge-related constituents have been found within 5 nautical miles of Long Island.

EPA's Response: The 12-Mile Site is near coastal beaches, resorts, state and Federal parks, and other amenity areas in New Jersey and Long Island. Presently, there is no evidence of increased incidence of human disease or unacceptable water quality due to municipal sludge disposal, but there is evidence that pathogens move away from the site and toward beaches, thus posing a potential threat. Sludge-derived waste constituents have been detected above normal ambient values in bottom sediments as close as 5 nautical miles from the coast of Long Island.

The source for this statement is not, as New York City suggests, the 1974 "Here Come de Sludge" article by Soucie. EPA is not claiming that a "front" of municipal sludge is advancing on Long Island. Nor has EPA attempted to base its findings on the presence of fine-grained particles or black particles. Rather, EPA relied on a study by Cabelli and Pederson (1982) and their finding that quantities of *Clostridium perfringens* spores in sediments exceeded ambient levels within 5 nautical miles of the shoreline. This viral organism has been closely associated with sewage-related bacteria, and is often used as a "tracer" for sewage contamination. As explained elsewhere in this notice, contaminants from dredged material are less bioavailable than contaminants from municipal sludge. Thus, the dredged material site, although closer to shore, is a less important source of contamination.

10. *Comment (2.6.1):* EPA appears to have based its assessment of the dispersive capacity of the Apex region on the erroneous information concerning the physical oceanography of the New York Bight Apex which was included in the **Federal Register** announcement. This information concerns the average speeds of currents in the New York Bight. EPA has, therefore, apparently underestimated the capacity of the Bight Apex waters to disperse and assimilate sewage sludge.

EPA Response: Assimilative capacity has been defined as the quantity of contaminants that can be added to a system without causing unacceptable alteration or impairing beneficial uses (Csanady et al., 1979; Krenkel and Novotvy, 1980). The FDA shellfish closure area shows interference with shellfishing in the vicinity of the Bight.

If the endpoint of assimilative capacity is the protection of marine life and its uses and the protection of human health, the effects previously stated indicate that the assimilative capacity for some contaminants may be exceeded in some areas of the New York Bight (e.g., Christiaensen Basin). EPA's conclusion that the Bight is not successfully dispersing and assimilating municipal sludge contaminants is based on these observed impacts rather than on average current speeds. Accordingly, the current speed issue is not relevant, however, EPA does not concede that its information is erroneous.

11. *Comment (2.6.2):* EPA listed four components of sewage sludge: surface film, aqueous phase, suspended particulate phase, and solid phase (49 FR 19045). In contrast, in the same issue of the **Federal Register**, EPA stated that "EPA does not believe that the municipal sludge contains a solid phase" (48 FR 19012). Research by NYC (1983a), Westchester County (1984), and Nassau County (in press) indicates that sewage sludges do not have a solid phase as defined by EPA in the Ocean Dumping regulations.

EPA's Response: Although the two **Federal Register** notices which New York City referenced to contain different descriptions of the components of municipal sludge, the statement made in 49 FR 19012 which states that municipal sludge does not have a solid phase is an error. Municipal sludge has a solid phase within the mearning of 40 CFR 227.32(a).

12. *Comment (2.7.5):* Sewage sludge is a minor contributor [of pollution] relative to dredged material. For example, quantitatively, dredged material is estimated to contribute 23 times more suspended solids; 20 times more arsenic; 15 times more PCBs; 9 times more mercury; 8 times more nickel; 4 times more cadium, chromium, copper, lead, and zinc; and twice as much oil and grease as sewage sludge.

Furthermore, the statement that most of the dredged material contaminants are sequestered in the depositional mound has been clearly contradicted by a recent NOAA study by Dayal et al. (1981). These researchers used mass balance calculations for the depositional period 1973–1978 to conclude that "although most of the dumped material is present in the disposal site, most metals are lost from the system in varying degrees either during the dumping process or following deposition of the dumped material." This conclusion is likely to be valid also for toxic organic compounds although they were not studied by Dayal et al. Further, the contaminants in sewage sludge are certainly not more bioavailable than contaminants from the Hudson-Raritan estuary, which EPA acknowledges accounts for the majority of the contaminants loading to the New York Bight.

Finally, the extensive chemical fractionation, bioassay, and bioaccumulation testing conducted by New York City as part of its Special Permit Application submitted to EPA in January of 1984 clearly indicates that contaminants present in sewage sludges are not readily bioavailable and not toxic to test organisms after the allowable initial dilution period. Thus, the question of relative bioavailability is far from answered and an assessment of potential effects based on relative mass loading represents the best estimate which can be developed from currently available technical information.

EPA's Response: EPA does not believe that the extent to which municipal sludge contributes to observed environmental loadings, body burdens, and ecological effects for a given contaminant, is proportionate to the percentage of the contaminants introduced with municipal sludge. The quantities of contaminants derived from the individual sources considered do not necessarily represent the proportional impact on the New York Bight environment. The availability of toxic substances to the biota is a function of processes occurring within the environment and has been shown in many cases not to be correlated with total contaminant loads (Schubel et al., 1978; Chen et al., 1976; Lee and Jones, 1977). EPA has previously explained why it believes that the most significant source of contaminants found in the Christiaensen Basin, the Hudson Shelf Valley, and the area between the 12-Mile Site and Long Island's beaches is from the ocean dumping of municipal sludge and not the Hudson-Raritan estuary or the dredged material site.

Lee (1977) stated that: "It is improper to draw inferences about potential water quality effects based on total mass load. In order to properly interpret the water quality aspects of the mass load, one must determine what fraction of the contaminants from each of the sources will become available within the receiving water system to affect water quality."

EPA continues to maintain that municipal sludge dumping is a more significant source of contaminants than dredged material. Although the dredged material may have associated with it larger amounts of some contaminants,

these contaminants are not so readily bioavailable.

The Corps of Engineers has extensively studied the release of contaminants from dredged material and has found that, with the exceptions of ammonia and manganese, most nutrients, metals, and toxic organics associated with dredged material are not readily bioavailable (Lee, 1976; Lee and Jones, 1977; Lee and Jones, 1979).

Because of these findings, Lee (1977) concluded that "it is certainly inappropriate to compare the contaminants added to a water body from domestic and industrial wastewaters and their sludges to those added from dredged waterway sediments." Since dredged material disposal contributes a high percentage of some important contaminants to the New York Bight (e.g., PCBs), the implication is that the contribution due to municipal sludge and estuarine discharge of bioavailable contaminants may be significantly higher than the total mass loading contributions described in the literature (Mueller et al., 1976; NYC, 1983; Swanson et al., 1983).

Therefore, since contaminants in dredged material are significantly less bioavailable than those in municipal sludge, the effective contribution of sludge dumping would be proportionately much higher than its percent contribution of contaminant mass loadings.

NOAA's National Marine Fisheries Service also supports this conclusion. They have stated in a letter to EPA (August 24, 1983), that of the directly ocean dumped materials, municipal sludge contributes only 1–10 percent of the total mass loading of most contaminants into the Bight, with dredged material usually accounting for higher percentages. However, contaminants in municipal sludge are more bioavailable. NOAA also states that municipal sludge may be responsible for a greater proportion of some selected contaminants. For instance, it has been reported that municipal sludge contributes a larger share of the total PCB loading to the Bight. Bopp et al (1981) estimated this value to be 30 percent, while West and Hatcher (1980), reported that municipal sludge was the primary source of PCBs in the Bight Apex. Municipal sludge also contains much of the Bight's inputs of DDT and associated metabolites. Preliminary estimates are that 106 to 231 kg (233 to 508 lbs.) of DDT per year are dumped due to municipal sludge; this is 1.6 to 3.5 times the input in dredged material (O'Connor et al., 1982). Furthermore, New York City has not addressed other important contaminants that result in biochemical oxygen demand. In this regard, municipal sludge exerts significantly more biochemical oxygen demand than dredged material.

For all of these reasons, EPA cannot agree with New York City's comments and Ehler's (1983) conclusion that relative mass loadings of a few individual pollutants are reasonable indicators of source inputs. It further demonstrates that the wet basis should be used to evaluate the impact of the material being disposed.

13. *Comment:* EPA's reference to sludge-contaminated sediments may refer to reports which unsuccessfully attempted to identify the relative sources of sewage-related components in sediments of the New York Bight apex. Many of these reports incorrectly refer to the high-organic, fine-grained sediments and muds in the New York Bight Apex as "sludge-related." Although such high-organic, fine-grained sediments may in some areas contain sewage-related contaminants, the principal sources of these sewage-related contaminants are probably treated effluents and dredged material, not sewage sludge. EPA may also have relied on Cabelli and Pederson's 1982 study of *Clostridium perfringens* spores. This report found high levels of spores 5 nautical miles from Long Island's beaches. However, these levels can be explained by the fine grains in the sediment at this location. Coaser-grained sediments nearer and farther offshore have lower spore levels.

Mueller et al.'s data indicated that less than one-hundredth of one percent of the Bight's fecal coliform load results from ocean dumping. Instead coliforms result predominantly from municipal waste waters, urban runoff, and industrial waste waters.

EPA's Response: EPA does not agree with New York City's assessment of the Cabelli and Pederson study. That study shows a progressive gradient of spore levels starting with high levels at 5 nautical miles from Long Island, and increasing steadily up to 12 nautical miles from shore—the location of the sludge dump site. Thus, the study shows that New York City's assertions about grain size is irrelevant.

EPA also disagrees that sources such as effluent discharges to rivers, urban runoff, and dredged materials are more important sources of the pathogenic bacteria and viruses found within 5 to 12 nautical miles of Long Island.

The rate of municipal sludge input is higher than the estimated rate of the fine sediment input from runoff (Freeland et al, 1979). Suspended fine sediment may enter the Bight Apex from the Hudson-Raritan estuary at higher rates than by either land runoff or municipal sludge disposal. However, due to the prevailing current direction, it is likely that municipal sludge is the primary source of contaminated particles in the sediments in the eastern portion of the Bight Apex.

New York City has not commented on data related to sediment contribution in the Christiaensen Basin and the Hudson Shelf Valley, and other portions of the eastern Bight Apex impacted by the municipal sludge dump site.

For example, Cabelli and Pederson found that most of the sludge is transported southeast down the Hudson Shelf Valley. Spore densities decreased exponentially along the course of the Hudson Shelf Valley; elevated concentrations were detected to a distance of at least 105 nautical miles.

Hatcher and McGuillivary (1979) investigated the distribution of sewage contamination in Apex sediments using the fecal steroid coprostanol as an indicator of sewage-derived organic matter. They found that the highest values (10–15%) were found in the Christiaensen Basin where black organic silts accumulate, and nearly half, or possibly more, of the organic matter was sewage-derived. This material is probably from ocean-dumped municipal sludge because municipal sludge has a higher organic content and because currents flow from the dump site toward the Basin. Sewage contamination of sediments with organic carbon down the Hudson Shelf Valley was also indicated. Sewage contamination of sediments has been prevalent in this area over at least the past 26 years. Thus, there is evidence form tracers that particulate matter of unquestionable fecal origin and probably from the municipal sludge disposed at the 12-Mile Site is deposited and accumulates in the depressions of the Christiaensen Basin and in the Hudson Shelf Valley.

With regard to the study by Mueller et al (1976) and New York City's 1983 update, it may be true that municipal sludge contributes a small part of the overall coliform contaminant load, but this is not relevant. The contaminants from the municipal sludge site do not mix uniformly throughout the Bight. Instead, as indicated above, they accumulate in specific areas of the eastern half of the Bight Apex.

14. *Comment (2.7.7.4):* While it is true that municipal sewage sludge disposal contributes to reductions in bottom dissolved oxygen, this contribution is negligibly small. Sewage sluge inputs represent only an estimated 8 percent of

the total average annual oxygen demand of the New York Bight Apex and only about 50 percent of the estimated oxygen consumption due to ocean disposed dredged material. During the summer when oxygen concentrations reach their lowest point, sewage sludge probably accounts for only 4 percent or less of the oxygen demand since algal production, and its subsequent decomposition, is greatly increased at that time (Segar and Berberian, 1976).

EPA's Response: It is true that the literature has identified municipal sludge dumping as a minor contributor to oxygen depletion in the Bight Apex compared to primary production and riverine input. However, organic loading and nutrient stimulation of in situ primary production due to municipal sludge disposal contribute to oxygen depletion, and these contributions may not be trivial. Segar and Berberian (1976) reported that municipal sludge dumping contributes approximately 3 percent of the total average organic carbon loading to the New York Bight Apex and that the sludge contribution exerts 8 percent of the total potential oxygen demand on the average. Other researchers have attributed higher pecent contributions. Both Thomas et al. (1976) and Garside and Malone (1977) estimated that municipal sludge disposal is responsible for 7 percent of the organic carbon loading to the Apex, and Swanson et al. (1983) suggested that sewage sludge may contribute greater than 10 percent of the carbon to the New York Bight.

As stated previously, relative contributions are not the best indicator of ecological effects. Although municipal sludge contributes a small percentage of annual oxygen demand to the total load of the New York Bight, the area where most municipal sludge ultimately settles show the most servere impacts. In the Christiaensen Basin, an organism capable of tolerating low oxygen levels, *Capitella capitata*, has become the dominant benthic species. This shift suggests that the biological oxygen demand associated with municipal sludge causes localized adverse impacts in the eastern half of the Bight Apex.

15. *Comment (2.7.7.1):* The sewage sludge disposed at the 12-Mile Site by New York City has undergone anaerobic digestion, which reduces microbial pathogen levels by 90 to 99 percent. Therefore, the number of viruses, bacteria, fungi, and protozoa have already been drastically reduced before the sludges are disposed at the site. The small quantities of these organisms that are contained in sewage sludge disposed at the 12-Mile Site do not cause any ecological changes, since these organisms do not effectively compete, or even survive, in the marine environment and are dwarfed in numbers by the abundant, indigenous marine microflora. Further, the microbial pathogens associated with human sewage are not pathogenic to marine life. Ocean-disposed sewage sludge microoganisms also pose no health risk to humans due to their rapid dilution and die-off in the marine environment and their isolation from recreational and shell fish-harvesting waters.

EPA's Response: EPA disputes the contention that human pathogens do not survive. Until recently it has been thought that most pathogens do not persist in the marine environment following ocean disposal of sewage sludge. Fecal coliform bacteria are commonly used as indicators of pathogens. The time required for a ninety percent reduction in coliforms discharged to the ocean ranged from 0.5 to 8.0 hours, and typicaly around 2 hours (Mitchell and Chamberlin, 1975; Atwood et al., 1979). However, recent work has shown that some pathogenic bacteria undergo a "viable-but-non-culturable" stage. In this stage they are not detectable by conventional culturing techniques but remain viable in marine environmnets for at least two to three weeks. These pathogenic bacteria also may remain virulent after entering the non-culturable stage (Roszak et al, 1984b). In light of this evidence of survival of pathrogens must be reassessed.

EPA agrees that human pathogens from municipal sludge are not reaching beaches in significant numbers and are not presently causing health impacts. However, EPA disagrees that dilution and die-off prevent human pathogens from impacting shellfish areas. The fact remains that, due to sludge dumping, the area within a 6 nautical miles radius (150 mi^2) centered about the 12-Mile Site has been closed to shellfish harvesting for human consumption in order to protect human health.

Fish and shellfish can concentrate pathogens within their tissues. Although the organisms are not pathogenic to marine life, public health hazards can result when contaminated seafood organisms are consumed by humans. While cooking kills or deactivates many pathogens, it does not remove all risk because some pathogens can survive high temperatures. Also, neither EPA nor the FDA can guarantee that all contaminated shellfish will be properly cooked.

16. *Comment (2.7.7.2):* Mass balance analyses of contaminant loading to the New York Bight Apex indicates that the predominant sources of coliform inputs are sources other than the ocean dumping of sewage sludge. No change in the surface water quality of the coastal waters could be expected should ocean dumping of sewage sludge be moved to another site. Since other sources of ocean dumped material, such as dredged material, undoubtedly contribute substantial numbers of coliforms, the probability exists that the present shellfishing closure centered on the 12-Mile Site would need to be retained due to nearby disposal of dredged material and discharge of river water. EPA stated that only a "tiny fraction" of the area currently closed might be reopened (47 FR 56665).

New York City also disputes EPA's attribution of observed reductions in catches of bony fishes to sludge disposal. New York believes factors such as natural variation and overfishing are responsible for fluctuations in catch size. New York acknowledges that NOAA reported lower catches of ground fish in "high carbon" inshore areas of the Bight, but suggests that the variations are due to natural habitat preference. Moreover, New York argues that carbon from all sources settles in the low bottom of the Christiaensen Basin, and cites NOAA for the conclusion that these low areas would continue to accumulate contaminants even if sludge dumping stopped (Ehler 1983).

EPA's Response: As EPA has stated in response to several other comments, mass balance analyses are not the best predictors of contaminant impacts. Because of current directions and dredged material behavior, municipal sludge is probably the primary contributor of the coliforms that led FDA to ban shellfishing in the area around the sludge dump site. New York City's claim that surface water quality would not improve if the municipal sludge site were moved is totally unsupported. Moreover, shellfish are exposed to contaminants in sediments as well as contaminants in surface waters. New York City has mischaracterized EPA's prediction about the fraction of the shellfish closure area that could be expected to recover. At 47 FR 56665, EPA predicted that the eastern third of this 150 square mile area would reopen if municipal dumping were moved out of the Bight Apex. EPA believes that if other referenced sources of coliforms were reduced or eliminated and the current dumping of municipal sludge were allowed to continue at the 12-Mile Site, it is likely that a shellfish restriction would continue to be

imposed because of the bacterial and viral content of the municipal sludge alone.

With regard to bony fish, New York City offers no support for its hypothesis that ground fish catches are lower in "high carbon" areas because fish naturally dislike the habitats in those areas. While New York City is correct in suggesting that solids like carbon tend to settle in low areas like the Christiaensen Basin, the prevailing current directions make it unlikely that large quantities of carbon travel to the Basin from either the dredged material site or the Hudson-Raritan estuary. Both of these sites are west of the Basin, and the currents in this part of the Apex flow toward shore where they then mix with the Hudson-Raritan estuary plume and travel south along the New Jersey coastline. The citation from the NOAA report does not identify which contaminants would accumulate in the Basin and, thus, may not be relevant to the "high carbon" issue. EPA believes, however, that even if the estuary and the dredged material site contribute carbon to the Basin, contributions from the municipal sludge site are much larger.

17. *Comment (2.7.7.6):* EPA cannot link fish diseases to municipal sludge dumping. The causes of fin rot are not clear, and it is probably naturally occurring. The causes of black gill disease are also unknown, and the disease has been reported in prawns and lobsters grown in closed water systems at shellfish farms. Thus black gill is probably not a reliable indicator of environmental degradation. Similarly, studies do not show a clear relationship between sewage contaminants and abnormalities of Atlantic mackerel embryos. Although samples collected in the Bight Apex contained more dead or dying embryos than samples collected off Long Island, samples collected off New Jersey showed similar numbers. Biological factors such as the numbers of adult mackerel may affect eff survival.

EPA's Response: Elevated incidences of fish and shellfish diseases in the New York Bight Apex have been associated with environmental stress due to the cumulative effect of all contaminant sources.

Murchelano and Ziskowski (1982) averaged over 1973–1977 the frequency of fin erosion in flatfishes from both the Apex and control areas. Their data showed significantly higher incidence of fin rot in winter flounder from the Apex (14.1 percent) than from Sandy Hook/Raritan Bays (7.6 percent) or the Great Bay control area (1.9 percent). The most recent (1977) data reported by Muchelano and Ziskowski show the incidence of fin rot in winter flounder to be approximately 3.5 percent, 1 percent, and 0 percent, respectively, in those three study areas.

Sawyer and his colleagues have extensively studied black gill disease in rock crabs and have published several papers that strongly indicate an association of this disease with municipal sludge disposal sites (e.g., Sawyer, 1982; Sawyer et al., 1983; Sawyer et al., 1984).

Sawyer's studies have shown that gill blackening, shell erosion, and melanization of tissues or appendages has been observed frequently in crabs, lobsters, and shrimp collected from the polluted waters of the New York Bight Apex (Gopalan & Young, 1975; Young & Pearce, 1975; Bodammer & Sawyer, 1981; Sawyer, 1982). Extensive surveys in New Jersey and New York coastal waters have shown that although shell erosion and melanization of diseased tissues occur commonly in many crustacean species, the incidence of both conditions is remarkably high in specimens collected near ocean disposal sites (Gopalan & Young, 1975; Sawyer et al., 1979). Shell erosion or "burn spot" has been reported throughout the world (Rosen, 1970), and when present on commercially valuable species such as the stone crab, *Menippe mercenaria*, may be of concern to fishery management (Iversen & Beardsley, 1976). Black foci or "spots" in otherwise clean gills, in contrast to blackened gills, similarly are not necessarily associated with degraded habitats. Localized blackening is known to be caused by fungal infections (Uzmann & Haynes, 1986; Lightner & Fontaine, 1975), ascorbic acid deficiency causing 'black death' (Magarelli et al., 1979, heavy metal exposure (Couch, 1978) and exposure to a dithiocarbamate biocide (Doughtie & Rao, 1983).

In contrast to "black spot" disease, extensive blackening of gills in *Cancer irroratus* involving 50–100% of the lamellae and filaments has been observed only in moribund specimens, or live specimens caught at or near ocean disposal sites (Sawyer, 1982).

The organisms inspected in the studies cited by New York City apparently exhibited "black spot" disease which is a natural response to a variety of abnormalities (Sawyer et al., 1984) rather than gill blackening involving the accumulation of black sludge sediments between the gill lamellae and filaments. Consequently, New York City's contention that the occurrence of black gill is not a reliable indicator of environmental degradation and cannot be attributed to sewage sludge is erroneous.

The short paper by Sawyer et al., (1982b) cited by New York City (1984) summarized the findings of a study described in more detail by Sawyer et al. (1983). The entire purpose of the latter paper was to illustrate the dependence of the incidence of black gill on molting activity. In that study the low incidence of black gill (0–2 percent) was expected since 93 percent of the crabs were collected during or immediately after molting.

In contrast, rock crabs during the intermolt period exhibit elevated frequencies of black gill in association with sludge-contaminated sediments. Analyses of data on over 4,000 specimens collected over a 5-year period showed that up to 10 percent of the crabs collected from municipal sludge-impacted areas of the New York Bight Apex had black gills during the intermolt period. In a recent study of rock crabs from the "Mud Hole" of the upper Hudson Shelf Valley, Sawyer et al. (1984) found severe gill blackening in up to 30 percent of the specimens collected. For comparison, 0–2 percent is reflective of background incidence of black gill in the Bight (Sawyer et al., 1982b).

EPA does not disagree that lesions and ulcers are abnormalities that occur in fish from many coastal environments. The point remains that research has shown higher incidence of lesions in the vicinity of the 12-Mile Site than from the Bight as a whole (Murchelano and Ziskowski 1979).

Longwell et al. (1984) summarized the field observations of mackerel egg morbundity-mortality as follows:

In May of 1974, viability of Atlantic mackerel embryos in the New York Bight—as based on cytological analysis of over 4,000 eggs from plankton at over 50 sites—varied significantly over the area. Highest mortalities were about the Apex dump sites and New Jersey coast.

Spatial differences in morbundity become more evident as the embryos become less sensitive. By the tail-bud/tail-free stage, the pattern of higher incidence of morbundity in the Apex—apparently associated with the dump sites and estuarine discharge—is evident.

18. *Comment:* New York City agrees that the region in which the 12-Mile Site is located in a highly productive fishery area. It is even quite possible that some fishery production may be related to the beneficial input of carbon and nutrients from sewage sludge disposal. Nonetheless, as previously stated, the Bight Apex is sustaining a large,

productive fishery and there is no evidence that the Bight Apex's ability to sustain these resources has been impaired. Although shellfishing has been banned within a 6 nautical mile radius of the 12-Mile Site (the only interference with any ocean use that can be ascribed to sewage sludge disposal at the site), shellfishing in a large area has been banned due to bacterial contamination from sources other than sewage sludge disposal. It is likely that shellfish in a large portion of that 6 nautical mile radius area would be prohibited from commercial exploitation due to the other bacterial sources even if sludge disposal at the 12-Mile Site was banned. In any event, the rather meager shellfish resources of this area need not be lost, since World Health Organization and FDA guidelines permit safe use of these shellfish for human consumption after suitable depuration or adequate cooking.

EPA's Response: EPA believes that it is highly doubtful that municipal sludge disposed of at the 12-Mile Site has had any beneficial effects on the marine environment (e.g., fishery production). The addition of nutrients and organic carbon to the Apex contributes to oxygen depletion and hypoxic stress on marine organisms. New York City has offered no evidence to support this claim.

One of the most obvious impacts of municipal sludge disposal at the 12-Mile Site is the ban imposed by the FDA on harvesting bivalve mollusks for human consumption. A circular area encompassed by a 6 nautical mile radius centered at the site was closed to shellfishing in 1970, and the restricted area was extended to the Long Island and New Jersey shorelines in 1974. The FDA closures were based on elevated coliform bacteria concentrations in the water column which are indicative of pathogen levels.

Municipal sludge disposal has contributed to the significant biological changes that have occurred in the New York Bight Apex. The ecosystem recovery rate is dependent on the contaminant elimination rate and the biota repopulation rate. Contaminants of municipal sludge origin may be substantially removed from the water column within a few months after cessation of dumping, but metals and refractory organics will persist in the sediments. The sediments will serve as a long-term source of contaminants to the water column and biota. Repopulation of the water column following cessation may occur relatively quickly because of the high mobility or transportability of indigenous pelagic organisms. Repopulation of sediments by indigenous species may require many years because of the persistence of toxic chemicals in the benthic environment. The overall recovery of the Bight Apex following cessation of municipal sludge disposal will be affected by the existence of other contaminant sources. Cessation of municipal sludge dumping in the Bight Apex is an important step towards improving the water quality of the New York Bight. To further improve water quality, EPA has denied waivers for ocean discharges under Section 301(h) of the Clean Water Act, and funded construction of major new sewage treatment facilities.

It is gratifying that New York City consulted the definitive work on shellfish preparation (Rombauer and Becker, 1973), but cooking techniques are not considered by the FDA when considering whether or not to allow shellfishing in a particular area. The fact remains that, due to municipal sludge dumping, the area within a 6 nautical mile radius centered at the 12-Mile Site has been closed to shellfish harvesting for human consumption since 1970 in order to protect the public health.

19. *Comment (2.9.1):* Effluent and other discharges into the Hudson and Raritan Rivers which flow into the Bight, surface run-off, and dredged material disposal contribute more than 500 times the sewage micro-organisms that are contributed by disposal of sewage sludge at the 12-Mile Site. Therefore, inputs of ocean-disposed micro-organisms at the 12-Mile Site can only elevate concentrations of these organisms above the background levels of contamination caused by other sources within a brief period (less than 4 hours) following disposal. This conclusion is supported by field data from EPA and New York City monitoring programs which show that elevated concentrations in the water column occur only within the 12-Mile Site under most circumstances. Rapid dilution, coupled with microbial die-off in the marine environment, is responsible for the extremely low levels (frequently undetectable) of microbial organisms at, and near, the 12-Mile Site. In an EPA monitoring program, only 8 samples out of 1,224 showed high coliform levels. Another EPA monitoring program showed no violations of New York or New Jersey water quality standards for coliforms.

Concentrations of persistent microorganisms in the sediments of the New York Bight Apex reflect all microbial inputs to the area. The primary input is in the discharge from the Hudson-Raritan estuary. The degree of contamination attributable to sewage sludge would be expected to reflect the relative inputs. For example, sewage sludge contributes only 8.4 percent of the cadmium, 3.1 percent of the mercury, 9.2 percent of the lead, 11.1 percent of the copper, and 9.5 percent of the chromium to the region. The relative loading of *Clostridium perfringens* and coprostanol has not been estimated, but it is likely that is similar to the relative loading of coliforms, of which sewage sludge contributes 0.2 percent. Therefore, it is not likely that the disposal of sewage sludge elevates sediment concentrations of contaminants significantly beyond existing concentrations which are controlled by other source.

EPA's Response: EPA agrees that coliform levels in the water column near the 12-Mile Site have not violated state water quality standards. Coliform levels are high enough, however, for the FDA to close the area to shellfishing. Moreover, EPA is also concerned about high contaminant levels found in sediments in areas where municipal sludge is probably the largest contributor of contaminants.

The Hudson-Raritan estuary indeed contributes large pollutant loads to the New York Bight as a whole. However, it is not likely to contribute significant amounts to the sediments north of the municipal sludge site, in the Basin or in the Hudson Shelf Valley. Remotely-sensed images show a defined river plume along the New Jersey coastline. Therefore, the plume and its contents as previously indicated are not instantaneously and fully mixed throughout the Bight Apex.

Under present disposal conditions there is evidence that particulate matter from municipal sludge dumped at the 12-Mile Site reaches the bottom and accumulates in the sediment north of the dump site. Transport of sludge-associated pathogens from the 12-Mile Site has been observed within 5 nautical miles of Long Island's beaches. Cabelli and Pederson (1982) studied the movement of municipal sludge from the 12-Mile Site by measuring spore densities of *Clostridium perfringens*, a bacterium consistently found in human feces and, therefore, in municipal sludge. This study showed spore densities in sediments extending toward the Long Island coast decreased exponentially with increasing distance from the Basin, and with increasing water depth to about 18 meters (approximately 5 nautical miles from shore) after which they become relatively constant. Northward movement of municipal sludge to waters

shallower than 18 meters was apparently small enough to be masked by fecal contamination from inshore sources. The highest spore densities were found in sediments or the Christiaensen Basin, adjacent to the 12-Mile Site. They also found that most of the municipal sludge is transported southeast down the Hudson Shelf Valley. Spore densities decrease exponentially along the course of the Hudson Shelf Valley. Elevated concentrations were detected to a distance of at least 44 nautical miles.

20. *Comment (2.7.7.5, 2.9.2):* Although the extent of the benthic community alterations possibly caused by contaminant inputs has been fairly well quantified, the complex nature of the multiple contaminant contributions to the Apex and the lack of an adequate historical baseline preclude assignment of the blame for these "effects" to the disposal of sewage sludge, particularly since sewage sludge provides only a very small fraction of all contaminant inputs. Recovery of the Bight is also unlikely.

EPA's Response: Benthic studies indicate that contamination of the Bight Apex has led to measurable changes in population density, species composition, species diversity and physiology and behavior of benthic organisms. The greatest faunal alterations are found just west of the municipal sludge disposal site.

Alterations that have been reported include: decreased species diversity compared to communities in sedimentologically similar habitats; species shifts to pollution-tolerant species such as the archetypal opportunist, *Capitella capitata;* and the disappearance of pollution-sensitive crustaceans, most notably the amphipods. New York City provides no support for the suggestion that differences in the benthic community of the Christiaensen Basin compared to that of the lower Hudson Shelf Valley "may be related to differences in depth and salinity regime," and EPA has found no supporting existing studies.

New York City's (1984) notation that "the benthic community of the 12-Mile Site itself is characterized by moderate values or diversity" is irrelevant and misleading because dumping has greater impacts outside of the site. The dispersal of municipal sludge dumped at the 12-Mile Site is such that particulates do not settle out and remain on the sea floor within site boundaries. The relatively coarse sediments at the site are continually reworked by hydrodynamic action so that fine materials (and associated contaminants) are flushed from the area; therefore, benthic impacts are not expected in the site. EPA (1982) stated that:

> Most sludge particles will initially settle in the central and northeastern portions of the Christiaensen Basin, which lies slightly north of, and between, the Mud Dump and Sewage sludge site.

The areal extent of negative benthic effects has been estimated to be 7–11 nautical miles for the most degraded area in the Christiaensen Basin adjacent to the 12-Mile Site, and greater than 176 nautical miles for the enriched zone where pollution-intolerant amphipods are virtually excluded. The fact that the most severely degraded area is located adjacent to the municipal sludge disposal site indicates that sludge disposal is highly responsible for the observed degradation.

A frequently-used argument that the Christiaensen Basin "would be characterized by a benthic community different from adjacent coarser sediments" is obvious and is irrelevent considering that differences in benthic communities have been observed between the Basin and sedimentologically similar areas.

EPA acknowledges that it has no baseline studies of the Basin. No studies were performed before dumping began in the 1920s. EPA would face the same problem any time it considered terminating the designation of an existing dump site. In the absence of a baseline, EPA believes it is reasonable to compare the Christiaensen Basin's benthic community to similar areas that have not been affected by dumping.

EPA has addressed thoroughly the issue of other sources elsewhere in these comments. EPA disagrees with New York City's prediction that the benthic community will not recover unless the Federal government and the states reduce all sources of contamination. Municipal sludge is the most significant sources of contamination to the areas with the most altered benthic communities. Moreover, EPA has taken actions to reduce pollution from other sources, and will continue to do so. Although recovery may be slow, EPA expects that it will occur. See response to Comment No. 18.

21. *Comment (2.11):* The statements regarding Factor 11, "existence at or in close proximity to the site of any significant natural or cultural features or historical importance," are correct. However, both EPA and NOAA have repeatedly stated that sewage sludge disposal at the 12-Mile Site causes no environmental impacts on the shoreline. Swanson et al. (in press) states "[s]ludge dumping at the 12-Mile Site . . . seems to have no measurable effect on water quality at the beaches." Therefore, EPA is remiss in not stating in its announcement that disposal at the 12-Mile Site has not and would not be expected to impinge on any of these recreational or historical sites or their use.

EPA's Response: EPA agrees that, at the present time, pathogens associated with ocean disposed municipal sludge have not reached coastal water or beaches, nor contributed to swimming-associated illness. However, sludge-derived pathogens have been detected in sediments as close as approximately five nautical miles from the coast of Long Island. Therefore, EPA does not agree that there is no potential for impacts at any of these sites.

22. *Comment (2.10):* The term "nuisance species" is undefined by the regulations or the Final Environmental Impact Statement supporting the regulations and also has no common scientific meaning. However, it is doubtful that polychaete worms in the Christiaensen Basin could legitimately be so labeled, since they perform a vital role in reworking and degrading the organics present in the sediments. Similarly, no other species found in the Christiaensen Basin whose increased abundance has been attributed to the effects of pollutant inputs from a variety of sources should be considered a nuisance since they do not affect the activities of humans or of any valuable marine resources.

EPA's Response: EPA agrees that the term "nusiance species" is undefined and accordingly *Capitella capitata* may not be a nuisance species. However, this species is generally considered an opportunist that is typically associated with highly polluted environments (Steimle et al., 1982). Thereby, it can be classified as an undersirable species because it is less important to the food web in the New York Bight than the pollution-sensitive species which have disappeared.

List of Subjects in 40 CFR Part 228

Water pollution control.

Dated: April 1, 1985.

Jack E. Ravan,

Assistant Administrator for Water.

[FR Doc. 85–8586 Filed 4–10–85; 8:45 am]

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federal register

Thursday
April 11, 1985

Part III

Environmental Protection Agency

48 CFR Parts 1501, 1503, 1505, 1506, 1513, 1514, 1515, 1517, 1527, 1533, 1536, and 1552

Acquisition Regulations; Competition in Contracting; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

48 CFR Parts 1501, 1503, 1505, 1506, 1513, 1514, 1515, 1517, 1527, 1533, 1536, and 1552

[FRL-2810-3]

Acquisition Regulation; Competition in Contracting

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule amends the Environmental Protection Agency Acquisition Regulation (EPAAR) to implement revisions to the Federal Acquisition Regulation (FAR) resulting from the Competition in Contracting Act (CICA), Title VII of Pub. L. 98-369. This rule is necessary to conform the EPAAR to the FAR revisions. The effect of this rule is to revise EPA procurement policies and procedures impacted by the CICA.

EFFECTIVE DATE: April 1, 1985.

FOR FURTHER INFORMATION CONTACT: Edward Murphy, Environmental Protection Agency, Procurement and Contracts Management Division (PM-214), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, Tel: (202) 382-5034.

SUPPLEMENTARY INFORMATION:

I. Background

The Competition in Contracting Act (CICA) substantially changes the basic statutes underlying the Federal procurement system. Agencies must achieve full and open competition by soliciting sealed bids or requesting competitive proposals or by use of other competitive procedures, unless a statutory exception permits other than full and open competition. Among its major provisions, the Act imposes new justification, approval, and synopsis requirements for contracts employing other than full and open competition; requires appointment of a competition advocate; codifies the General Accounting Office bid protest process; and provides statutory authority for the General Services Board of Contract Appeals to resolve protests regarding automatic data processing aquisitions. Solicitations issued after March 31, 1985 must comply with the requirements of the Act.

The Department of Defense (DOD), General Services Administration (GSA), and the National Aeronautics and Space Administration (NASA) issued the proposed changes to the FAR resulting from the CICA for comment on October 1, 1984. The interim rule issuing FAR revisions was published in the **Federal Register** on January 11, 1985 (50 FR 1726). This rule implements those changes in the EPAAR.

II. Procedural Requirements

A. Executive Order 12291

The EPA certifies that this rule is not a major rule for the purposes of Executive Order 12291.

B. Regulatory Flexibility Act

This rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96-354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. EPA certifies that this rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

III. Public Comments

The notice of proposed rulemaking inviting public comments on this rule was published in the **Federal Register** on December 5, 1984.

The EPA received two public comments. The first commentor suggested several editorial revisions, which EPA considered. The commentor also questioned the designation of the Deputy Director, Procurement and Contracts Management Division (P&CMD) as the Agency Competition Advocate. The commentor stated that a separate position is required. The EPA considers that the Deputy Director, P&CMD, could serve as the Agency Competition Advocate provided the he/she were not assigned duties or responsibilities inconsistent with FAR 6.502. However, as a result of a management decision on the staffing needs of P&CMD, a separate position for the Agency Competition Advocate has been created.

The second commentor raised issues on the publicizing and response time (1505.203), the use of synopses to perform market surveys (1505.270), and the example for only one responsible source (1506.302-1).

The commentor stated there was no indication of a class deviation to the FAR to support section 1505.203. This section gives EPA Contracting Officers discretion to synopsize actions which may fall within one of the synopsis exceptions in FAR 5.202(a), and to use lesser time periods than those prescribed in the FAR. EPA does not consider a class deviation to be necessary. The time periods for publication in the FAR are for contract actions that require a synopsis. The lesser time periods authorized in section 1505.203 are for contract actions that are exempted from the synopsis requirements in the FAR.

The commentor stated that synopsizing an unsolicited research proposal of the type described in FAR 5.202(a)(7) might subject Contracting Officers to criminal penalties mentioned in FAR 15.508(b). EPA has revised 1505.203 to state that Contracting Officers may not synopsize a contract action under the exception in FAR 5.202(a)(7) if to do so would disclose the originality or innovativeness of the proposed research.

Section 1505.270 requires market surveys to be used in justifying sole source acquisitions. The commentor stated that FAR 6.302-1 contains, as an example of only one responsible source, unsolicited research proposals of the type described in 6.302-1(b)(3). This type of research proposal is exempted from the synopsis requirements in FAR Subpart 5.2 by 5.202(a)(7). The commentor stated that contract actions resulting from unsolicited research proposals of the type described in FAR 5.202(a)(7) should be exempt from the requirements of 1505.270.

EPA considers that a market survey would be appropriate provided the survey did not disclose the originality of thought or innovativeness of the proposed research. EPA has therefore amended 1505.270 to instruct Contracting Officers not to conduct a market survey to justify a sole source acquisition resulting from an unsolicited research proposal if to do so would disclose the originality or innovativeness of the proposal.

Section 1506.302-1 illustrates a situation, i.e. follow-on contracts for services, which may be used as authority for only one responsible source. The commentor stated this section appeared restrictive, and should not foreclose the possibility of awarding contracts from the acceptance of unique and innovative research proposals. EPA has amended the section to indicate the example is not all inclusive.

List of Subjects in 48 CFR Ch. 15

Government procurement.

Dated: March 15, 1985.

Kenneth Dawsey,

Acting Director, Office of Administration.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

For the reasons set out in the preamble, Chapter 15 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

PART 1501—[AMENDED]

1. Section 1501.670–5, paragraph (b), is revised to read as follows:

1501.670–5 Procedures.

* * * * *

(b) The division director (or equivalent) of the responsible office shall approve the memorandum. If expenditure of funds is involved, as part of this submission the program office shall include a Procurement Request/Order, EPA Form 1900–8, with funding sufficient to cover the supplies or services. For any new work, or work beyond the scope of an existing contract, the program office shall submit a justification for other than full and open competition (JOFOC) as required by FAR 6.302, FAR 6.303, and 1506.303 or for small purchases, a sole source justification as required by 1513.170 of this chapter.

* * * * *

PART 1503—[AMENDED]

2. Section 1503.670 is revised to read as follows:

1503.670 Solicitation of disclosure provision.

The Contracting Officer shall insert the provision at 1552.203–70, Current/Former Agency Employee Involvement Certification, in all solicitations for sole source acquisitions.

PART 1505—[AMENDED]

3. Section 1505.000 is revised to read as follows:

1505.000 Scope of part.

This part provides instructions on publicizing contract opportunities and response time, instructions on information to include in the synopses of proposed contracts, instructions on publicizing orders under GSA schedule contracts, policy references relative to release of information, and procedures for obtaining information on previous Government contracts.

4. The title for Subpart 1505.2 is revised to read as follows:

Subpart 1505.2—Synopses of Proposed Contract Actions

5. Subpart 1505.2 is amended by adding sections 1505.202 and 1505.203 to read as follows before section 1505.270:

1505.202 Exceptions.

The Head of the Contracting Activity (HCA) is delegated the authority to make the written determination in FAR 5.202(b).

1505.203 Publicizing and response time.

(a) The Contracting Officer may, at his/her discretion under certain circumstances, elect to transmit a synopsis to the Commerce Business Daily (CBD) of a proposed contract action that falls within an exception to the synopsis requirement in FAR 5.202(a). For those contract actions, the Contracting Officer may provide for a lesser time period than the 15 days required by FAR 5.203(a) and the 30 days required by FAR 5.203 (b) or (c), and the 45 days required by FAR 5.203(d). The Contracting Officer must identify the basis for the lesser time periods for response in the synopsis.

(b) The authority for paragraph (a) does not extend to the synopsis of contract actions falling within the exception in FAR 5.202(a)(7), if to do so would disclose the originality of thought or innovativeness of the proposed research.

6. Section 1505.270 is revised to read as follows:

1505.270 Use of synopses to perform market surveys.

(a) Market surveys shall be used in justifying sole source acquisitions and acquisitions using other than full and open competitive procedures with a potential value in excess of $25,000. The synopsis of such acquisitions for supplies or services and subsequent evaluation of the responses by the Government constitutes an acceptable market survey.

(b) The synopsis of a proposed sole source acquisition and acquisitions using other than full and open competition of $10,000 or more must contain sufficient detail to permit the Contracting Officer to perform an evaluation of the responses to the synopsis. As a minimum the synopsis shall include:

(1) The information required by FAR 5.207;

(2) A clear statement of the supplies or services being acquired;

(3) Required contractor capabilities, experience, and any other factors salient to the requirement; and

(4) Criteria listed in relative order of importance to be used in the evaluation of responses. (Contracting Officers may include specific weights assigned to each criteria).

(c) Contracting Officers are not required to perform market surveys to justify an other than full and open acquisition resulting from an unsolicited research proposal if to do so would disclose the originality of thought or innovativeness of the proposal.

7. Subpart 1505.2 is amended by adding section 1505.271 to read as follows:

1505.271 Publicizing orders under GSA Schedule Contracts.

(a) Contracting Officers are not required to synopsize orders placed under Federal Supply Schedules when following the procedures in FAR 8.404–2 and 8.405–1. Contracting Officers need synopsize orders under Automatic Data Processing and Teleprocessing Services Program schedules only if required by the Federal Information Resources Management Regulation.

(b) Sole source orders of $10,000 or more under the Federal Supply Schedule must be synopsized in accordance with FAR Part 5.8. Part 1506 is added to 48 CFR Chapter 15 to read as follows:

PART 1506—COMPETITION REQUIREMENTS

Sec.

1506.000 Scope of part.

Subpart 1506.2—Full and Open Competition After Exclusion of Sources

1506.202 Establishing or maintaining alternative sources.

Subpart 1506.3—Other Than Full and Open Competition

1506.301 Policy.

1506.302 Circumstances permitting other than full and open competition.

1506.302–1 Only one responsible source.

1506.303 Justifications.

1506.303–2 Content.

1506.370 Limited competition.

1506.371 Conduct of market surveys.

1506.372 Class justification.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1506.000 Scope of part.

This part implements FAR Part 6. It prescribes the Environmental Protection Agency policies and procedures in obtaining full and open competition in the acquisition process.

Subpart 1506.2—Full and Open Competition After Exclusion of Sources

1506.202 Establishing or maintaining alternative sources.

The Head of the Contracting Activity (HCA) is delegated the authority to make the determination and finding as stated in FAR 6.202(b)(1).

Subpart 1506.3—Other Than Full and Open Competition

1506.301 Policy.

In the fulfillment of national policy, acquisitions by EPA shall be conducted utilizing full and open competition with all responsible sources. However, it is recognized that one or more of the circumstances in FAR 6.302 may apply where it is in the interest of the Government and EPA to solicit limited sources or only one source. In such instances, the initiating program office may recommend that the supplies or services be obtained from a limited number of sources or only from one source. This recommendation is subject to review and approval as provided in FAR 6.304.

1506.302 Circumstances permitting other than full and open competition.

The exceptions in FAR 6.302 apply to all EPA acquisitions of supplies or services in excess of $1,000 unless exempted by FAR 6.001. For acquisitions awarded using small purchase procedures, Contracting Officers shall refer to 1513.170 for applicable policies and procedures.

1506.302-1 Only one responsible source.

The authority in FAR 6.302-1 may be used in the following situation, provided the synopsis requirements in FAR 5.201 and the justification requirements in FAR 6.303 are met. (This situation is an example and is not intended to be all-inclusive.) Follow-on contracts for services that represent a continuation of a previous effort performed by the proposed source as a result of a competitive acquisition may be deemed to be available only from that source when it is likely that award to any other source would result in (a) substantial duplication of cost to the Government that is not expected to be recovered through competition, or (b) unacceptable delays in fulfilling the Agency's requirements.

1506.303 Justifications.

1506.303-2 Content.

The documentation requirements in this section apply only to acquisitions processed using other than small purchase procedures. (Refer to 1513.170 for documentation for small purchase acquisitions).

(a) The initiating office shall prepare a written justification for other than full and open competition (JOFOC) that documents the facts and circumstances substantiating the infeasibility of full and open competition for each recommended limited sources or sole source acquisition when required by FAR 6.302.

(b) The recommendation shall be entitled "Justification for Other Than Full and Open Competition" and shall be signed at the programmatic Division Director or comparable office level prior to submission with the procurements request. The JOFOC shall contain the information prescribed in FAR 6.303-2 (a) and (b).

(c) If unusual and compelling urgency (see FAR 6.303-2) is a basis for the JOFOC, then the following applies. Explain the circumstances that led to the need for an urgent contractual action. Explain why the requirement could not have been processed in sufficient time to permit full and open competition. It should be noted that the existence of legislation, court order, or Presidential mandate is not, of itself, a sufficient basis for a JOFOC. However, the circumstances necessitating legislation, court order, or Presidential mandate may justify contractual action on an other than full and open competition basis.

(d) If the proposed acquisition has been synopsized in accordance with the applicable requirements in FAR Subpart 5.2, the Contracting Officer must incorporate the evaluation of responses to the synopsis in the JOFOC. (See 1506.371(d) for contents of the evaluation document).

1506.370 Limited competition.

Limited competition, i.e. the use of competitive procedures that are not full and open competition and that restrict the number of sources solicited, must be justified under one of the authorities in FAR 6.302. The use of limited competition requires the justification set forth in FAR 6.303. Limited competition requires the solicitation of offers from as many potential sources as is practicable under the circumstances.

1506.371 Conduct of market surveys.

(a) The Contracting Officer shall determine the extent of any market survey. In making this decision, the Contracting Officer may consider such factors as the type and size of the acquisition, the results of recent competitive acquisitions for similar supplies or services, or other recent market surveys.

(b) The Contracting Officer, with input from the Project Officer, shall determine the market survey strategy and who is responsible for accomplishing the different aspects of the survey. For example, the Contracting Officer may choose to have discussions with offerors who had proposed on previous similar requirements. For market surveys involving discussions with or inquiries from commercial firms, the Contracting Officer shall conduct or participate in such discussions or inquiries.

(c) Commerce Business Daily (CBD) synopses of proposed sole source acquisitions or acquisitions using other than full and open competition and subsequent evaluation of the responses by EPA constitute an acceptable market survey. If the FAR requires a synopsis, other methods of conducting market surveys may not be used as a substitute for the synopsis.

(d) Under those circumstances when synopses are issued to assist in determining the existence of competition, the Contracting Officer, with the assistance of the Project Officer, shall evaluate responses to such synopses in accordance with the general criteria included in the synopsis. If the evaluation indicates that full and open competition can be provided for, the Contracting Officer shall issue a new synopsis and a competitive solicitation that adhere to the time periods in FAR 5.203. If the Contracting Officer determines, after evaluation of responses, that a sole source acquisition or limited competition should be conducted, the evaluation document shall be incorporated in the JOFOC for review in accordance with 1506.303-2(d) (for small purchases see 1513.170-1). The documentation shall include:

(1) A copy of the CBO synopsis;

(2) A listing of respondees to the synopsis;

(3) A written evaluation of the responses; and

(4) The basis for the Contracting Officer's conclusion that full and open competition is impractical.

1506.372 Class justification.

Appendix I to 48 CFR Chapter 15 contains a class justification authorizing Agency Contracting Officers to make acquisitions from the Federal Prison Industries and the Government Printing Office. Individual justifications for acquisitions from these two sources are not required.

PART 1513—[AMENDED]

9. Subpart 1513.1 is amended by adding sections 1513.170, 1513.170–1, 1513.170–2, and 1513.170–3 to read as follows:

1513.170 Competition exceptions and justification for sole source small purchase acquisitions.

1513.170–1 Contents of sole source justifications.

The program office submitting the procurement request must submit, as a separate attachment, a brief written statement in support of any sole source acquisition. The statement must cite one or more of the circumstances in FAR 6.302, and the necessary facts to support each circumstance. Although program offices may not cite the authority in FAR 6.302–7, the public interest may be used as a basis to support a sole source acquisition. If the acquisition has been synopsized as a notice of proposed sole source acquisition, the statement must include the results of the evaluation of responses to the synopsis. (See 1505.270 for contents of a synopsis of a proposed sole source acquisition).

1513.170–2 Approval.

The Contracting Officer is the approving official for all sole source acquisitions processed using small purchase procedures.

1513.170–3 Exceptions.

A written justification is not required for the following types of acquisitions: (a) Acquisitions under mandatory Federal Supply Schedule or mandatory ADP and TSP schedules; and (b) acquisitions required by statute to be obtained from a specific source, such as the National Industries for the Blind or Other Severely Handicapped or Federal Prison Industries.

PART 1514—[AMENDED]

10. Part 1514 is revised by amending the Title and section 1514.201–6 to read as follows:

PART 1514—SEALED BIDDING

1514.201–6 Solicitation provisions.

(a) The Contracting Officer shall insert the solicitation provision at 1552.214–70, Past Performance, in all invitations for bids.

(b) The Contracting Officer shall insert the solicitation provision at 1552.214–71, Contract Award-Other Factors-Sealed Bidding, in invitations for bids when it is appropriate to describe other factors that will be used in evaluating bids for award.

11. Subpart 1514.4 is amended by adding sections 1514.404 and 1514.404–1 to read as follows before section 1514.406:

1514.404 Rejection of bids.

1514.404–1 Cancellation of invitations after opening.

The Head of the Contracting Activity is authorized to make the determination in FAR 14.404–1(c).

PART 1515—[AMENDED]

Subpart 1515.1—[Removed]

12. Subpart 1515.1 is removed.

Subpart 1515.3—[Removed]

13. Subpart 1515.3 is removed.

14. Section 1515.602 is revised to read as follows:

1515.602 Applicability.

FAR Subpart 15.6 and this subpart apply to all competitive negotiated acquisitions in excess of $25,000, except architect engineering services which are covered in 1536.6.

15. Section 1515.608 is amended by adding paragraph (e) to read as follows:

1515.608 Proposal evaluation.

* * * * *

(e) *Rejection of proposals.* The Head of the Contracting Activity is authorized to make the determination in FAR 15.608(b).

16. The title for Subpart 1515.10 is revised to read as follows:

Subpart 1515.10—Preaward, Award, and Postaward Notifications, Protest, and Mistakes

1515.1002 [Redesignated as 1515.1003]

17. Subpart 1515.10 is amended by redesignating section 1515.1002 as section 1515.1003.

PART 1517—[AMENDED]

18. Section 1517.207 is amended by revising the last sentence in paragraph (b) to read as follows:

1517.207 Exercise of options.

* * * * *

(b) * * * In the event that sufficient funding is not available within the 60 day period, the Government waives the right to exercise the option, thereby rendering any additional requirements subject to full and open competition requirements.

* * * * *

PART 1527—[AMENDED]

1527.7003 [Amended]

19. Section 1527.7003, paragraphs (a) and (d)(3), are amended by removing the term "formal advertising" and inserting in its place "sealed bidding".

PART 1533—[AMENDED]

20. Part 1533 is revised to read as follows:

PART 1533—PROTESTS, DISPUTES AND APPEALS

Sec.

Authority: Sec. 205(c), 63 Stat. 390, as amended, 40 U.S.C. 486(c).

1533.000 Scope of part.

This part implements and supplements FAR Part 33 and prescribes policies and procedures for processing protests and contract disputes and appeals.

Subpart 1533.1—Protests

1533.103 Protests to the Agency.

1533.103–70 Time for filing.

(a) Protests based upon alleged improprieties in a solicitation which are apparent prior to bid opening or the closing date for receipt of initial proposals shall be filed prior to bid opening or the closing date for receipt of initial proposals. In acquisitions where proposals are requested, alleged improprieties which do not exist in the initial solicitation but which are subsequently incorporated into the solicitation must be protested not later than the next closing date for receipt of proposals following the incorporation.

(b) In cases other than those covered in paragraph (a) of this section, protests shall be filed not later than ten working days after the basis of protest is known or should have been known, whichever is earlier.

Subpart 1533.2—Disputes and Appeals

1533.203 Applicability.

Pursuant to an interagency agreement

between the EPA and the Department of the Interior Board of Contract Appeals (IBCA), the IBCA will hear appeals from final decisions of EPA Contracting Officers issued pursuant to the Contract Disputes Act. The rules and regulations of the IBCA appear in 43 CFR Part 4.

1533.209 Suspected fraudulent claims.

The Contracting Officer shall refer matters relating to suspected fraudulent claims under the Contract Disputes Act to the Inspector General through the Head of the Contracting Activity (HCA).

1533.211 Contracting Officer's decision.

Final decisions of Contracting Officers under the Contract Disputes Act shall be reviewed by legal counsel and the Chief of the Contracting Office prior to issuance.

1533.212 Contracting Officer's duties upon appeal.

Upon receipt of notice of appeal, the Contracting Officer shall take the following actions:

(a) *Submission of the notice of appeal to IBCA.* (1) When a notice of appeal in any form has been received, the Contracting Officer shall endorse on it the date of the notice's mailing (or the date of receipt if the notice was otherwise conveyed) and within 5 days shall forward the notice of appeal to the IBCA by certified mail. The Contracting Officer shall verbally notify the legal counsel that the appeal has been received.

(2) A notice of appeal, whether filed within the time prescribed by the "Disputes" clause or not, shall be submitted to the IBCA. The Contracting Officer shall forward promptly every notice of appeal to IBCA even if the intention to appeal is only vaguely or indirectly expressed, and regardless of the form of the notice, or of the method by which the notice was furnished to the Contracting Officer.

(3) Copies of the notice of appeal shall be sent simultaneously to the Policy and Quality Assurance Branch, Procurement and Contracts Management Division and to legal counsel.

(b) *Establishment and submission of appeal files to IBCA.* (1) Following receipt of a notice of appeal, or advice that an appeal has been filed, the Contracting Officer shall promptly compile the appeal file (copies of all documents pertinent to the appeal), and four duplicate appeal files. The file shall include the following:

(i) The findings of fact and the Contracting Officer's final decision from which the appeal is taken, and the letter or letters or other documents of claim in response to which the decision was issued;

(ii) The contract, and pertinent plans, specifications, amendments, and change orders;

(iii) Correspondence between the parties and other data pertinent to the appeal;

(iv) Transcripts of any testimony taken during the course of proceedings and affidavits, or statements of any witnesses on the matter in dispute made prior to the filing of the notice of appeal with the Board;

(v) Such additional information as may be considered material.

(2) In addition to the above, the Contracting Officer shall prepare an index listing each document included in the file submitted to the IBCA, and place copies of such index in the submission and duplicate files.

(3) Contracting Officers, in making the submission, may not submit original documents which are a part of the official contract file. Copies of the pertinent documents shall be submitted.

(4) Within 15 days of receipt or advice of a notice of appeal, the official and two duplicate files shall be forwarded through legal counsel to the Procurement and Contracts Management Division for review. The Procurement and Contracts Management Division shall forward the official appeal file to the IBCA within the 30 day time limitation set forth in 43 CFR 4.104(a). One duplicate file shall be retained by the Contracting Officer, one by the Procurement and Contracts Management Division, and one by legal counsel.

(5) If for any reason the Contracting Officer anticipates that a timely submission cannot be made, he/she shall immediately advise legal counsel by telephone of the extent of the anticipated delay and the reasons therefore. However, every effort will be exerted to make timely submissions.

(6) At the time of transmittal of the appeal file to the Board, the Contracting Officer shall notify the appellant of the transmittal and provide a copy of the appeal file to the appellant. Within the transmittal to the IBCA, the Contracting Officer shall indicate that the appellant has been provided with a copy of the appeal file.

PART 1536—[AMENDED]

21. The title for Subpart 1536.3 is revised to read as follows:

Subpart 1536.3—Special Aspects of Sealed Bidding in Construction Contracting

PART 1552—[AMENDED]

22. Section 1552.203–70 is amended by revising the introductory paragraph to read as follows:

1552.203–70 Current/former agency involvement certification.

As prescribed in 1503.603, insert the following solicitation provision in all EPA solicitation documents for sole source acquisitions.

* * * * *

23. Section 1552.210–77 is revised to read as follows:

1552.210–77 Management Consulting Services.

As prescribed in 1510.011–77, insert the following contract clause in all contracts for management consulting services.

Management Consulting Services (Apr 1985)

All reports containing recommendations to the Environmental Protection Agency shall include the following information on the cover of each report: (a) Name and business address the the contractor; (b) contract number; (c) contract dollar amount; (d) whether the contract was subject to full and open competition or a sole source acquisition; (e) name of the EPA Project Officer and the EPA Project Officer's office identification and location; and (f) date of report.

(End of Clause)

24. Section 1552.214–70 is amended by revising the introductory paragraph to read as follows:

1552.214–70 Past Performance.

As prescribed in 1514.210–6(a), insert this solicitation provision in all inivitations for bids:

* * * * *

25. Section 1552.236–71 is amended by revising the title of the solicitation provision and the last sentence of the second paragraph and paragraphs (a) and (b) in the solicitation provision; and by removing paragraph (c) in the solicitation provision to read as follows:

1552.236–71 Additive or deductive items.

* * * * *

Additive or Deductive Items (Apr 1985)

* * * * *

After the contract has been awarded, any

work which should have been part of the contract offered by the solicitation originally (i.e. any additive or deductive item) may be procured by either of the following methods of acquisition listed in descending order of priority:

(a) Full and open competition resulting in a new contract.

(b) Negotiation of a supplemental agreement to the existing contract justified under FAR 6.302.

28. Appendix I is added to 48 CFR Chapter 15 to read as follows:

Appendix I.—Environmental Protection Agency; Class Justification For Other Than Full and Open Competition in Acquisitions From the Federal Prison Industries and the Government Printing Office

1. The Environmental Protection Agency (EPA) anticipates the acquisition of supplies from the Federal Prison Industries (UNICOR) and the acquisition of Government printing and related supplies from the Government Printing Office (GPO) to meet the needs of the Agency.

2. The Agency is authorized to make these acquisitions from the UNICOR and GPO without full and open competition under the authority in 41 U.S.C. 253(c)(5) as sources required by statute, i.e. 18 U.S.C. 4124 and 44 U.S.C. 501–504, 1121.

3. The anticipated cost of these acquisitions to the Agency will be fair and reasonable.

4. This class justification applies to any proposed acquisition made by the EPA from the UNICOR or GPO.

5. This class justification will remain in effect until April 1, 1988.

6. The undersigned certifies that this class justification is accurate and complete to the best of his knowledge and belief.

Dated: March 13, 1985.

Brain K. Polly,

Director, Procurement and Contracts Management Division.

[FR Doc. 85–8583 Filed 4–10–85; 8:45 am]

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