AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

4-24-85
Vol. 50 No. 79
Pages 16049-16206

federal register

Wednesday
April 24, 1985

Selected Subjects

Authority Delegations (Government Agencies)
Federal Reserve System

Aviation Safety
Federal Aviation Administration

Banks, Banking
Federal Reserve System

Child Welfare
Human Development Services Office

Government Employees
United States Information Service

Government Procurement
Agency for International Development
General Services Administration

Government Property Management
General Services Administration

Hazardous Materials Transportation
Research and Special Programs Administration

Loan Programs—Agriculture
Farmers Home Administration

Motor Vehicle Safety
National Highway Traffic Safety Administration

Natural Gas
Federal Energy Regulatory Commission

Pesticides and Pests
Environmental Protection Agency

CONTINUED INSIDE

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

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

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

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

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

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

Selected Subjects

Public Lands
Land Management Bureau

Radio Broadcasting
Federal Communications Commission

Savings and Loan Associations
Federal Home Loan Bank Board

Surface Mining
Surface Mining Reclamation and Enforcement Office

Television Broadcasting
Federal Communications Commission

Contents

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 1985

The President
PROCLAMATIONS
16051 Organ Donation Awareness Week, National (Proc. 5324)
16049 World Trade Week (Proc. 5323)

Executive Agencies

Agency for International Development
RULES
Acquisition regulations:
16086 Competition in contracting, etc.; interim
16085 Contracting authority, etc.

Agriculture Department
See also Farmers Home Administration; Federal Crop Insurance Corporation.
RULES
16056 Intergovernmental review of agency programs and activities
NOTICES
16117 Agency information collection activities under OMB review
16117 Mediterranean fruit fly; emergency declaration

Census Bureau
NOTICES
Committees; establishment, renewals, terminations, etc.:
16118 Census Advisory Committee on the Black Population for the 1990 Census et al.

Commerce Department
See also Census Bureau; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration.
NOTICES
16117 Advisory committee reports, closed meetings; availability

Defense Department
See Engineers Corps; Navy Department.

Economic Regulatory Administration
NOTICES
Powerplant and industrial fuel use; prohibition orders; exemption requests, etc.:
16125–16128 Texas Utilities Electric Co. (3 documents)
16124 University of California, Berkeley

Education Department
NOTICES
16123 Agency information collection activities under OMB review
Grants; availability, etc.:
16202, 16204 Independent living centers program (2 documents)

Energy Department
See Economic Regulatory Administration; Federal Energy Regulatory Commission; Hearings and Appeals Office, Energy Department.

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
16123 Cooperative Erosion Control Project, Presque Isle Peninsula, Erie, PA
16122 Gulf Intracoastal Waterway to Port Bienville, MS

Environmental Protection Agency
RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
16080 Mono and dialhyl (C8–C18) methylated ammonium chloride compounds
16082 Polyoxyethylated sorbitolfatty acid esters; CFR correction
16081 Sodium benzoate
PROPOSED RULES
Pesticide chemicals in or on raw agricultural commodities; tolerances and exemptions, etc.:
16104 Metolachlor
NOTICES
Pesticides; emergency exemption applications:
16136 Sethoxydim, etc.
Pesticides; experimental use permit applications:
16137 ICI Americas, Inc., et al.

Farmers Home Administration
RULES
Loan and grant programs:
16055 Applications; taxpayer's identification number

Federal Aviation Administration
RULES
16075 Jet routes and control areas
PROPOSED RULES
16097 Reporting points
16095 VOR Federal airways
NOTICES
Airport noise compatibility program:
16187 Seattle-Tacoma International Airport

Federal Communications Commission
RULES
Television stations; table of assignments:
16084 Mississippi
16084 South Carolina
PROPOSED RULES
Frequency allocations and radio treaty matters:
16109 Land mobile services; Detroit, Cleveland, and Buffalo
Radio stations; table of assignments:
16112 Arizona
Television stations; table of assignments:
16112 Florida
16114 Hawaii
NOTICES
16137, 16138 Agency information collection activities under OMB review (2 documents)

Hearings, etc.:
16138 Banks Broadcasting Co., Inc., et al.
Meetings:
16138 Radio Broadcasting Advisory Committee
16138 Rulemaking proceedings; petitions filed, granted, denied, etc.

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
16053 Barley; extension of sales closing date
16054 Oats; extension of sales closing date
16054 Potato; extension of sales closing date
16053 Wheat; extension of sales closing date
PROPOSED RULES
Crop insurance; various commodities:
16090 Raisin

Federal Deposit Insurance Corporation
NOTICES
16146, 16147 Agency information collection activities under OMB review (2 documents)
16191 Meetings; Sunshine Act

Federal Emergency Management Agency
NOTICES
Disaster and emergency areas:
16147 Illinois

Federal Energy Regulatory Commission
RULES
Policy and interpretations:
16076 Take-or-pay obligations, payments made in lieu of; regulatory treatment
NOTICES
Electric rate and corporate regulation filings:
16129 Central Maine Power Co. et al.
Small power production and cogeneration facilities; qualifying status; certification applications, etc.:
16130 Signal Energy Systems et al.

Federal Highway Administration
PROPOSED RULES
Engineering and traffic operations:
16103 Pavement design standards for highways; regulatory procedures for Federal adoption of revisions; advance notice

Federal Home Loan Bank Board
RULES
Federal savings and loan system:
16071 Combinations involving Federal stock associations; de novo policy statement; and clarifications; final rule and request for comments
PROPOSED RULES
Federal Savings and Loan Insurance Corporation:
16094 Insurance of accounts; distribution of adjustable-rate mortgage information

Federal Maritime Commission
NOTICES
16147, 16148 Agreements filed, etc. (2 documents)

Federal Reserve System
RULES
Authority delegations:
16070 Banking Supervision and Regulation Division Director et al.; capital plan submission
16057 Capital maintenance requirements
NOTICES
Bank holding company applications, etc.:
16148 Bremer Financial Corp. et al.
16149 Mellon Bank Corp. et al.
16191 Meetings; Sunshine Act

Fish and Wildlife Service
NOTICES
Environmental statements; availability, etc.:
16160 Atchafalaya National Wildlife Refuge, LA

Food and Drug Administration
RULES
GRAS or prior-sanctioned ingredients:
16080 Magnesium carbonate and magnesium chloride; correction
PROPOSED RULES
GRAS or prior-sanctioned ingredients:
16098 Starches, unmodified (cornstarch, etc.) and acid-modified; correction
NOTICES
Meetings:
16151 Advisory panels, committees, etc.

Foreign-Trade Zones Board
NOTICES
Applications, etc.:
16119 Michigan
16118 Wisconsin

General Services Administration
RULES
Property management:
16082 Building and grounds management; special space alterations; authority delegation to tenant agencies to contract; temporary
PROPOSED RULES
Acquisition regulations (GSAR):
16115 Contract files; reassignments and transfer
16115 Contract types
NOTICES
16149 Agency information collection activities under OMB review
16151 Privacy Act; systems of records

Health and Human Services Department
See Food and Drug Administration; Health Care Financing Administration; Human Development Services Office; National Institutes of Health; Public Health Service.

Health Care Financing Administration
NOTICES
16153 Privacy Act; systems of records; correction

Hearings and Appeals Office, Energy Department
NOTICES
Applications for exception:
16131 Cases filed
16132 Special refund procedures; implementation and inquiry

Human Development Services Office
PROPOSED RULES
Grants:
16105 Child abuse and neglect prevention and treatment program (sexual abuse, etc.)

Interior Department
See Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office.

International Development Cooperation Agency
See Agency for International Development.

International Trade Administration
NOTICES
Scientific articles; duty free entry:
16119 Children's Hospital of Denver et al.
16120 Iowa State University
16120 Northwestern University Medical School
16121 State University of New York
16121 University of Arizona
16121 University of Chicago
16121 Virginia Polytechnic Institute and State University et al.

International Trade Commission
NOTICES
Import investigations:
16168 Anodes for cathodic protection and components
16169 Apparatus for disintegration of urinary calculi
16169 Ball and roller bearing industry, U.S.; competitive assessment
16164 Carbon steel products from Austria, Sweden, and Venezuela
16173 Cast-iron pipe fittings from Brazil
16171 Compound action metal cutting snips and components
16165 Fabric and expanded neoprene laminate from Japan
16176 Float glass from West Germany and United Kingdom
16171 Fluidized bed combustion systems
16170 Gremlin character depictions
16166 Hot-rolled carbon steel plate from Romania
16174 Iron ore pellets from Brazil
16175 Live swine and pork from Canada
16173 Oil country tubular goods from Austria, Romania, and Venezuela
16171 Optical waveguide fibers
16170 Pull-type golf carts and wheels
16171 Softballs and polyurethane cores
16176 Textile mill products and apparel from Turkey, Indonesia, and Philippines (2 documents)
16167 Welded carbon steel pipes and tubes from Thailand and Venezuela
16172 X-ray image intensifier tubes
16191 Meetings; Sunshine Act

Interstate Commerce Commission
NOTICES
Rail carriers:
16178 General American Transportation Corp. v. Indiana Harbor Belt Railroad Co., et al.; reopening of proceeding, etc.; extension of time
Railroad services abandonment:
16177 Alabama Southern Railroad Co.
16178 Arcata & Mad River Rail Road Co.
16178 Maryland & Pennsylvania Railroad Co.
16178 Seaboard System Railroad, Inc.

Justice Department
NOTICES
Poillution control; consent judgments:
16179 Southland Corp.

Land Management Bureau
RULES
Land disposition and use:
16083 Mining claim occupancy and leases; CFR Part removed
NOTICES
Alaska native claims selection:
16156, 16157 Doyon, Ltd. (2 documents)
Environmental concern; designation of critical areas:
16157 Bonneville Salt Flats, UT
Exchange of lands:
16159 California
Leasing of public lands:
16158 Oregon
Meetings:
16157 Spokane District Advisory Council
Resource management plans and environmental statements; availability, etc.:
16156 South Dakota Resource Area, MT

National Highway Traffic Safety Administration
NOTICES
Meetings:
16189 International harmonization of safety standards; schedule
Motor vehicle safety standards; exemption petitions, etc.:
16188 American Honda Motor Co., Inc.

National Institutes of Health
NOTICES
Meetings:
16153 National Cancer Institute
16153, 16154 National Heart, Lung, and Blood Institute (2 documents)
16153, 16154 National Institute of Allergy and Infectious Diseases (2 documents)
16154 National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (2 documents)
16155 National Institute of Child Health and Human Development
16155 National Library of Medicine

National Mediation Board
NOTICES
16192 Meetings; Sunshine Act

National Oceanic and Atmospheric Administration
NOTICES
Coastal zone management programs:
16122 California

National Park Service
NOTICES
Environmental statements and land protection plans; availability, etc.:
16161 Aniakchak National Monument and Preserve, AK
16160–16164 National Historic Landmarks; proposed boundaries (6 documents)

Navy Department
NOTICES
Environmental statements; availability, etc.:
16123 Naval Station, Treasure Island, San Francisco County, CA

Nuclear Regulatory Commission
NOTICES
Applications, etc.:
16180 Baltimore Gas & Electric Co.
16180 Cleveland Electric Illuminating Co. et al.
16180 Pennsylvania State University
16181 University of Utah
16192 Meetings; Sunshine Act
16179 Regulatory guides; issuance, availability, and withdrawal

Personnel Management Office
NOTICES
Meetings:
16182 Federal Prevailing Rate Advisory Committee

Public Health Service
NOTICES
Organization, functions, and authority delegations:
16155 Food and Drug Administration

Research and Special Programs Administration
RULES
Hazardous materials:
16089 United Nations packagings; testing agencies designation; correction
NOTICES
Meetings:
16190 National Hazardous Materials Transportation Advisory Committee

Securities and Exchange Commission
NOTICES
Applications, etc.:
16182 Connecticut Light & Power Co.
16183 Government Investors Trust et al.
Self-regulatory organizations; proposed rule changes:
16184 Pacific Clearing Corp. et al.
16185 Philadelphia Stock Exchange, Inc.

Surface Mining Reclamation and Enforcement Office
RULES
Permanent and interim regulatory programs:
16194 Preparation of cross sections, maps, and plans by land surveyors and design certification of small impoundments

Transportation Department
See also Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration; Research and Special Programs Administration.
NOTICES
Aviation proceedings; hearings, etc.:
16187 Pan Aviation
16186 Privacy Act; systems of records

Treasury Department
NOTICES
16190 Agency information collection activities under OMB review

United States Information Service
PROPOSED RULES
16098 Foreign Service Officers; appointment

Separate Parts in This Issue

Part II
16194 Department of the Interior, Office of Surface Mining Reclamation and Enforcement

Part III
16202 Department of Education, Office of Special Education and Rehabilitative Services

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding 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.

3 CFR
Proclamations:
5323 ... 16049
5324 ... 16051

7 CFR
418 ... 16053
419 ... 16053
422 ... 16054
427 ... 16054
1872 ... 16055
1910 ... 16055
1941 ... 16055
1944 ... 16055
1945 ... 16055
3015 ... 16056
Proposed Rules:
402 ... 16090

12 CFR
208 ... 16057
225 ... 16057
263 ... 16057
265 ... 16070
531 ... 16071
552 ... 16071
563 ... 16071
571 ... 16071
Proposed Rules:
563 ... 16094

14 CFR
71 ... 16075
75 ... 16075
Proposed Rules:
71 (2 documents) ... 16095, 16097

18 CFR
2 ... 16076

21 CFR
184 ... 16080
Proposed Rules:
182 ... 16098
184 ... 16098
186 ... 16098

22 CFR
Proposed Rules:
501 ... 16098

23 CFR
Proposed Rules:
Ch. I ... 16103

30 CFR
779 ... 16194
780 ... 16194
783 ... 16194
784 ... 16194
816 ... 16194
817 ... 16194

40 CFR
180 (3 documents) ... 16080-16082
Proposed Rules:
180 ... 16104

41 CFR
101-20 ... 16082

43 CFR
2550 ... 16083
2910 ... 16083

45 CFR
Proposed Rules:
1340 ... 16105

47 CFR
73 (3 documents) ... 16084
Proposed Rules:
2 ... 16109
73 (3 documents) ... 16112-16114

48 CFR
702 (2 documents) ... 16085, 16086
705 ... 16086
706 ... 16086
714 ... 16086
715 ... 16086
750 (2 documents) ... 16085, 16086
752 ... 16086
Proposed Rules:
504 ... 16115
516 ... 16115

49 CFR
107 ... 16089

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 1985

Presidential Documents

Title 3—

The President

Proclamation 5323 of April 22, 1985

World Trade Week, 1985

By the President of the United States of America

A Proclamation

Each year, through World Trade Week, we celebrate the many ways in which international trade strengthens our country and enriches our lives.

Increased trade strengthens our own economy, as well as helping to sustain and spread world economic growth. American exports help create new growth opportunities for our businesses and new opportunities for employment for our workers. To the American consumer, freer and fairer trade has meant better products in greater variety and at lower prices.

Through contact with other societies, we receive new ideas and gain a better understanding of our traditional values. We reinforce our ties of amity and peace with other countries through strong bonds of commercial interest and mutual respect.

We Americans are used to a role of responsible leadership in world affairs. It is a role we value, and it has won us the respect of other nations. We know that more jobs, greater prosperity, and dynamic economies are based on freer and fairer trade. Other countries take courage from our confidence and competitive spirit.

Despite stronger competition for world markets, record trade deficits, and a growing threat of protectionism abroad, the United States has resisted the temptation to adopt self-defeating protectionist measures of its own. We have called upon other countries to open their markets to fair competition. We are working with our trading partners to launch a new round of multilateral trade negotiations by early next year aimed at opening markets worldwide.

Americans can be proud that economic growth in the United States has helped fuel the recovery of our trading partners who can now afford to buy more of our goods and services. Americans can be proud of the U.S. commitment to policies promoting unrestricted trade and investment consistent with our security interests.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning May 19, 1985, as World Trade Week, and I request all Federal, State, and local officials to cooperate in its observance.

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

Ronald Reagan

[FR Doc. 85-10070
Filed 4-22-85; 4:46 pm]
Billing code 3195-01-M

Presidential Documents

Proclamation 5324 of April 22, 1985

National Organ Donation Awareness Week, 1985

By the President of the United States of America

A Proclamation

The most precious gift that one human being can bestow upon another is the gift of life. It can be given simply by making arrangements to donate our organs or those of our loved ones after death. Donation of our corneas would give others the gift of sight; donation of our kidneys, hearts, lungs, livers, and pancreata could save the lives of many people who might otherwise die.

On several recent occasions, I have asked the American people to be aware of the opportunities to donate their organs, and I have made special pleas for young children in need of liver transplants. The response proved to be overwhelming. Tragically, however, many desperately ill persons, including young children, have died while awaiting a suitable organ.

The need for organs far surpasses the number donated each year. To increase the availability of organs for transplantation, I signed the National Organ Transplant Act on October 19, 1984. This law created an Office of Organ Transplantation in the Public Health Service and authorized a Task Force on Organ Transplantation.

It is appropriate that we as a Nation encourage organ donation and increase public awareness of the need for such donations. We also should recognize the many contributions of private organizations, including the American Council on Transplantation, to this effort. By filling out a uniform donor card and carrying it, and by making our wishes of donation known to our families, we may give the gift of life to people who so desperately need organs for transplantation.

Americans are a caring and giving people. I have heard from many Americans who have lost their loved ones in tragic accidents, but who have found solace in knowing that through their loss other lives were saved.

The Congress, by Senate Joint Resolution 35, has authorized and requested the President to issue a proclamation designating the week beginning April 21 through April 27, 1985, as "National Organ Donation Awareness Week."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby designate April 21 through April 27, 1985, as National Organ Donation Awareness Week. I urge all health care professionals, educators, the media, public and private organizations concerned with organ donation and transplantation, and all Americans to join me in supporting this humanitarian action.

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

Ronald Reagan

[FR Doc. 85-10113
Filed 4-23-85; 12:12 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 1985

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 418

[Docket No. 2324S]

Wheat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for wheat crop insurance in three counties in Colorado, effective for the 1985 crop year only. This action is necessary because the final planting date has been changed to May 31 to accommodate the later planting in this area. Therefore, additional time for applications to be accepted is being provided accordingly. The intended effect of this notice is to advise all interested parties of the extension of the sales closing date and to comply with the provisions of the wheat crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 418.7, the closing date for accepting applications for wheat crop insurance in certain counties is April 15. Because of changes in the final planting date, made to conform to local farming practices, FCIC is extending the sales closing date in Moffat, Rio Blanco, and Routt Counties, Colorado. Present insureds have received notification of the changes made by FCIC and the additional time to consider such changes. Applicants for such insurance will be advised of the changes at the time application for insurance is made.

Under the provisions of 7 CFR 418.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 418.7, the Federal Crop Insurance Corporation herewith gives notice that the closing date for accepting applications for wheat insurance in Moffat, Rio Blanco, and Routt Counties, Colorado, is hereby extended through the close of business on May 15, effective for the 1985 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, D.C. on April 15, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: April 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-9913 Filed 4-23-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 419

[Docket No. 2322S]

Barley Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for barley crop insurance in three counties in Colorado, effective for the 1985 crop year only. This action is necessary because the final planting date has been changed to May 31 to accommodate the later planting in this area. Therefore, additional time for applications to be accepted is being provided accordingly. The intended effect of this notice is to advise all interested parties of the extension of the sales closing date and to comply with the provisions of the barley crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 419.7, the closing date for accepting applications for barley crop insurance in certain counties is April 15. Because of changes in the final planting date, made to conform to local farming practices, FCIC is extending the sales closing date in Moffat, Rio Blanco, and Routt Counties, Colorado. Present insureds have received notification of the changes made by FCIC and the additional time to consider such changes. Applicants for such insurance will be advised of the changes at the time application for insurance is made.

Under the provisions of 7 CFR 419.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 419.7, the Federal Crop Insurance Corporation herewith gives notice that the closing date for accepting applications for barley insurance in Moffat, Rio Blanco, and Routt Counties, Colorado, is hereby extended through the close of business on May 15, effective for the 1985 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, D.C., on April 15, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: April 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-9914 Filed 4-23-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 422

[Docket No. 2327S]

Potato Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for potato crop insurance in all counties in Maine, effective for the 1985 crop year only. This action is necessary because certain actuarial data being used in that area was discovered to be in error. Additional evaluations were made and corrected data was filed. This resulted in there being not enough time for producers to consider the offer of insurance. Therefore, additional time for accepting applications for insurance is provided accordingly. The intended effect of this notice is to advise all interested parties of the extention of the sales closing date and to comply with the provisions of the potato crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 422.7, the closing date for accepting applications for potato crop insurance in all counties in Maine is April 15. Because of necessary corrections in the actuarial data resulting in a shortened sales period, and the need for producers to consider the insurance offer, FCIC is extending the sales closing date in all counties in Maine. Present insureds have received notification of the changes made by FCIC and the additional time to consider such changes. Applicants for such insurance will be advised of the changes at the time application for insurance is made.

Under the provisions of 7 CFR 422.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result for such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 422.7, the Federal Crop Insurance Corporation herewith gives notice that the sales closing date for accepting applications for potato insurance in all counties in Maine is hereby extended through the close of business on April 30, effective for the 1985 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, D.C., on April 15, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: April 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-9916 Filed 4-23-85; 8:45 am]

BILLING CODE 3410-08-M

7 CFR Part 427

[Docket No. 2323S]

Oat Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice of extension of sales closing date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) herewith gives notice of the extension of the sales closing date for accepting applications for oat crop insurance in three counties in Colorado, effective for the 1985 crop year only. This action is necessary because the final planting date has been changed to May 31 to accommodate the later planting in this area. Therefore, additional time for applications to be accepted is being provided accordingly. The intended effect of this notice is to advise all interested parties of the extention of the sales closing date and to comply with the provisions of the oat crop insurance regulations with respect to the Manager's authority to extend sales closing dates.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: Under the provisions contained in 7 CFR 427.7, the closing date for accepting applications for oat crop insurance in certain counties is April 15. Because of changes in the final planting date, made to conform to local farming practices, FCIC is extending the sales closing date in Moffat, Rio Blanco, and Routt Counties, Colorado. Present insureds have received notification of the changes made by FCIC and the additional time to consider such changes. Applicants for such insurance will be advised of the changes at the time application for insurance is made.

Under the provisions of 7 CFR 427.7, the sales closing date for accepting applications may be extended by placing the extended date on file in the service office and by publishing a notice in the **Federal Register** upon determination that no adverse selectivity will result from such extension. If adverse conditions develop during such period, FCIC will immediately discontinue acceptance of applications.

Notice

Accordingly, pursuant to the authority contained in 7 CFR 427.7, the Federal Crop Insurance Corporation herewith gives notice that the closing date for accepting applications for oat insurance in Moffat, Rio Blanco, and Routt Counties, Colorado, is hereby extended through the close of business on May 15, effective for the 1985 crop year only.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77, as amended (7 U.S.C. 1506, 1516).

Done in Washington, D.C., on April 15, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: April 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-9915 Filed 4-23-85; 8:45 am]

BILLING CODE 3410-08-M

Farmers Home Administration

7 CFR Parts 1872, 1910, 1941, 1944, and 1945

Taxpayer's Identification Number

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations regarding receiving and processing applications to require each applicant for an FmHA loan to furnish his or her taxpayer's identification number. This action is necessary because it is mandated by Pub. L. 97–365. The intended effect of this action is the identification of applicants for loan servicing purposes.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Frank Colon, Chief Homeownership Branch, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5336, South Agriculture Building, 14th and Independence Avenue, SW, Washington, D.C. 20250, telephone (202) 382–1482.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under USDA procedures established in Departmental Regulation 1512–1 which implements Executive Order 12291, and has been determined to be nonmajor, because there is no substantial change from practices under existing rules that would have an annual effect on the economy of $100 million or more. There is no major increase in cost or prices to consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding exemption in 5 U.S.C. 553, with respect to such rules. This action, however, is not published for proposed rulemaking since the statute requiring the action (Debt Collection Act of 1982, Pub. L. 97–365) and implementing regulations are mandatory with no discretion left to the Agency. In this situation, publication for comment is unnecessary.

Section 4 of the Debt Collection Act of 1982 requires each Federal agency that administers an "included Federal loan" program to require applicants to furnish their taxpayer's identification number. For individuals, that number is their Social Security number (SSN). This provision satisfies the Privacy Act's requirement (in section 7) that agencies must have an authorizing Federal statute in order to condition the provision of a benefit (in this case, the making of a loan) on the applicant providing his or her taxpayer's identification number. This rule implements that requirement and it should be noted that while applying for the benefit is a voluntary act, once an individual decides to *apply*, he or she *must* furnish the taxpayer's identification number as part of the application. The Office of Management and Budget listed FmHA as an "included Federal loan" program agency in its **Federal Register** notice of December 27, 1982 (47 FR 57595).

This action affects the following programs listed in the Catolog of Federal Domestic Assistance:

Sec.
10.404 Emergency loans
10.405 Farm labor housing loans and grants
10.406 Farm operating loans
10.407 Farm ownership loans
10.410 Low income housing loans
10.411 Rural housing site loans
10.414 Resource conservation and development loans
10.415 Rural rental housing loans
10.416 Soil and water loans
10.417 Very low income housing repair loans
10.418 Water and waste disposal systems for rural communities
10.419 Watershed protection and flood prevention loans
10.420 Rural self-help housing technical assistance
10.421 Indian tribes and tribal corporation loans
10.422 Business and industrial loans
10.423 Community facilities loans
10.427 Rural rental assistance payments

For the reasons set forth in the Final Rule related to Notice 7 CFR Part 3015, Subpart V (48 FR 29115, June 24, 1983), and FmHA Instruction 1940–J, "Intergovernmental Review of Farmers Home Administration Programs and Activities" (December 23, 1983), this activity is not subject to intergovernmental consultations with State and local officials. The information required by the action is already being furnished on a voluntary basis.

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

List of Subjects

7 CFR Part 1872

Foreclosure, Loan programs—Agriculture, Rural areas.

7 CFR Part 1910

Applications, Credit, Loan programs—Agriculture, Loan programs—Housing and community development, Low- and moderate-income housing, Marital status discrimination, Sex discrimination.

7 CFR Part 1941

Crops, Livestock, Loan programs—Agriculture, Rural areas, Youth.

7 CFR Part 1944

Administrative practice and procedure, Aged, Farm labor housing, Grant programs—housing and community development, Home improvement, Loan programs—housing and community development, Low and moderate income housing—rental, Migrant labor, Mobile homes, Mortgages, Nonprofit organizations, Public housing, Rent subsidies, Rural housing, Subsidies.

7 CFR Part 1945

Agriculture, Disaster assistance, Loan programs—agriculture.

Therefore, Chapter XVIII, Title 7, Code of Federal Regulations is amended as follows:

PART 1872—REAL ESTATE SECURITY

Subpart A—Servicing and Liquidation of Real Estate Security for Loans to Individuals and Certain Note-Only Cases.

§ 1872.18 [Amended]

1. Section 1872.18 is amended by changing the fifth FmHA Form No. in the table in paragraph (g)(2)(iii), from "410–5" to "1910–5."

PART 1910—GENERAL

Subpart A—Receiving and Processing Applications

2. Section 1910.3 is amended by removing paragraph (j), redesignating paragraphs (k) through (m) as paragraphs (j) through (l) respectively, and by revising paragraphs (b) and (i) to read as follows:

§ 1910.3 Receiving applications.

* * * * *

(b) Requests by FmHA borrowers or previous borrowers for additional

assistance from FmHA will be submitted as prescribed by each loan/grant program and the following:

(1) All applicants must provide their taxpayer's identification number with their applications, except as noted in paragraph (i) of this section.

(2) Individuals (who are not business applicants) who have a current Form FmHA 431–2, "Farm and Home Plan," Form FmHA 431–3, "Household Financial Statement and Budget," or Form FmHA 410–4, and who are presently indebted to FmHA, will be required to complete only the following items of Form FmHA 410–1 or Form FmHA 410–4:

(i) Name.

(ii) Social Security number.

(iii) Loan purpose.

(iv) Planned income for next 12 months.

(v) Date and signature of applicant.

If other information about their current status is not available for adequate processing of their applications, these applicants should fully complete Form FmHA 410–1 or Form FmHA 410–4, as appropriate.

(3) Applicants for EM loans with new losses from disaster, as authorized under EM regulations, must complete Form FmHA 1945–22 in addition to the other required forms.

* * * * *

(i) For all loans and grants, the applicant *must* furnish the applicant's taxpayer's identification number with the application, except as otherwise indicated in this paragraph. The taxpayer's identification number for individuals who are not business applicants is the Social Security number (SSN). The taxpayer's identification number will be used as part of the borrower's case number, except as noted in paragraph (i)(2) of this section.

(1) For individuals who are not business applicants, the SSN preceded by the State and county code numbers will constitute the borrower's case number to be used on all FmHA forms.

(2) For Community and Business and Industry programs, T/A Self-Help and other business applicants, a temporarily assigned number will be used initially for applicant identification for the purpose of obligating funds. This number will be assigned by the State Director from the block of borrower identification numbers assigned to each State by the Finance Office. The temporary number preceded by the State and county code numbers and followed by the project number will constitute the borrower's case number to be used on all FmHA forms. The temporary number must be replaced by the taxpayer's identification number prior to loan closing/issuance of loan note guarantee, by submitting Form FmHA 450–10, "Advice of Borrower's Change of Address or Name," to the Finance Office. In replacing the temporary number, follow the format shown in Item 1 of the Forms Manual Insert (FMI) for Form FmHA 1940–1, "Request for Obligation of Funds," to complete the borrower's case number.

(3) In the case of noncitizens who are permanent residents or on indefinite parole and who do not yet have a taxpayer's identification number, their applications will be filed; however, they will not be processed until an SSN is obtained. Disposition of applications not processed for lack of the number will be as set forth in FmHA Instruction 2033–A, "Management of County Office Records" (available in any FmHA office).

* * * * *

PART 1941—OPERATING LOANS

Subpart A—Operating Loan Policies, Procedures and Authorizations

Exhibit A [Amended]

3. Exhibit A is amended by changing the second Form No. in the table in paragraph A. in "APPLICATION PROCESSING" from "410–5" to "1910–5."

PART 1944—HOUSING

Subpart A—Section 502 Rural Housing Loan Policies, Procedures, and Authorizations

§ 1944.30 [Amended]

4. Section 1944.30 is amended by changing the fourth Form No. in the table in paragraph (a) from "410–5" to "1910–5."

§ 1944.34 [Amended]

5. Section 1944.34 is amended by changing the reference "Form FmHA 410–5" to "Form FmHA 1910–5" in the third sentence of paragraph (g)(1))(i) and in the first sentence of paragraph (h)(3)(iii)(B).

6. Section 1944.34 is amended by changing the reference "Form FmHA 410–5, 'Request for Verification of Employment' " to "Form FmHA 1910–5" in the fourth sentence of paragraph (h)(3)(i).

7. Exhibit A is amended by changing the reference in part I D. from "Form FmHA 410–5" to "Form FmHA 1910–5."

Subpart D—Farm Labor Housing Loan and Grant Policies, Procedures, and Authorizations

§ 1944.182 [Amended]

8. Section 1944.182 is amended by changing the reference in the second sentence from "Form FmHA 410–5" to "Form FmHA 1910–5."

Subpart J—Section 504 Rural Housing Loans and Grants

§ 1944.467 [Amended]

9. Section 1944.467 is amended by changing the reference in the first sentence of paragraph (d) from "Form FmHA 410–5" to "Form FmHA 1910–5."

PART 1945—EMERGENCY

Subpart D—Emergency Loan Policies, Procedures, and Authorizations

Exhibit A [Amended]

10. Exhibit A is amended by changing the second Form No. in the table in paragraph III. A. 6. from "410–5" to "1910–5."

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; sec. 10 Pub. L. 93–357, 88 Stat. 392; 7 CFR 2.23; 7 CFR 2.70.

Dated: March 25, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85–9830 Filed 4–23–85; 8:45 am]

BILLING CODE 3410–07–M

Office of the Secretary

7 CFR Part 3015

Proposal To Exclude Department of Agriculture Programs and Activities From Executive Order 12372

AGENCY: Department of Agriculture.

ACTION: Final rule related notice.

SUMMARY: The purpose of this Notice is to inform State and local governments and other interested persons of Farmers Home Administration's (FmHA) reexamination of three programs previously excluded under Executive Order 12372, "Intergovernmental Review of Federal Programs." For all FmHA programs originally excluded solely on the basis of "assistance to nongovernmental entities," this Notice sets forth justification to continue exclusions on the basis that the programs do not directly affect State and local governments. A full understanding of the requirements of the Order may be gained by referring to the final rules published in 7 CFR Part 3015.

Subpart V, at 48 FR 29100, dated June 24, 1983.

DATE: Comments must be received on or before June 10, 1985.

ADDRESS: Interested persons should submit comments to Ms. Lyn Zimmerman, Office of Finance and Management, USDA, Room 2117–B, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250. Comments will be available for inspection at the above address from 9:00 a.m. to 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Ms. Lyn Zimmerman, Supervisory Program Analyst, Office of Finance and Management, USDA, Room 2117–B, Auditors Building, 201 14th Street, SW., Washington, D.C. 20250. (Telephone (202) 382–1553).

SUPPLEMENTARY INFORMATION: The programs listed below by Catalog of Federal Domestic Assistance Numbers are proposed for exclusion from the scope of Executive Order 12372 for the reasons stated.

10.404 Emergency Loans

No direct effect on State and local governments. Emergency loans are made available to individual farmers whose operations have been substantially affected by a natural disaster.

10.406 Farm Operating Loans

No direct effect on State and local governments. The basic objective of the loan program is to provide the credit and management assistance necessary for individual farmers and ranchers to conduct successful operations and improve their economic situation to the extent that they can obtain credit elsewhere.

10.407 Farm Ownership Loans

No direct effect on State and local governments. The basic objectives in making these loans are to assist individual applicants to become owner-operators of family farms, to make efficient use of land, labor and other resources, to carry on sound and successful operations on the farm, and to enable farm families to have a reasonable standard of living.

Following the end of the comment period, the Department will review all comments received and make a decision on whether to exclude or include the programs listed herein. A Notice will be published in the **Federal Register** announcing the determination.

Dated: April 19, 1985.

Charles L. Grizzle,

Deputy Assistant Secretary for Administration.

[FR Doc. 85–9887 Filed 4–23–85; 8:45 am]

BILLING CODE 3410–07–M

FEDERAL RESERVE SYSTEM

12 CFR Parts 208, 225 and 263

[Docket No. R–0526]

Membership of State Banking Institutions; Bank Holding Companies and Change in Bank Control; Capital Maintenance; Rules of Procedure

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rulemaking.

SUMMARY: The Board of Governors of the Federal Reserve System has adopted revised capital adequacy guidelines and a procedural regulation to permit the Board to enforce compliance with the revised guidelines. The amended guidelines and the procedural enforcement regulation implement section 908 of the International Lending Supervision Act of 1983 (Pub. L. 98–181, Title IX, 97 Stat. 1153, codified at 12 U.S.C. 3907), which directs the federal bank supervisory agencies, i.e., the Board, the Federal Deposit Insurance Corporation ("the FDIC") and the Comptroller of the Currency ("the Comptroller"), to establish minimum and appropriate levels of capital for federally supervised banking institutions. Pursuant to its supervisory authority, the Board is promulgating revised capital guidelines for bank holding companies and state-chartered banks that are members of the Federal Reserve System.

Capital adequacy is one of the critical factors the Board is required to analyze in taking action on various types of applications, such as mergers and acquisitions by banks and bank holding companies, and in the conduct of the Board's various supervisory activities related to the safety and soundness of individual banks and bank holding companies and to the stability of the banking system.

In amending its capital guidelines, the Board has adopted, with some changes, the proposal published for comment on July 30, 1984 (49 FR 30317). The revised guidelines: (a) Define capital and the major components of capital, (b) establish minimum capital ratios, and (c) provide for capital zones or target ranges for state member banks and bank holding companies. In addition, the final enforcement regulation establishes procedures under which the Board may require banking organizations to achieve and maintain the minimum capital levels contained in the guidelines. The regulation also provides procedures for the Board to set capital requirements for individual banking organizations at levels higher than the uniform minimum levels in the guidelines.

EFFECTIVE DATE: May 15, 1985.

FOR FURTHER INFORMATION CONTACT: Richard Spillenkothen, Assistant Director, Division of Banking Supervision and Regulation (202/452–2594), Anthony G. Cornyn, Assistant Director, Division of Banking Supervision and Regulation (202/452–3354), or James E. Scott, Senior Attorney, Legal Division (202/452–3513).

SUPPLEMENTARY INFORMATION:

1. Background

The Need for Capital Adequacy Standards

The Board, by reason of its responsibilities as a banking regulator, has historically had a critical interest in the maintenance of adequate capital in individual state member banks and bank holding companies and in the banking system in general. In the Board's view, capital provides a buffer for individual banking organizations in times of poor performance, helps to maintain public confidence in particular banking organizations and in the banking system, promotes the safety of depositors' funds, and supports the reasonable growth of banking organizations. An evaluation of capital adequacy is one of the major purposes of a bank or bank holding company examination. Capital is one component of the Uniform Financial Institutions Rating System used by the federal bank supervisory agencies.

Despite the recognition by the Board and other Federal banking regulators of the importance of capital, the period from 1960 through 1980 was marked by a gradual decline in the ratio of equity capital to total assets in the United States commerical banking system. Concern about the decline in the ratio of capital to bank assets before 1981, particularly at the nation's largest banking organizations, prompted the Board and the Comptroller in December 1981 to adopt capital adequacy guidelines for national and state member banks and bank holding companies. These guidelines established minimum capital levels and capital "zones" which defined, for well-managed banking institutions without significant financial weaknesses, those institutions that were considered

adequately capitalized and those presumed to be undercapitalized, absent clear extenuating circumstances.

The guidelines have continued to provide state member banks and bank holding companies with targets or objectives to be reached over time. The Board has noted that many banks and bank holding companies, including the nation's largest banking organizations, have improved their capital positions to comply with the guidelines. Nevertheless, several recent developments, including deregulation of interest rates on bank liabilities, weaking of loan portfolios of some banking institutions occasioned by economic shocks in certain industries or geographic areas, and increased competition in the financial services areas, have combined to place additional pressures on the profitability of banking institutions and to accentuate potential demands on the capital of those institutions. The Board has continued to stress the importance of capital to banking organizations and the importance of the capital guidelines in setting standards of capital adequacy. In June 1983, the Board amended its guidelines to set explicit minimum capital levels for multinational organizations. In December 1983, the Board republished the guidelines as Appendix A of its Regulation Y (12 CFR Part 225) (49 FR 794).

Reasons for Revision of the Guidelines

In November 1983, Congress enacted the International Lending Supervision Act of 1983 (12 U.S.C. 3901 *et seq.*) ("ILSA"), which directed that the federal banking agencies ". . . shall cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by such other methods as the appropriate Federal banking agency deem appropriate." (Section 908, U.S.C. 3907). Pursuant to this authority, as well as the authority of the Bank Holding Company Act, 12 U.S.C. 1844(b), the Federal Reserve Act, 12 U.S.C. 248, 324, 329, and the Financial Institutions Supervisory Act of 1966, 12 U.S.C. 1818, the Board is amending its capital adequacy guidelines to increase the required minimum primary and total capital levels for the larger regional and multinational bank holding companies and state member banks and to eliminate the disparate minimum capital levels for large and small banking organizations.

The amended guidelines, when considered in conjunction with the capital maintenance regulations of the Comptroller and the FDIC, will establish uniform minimum capital levels for all federally supervised banking organizations, including bank holding companies, regardless of size, type of charter, primary supervisor of membership in the Federal Reserve System. In addition, the guidelines have been amended to define the components of capital for state member banks more consistently with the definitions contained in the capital maintenance regulations of the Comptroller and FDIC. The Board is also adopting procedural regulations that provide a mechanism to enforce the substantive requirements of the guidelines.

The Board will continue to require bank holding companies to meet the same minimum capital ratios as state member banks. The Board has found pursuant to section 910(a)(2) of ILSA (12 U.S.C. 3909(a)(2)) that application of minimum capital levels and capital zones to bank holding companies is necessary to prevent evasions of the purposes of ILSA. It serves no purpose to increase the capital levels of a bank while allowing its parent holding company to operate with lower levels of capital. The financial condition of a bank holding company continues to be a primary factor influencing the financial condition of its subsidiary banks. The Board's revision of the capital adequacy guidelines for bank holding companies is designed to increase the required minimum primary and total capital levels for the larger regional and multinational bank holding companies, and to establish uniform capital requirements for all bank holding companies regardless of size.

2. Comments Received

The Board's proposal to amend its capital adequacy guidelines was announced on July 26, 1984, and published for comment, with the comment period ending September 24, 1984. The FDIC and Comptroller published similar capital maintenance regulations at approximately the same time, and the comment period on the Comptroller's proposed regulations expired November 5, 1984. In view of the similarity of the issues raised by these parallel proceedings and the fact that several commenters filed comments with all the federal banking agencies, the Board considered comments received after its comment period but before November 5, 1984. The Board received 89 comments from the public, including 12 from multinational banks, 27 from regional banks, 29 from smaller community banks (under $1 billion in total assests), 7 from banking associations or organizations, 2 from foreign banks, 3 from state bank supervisors, 2 from nonbank financial service organizations and 7 from other organizations and individuals. In addition, the Board received comments from 10 of its Federal Reserve Banks.

The Board requested comments on four specific issues. On the issue of whether to promulgate guidelines or a regulation dealing with maintenance of adequate capital, 92 percent of those commenting recommended that the Board continue to employ guidelines. On continued use of capital "zones" in addition to a minimum capital level, 77 percent of those commenting endorsed the zone concept. On the treatment of intangible assets, 98 percent of those commenting favored including all intangibles in the definition of primary capital for bank holding companies and 78 percent endorsed the same principle for state member banks. Finally, on the treatment of equity commitment notes, 91 percent of those commenting favored including such commitment notes as primary capital for bank holding companies and 78 percent favored the inclusion of such notes as primary capital for commercial banks.

The comments covered a range of other issues. The Board has reviewed the comments and recommendations received and has incorporated several of the suggestions and recommendations in the revising guidelines.

3. Resolution of Major Issues

Mininum Capital Ratios

The Board has revised its capital adequacy guidelines, in accordance with its July 1984 proposal, to require a minimum ratio of primary capital to total assets of 5.5 percent and a minimum ratio of total capital to total assets of 6.0 percent for all state member banks and bank holding companies. This requirement represents an increase in the minimum *primary* capital ratio from 5.0 to 5.5 percent for regional (in excess of $1 billion in total assets) and multinational banking institutions and a decrease from 6.0 to 5.5 percent in the minimum primary capital ratio for community banking organizations (less than $1 billion in total assets). It also represents an increase in the minimum *total* capital ratio of larger banking institutions 5.5 to 6.0 percent. The minimum total capital ratio for community banking institutions remains unchanged. The following table summarizes the changes from the minimum capital requirements in the Board's current capital adequacy guidelines.

	Current guidelines (percent)	Amended guidelines (percent)
Minimum primary capital:		
Multinational and regional	5.0	5.5
Community (under $1 billion in total assets)	6.0	5.5
Minimum total capital:		
Multinational and regional	5.5	6.0
Community	6.0	6.0

The Board did not receive any significantly adverse comments on its proposal to reduce the minimum primary capital levels of smaller community banking institutions. In view of the importance the Board places on maintaining a strong capital position, the Board was reluctant to accept a reduction in the minimum primary capital level of smaller banking organizations. However, the Board has made this change for the overriding reasons of achieving uniformity in the capital requirements for larger and small banking organizations, maintaining consistency with the requirements of the Comptroller and the FDIC, and adhering to the objectives of Congress in enacting ILSA. Total capital requirements for these community institutions will remain unchanged, and the Board will continue to emphasize that all banking institutions are expected to operate above the minimum capital ratios. The Board will also continue to scrutinize, particularly in the course of proposals to expand, any decline in the capital ratios of banking organizations.

The Board did receive strong objections from some larger banking institutions to the proposal to raise their minimum primary and total capital ratios. In their comments, these regional and multinational institutions questioned not only the proposed minimum capital levels, but also, in some cases, the very concept of capital ratios as a measure of a bank's stability and condition.

Some commenters argued that the emphasis on capital is misplaced and that bank regulators should be concerned with other factors such as liquidity, interest rate exposure, and the quality of the loan portfolio. They noted that use of minimum capital levels is not a suitable tool for management to risk exposure and contended that capital does not prevent bank failures. These commenters also argued that higher capital requirements would increase risk by pressuring institutions to shift assets toward higher yielding, but riskier, loans in order to maintain earnings per share. They further asserted that higher capital levels would put large domestic banking institutions at a competitive disadvantage against thrifts and foreign banking institutions. Finally, some commenters argued that an increase in minimum capital levels for larger banking organizations is inappropriate, because a 5 percent minimum primary capital level was set for multinational banking institutions in 1983 and no subsequent increase in risk justifies the increase.

The Board has long held that adequate capital is a critical factor in helping a banking institution weather financial adversity and in promoting the safety and soundness of the banking system. Other things being equal, the stronger an organization's capital position, the more likely it will be able to withstand a period of financial stress without experiencing a loss of public confidence. Supervisory experience has demonstrated that a strong capital position is a critical element of bank soundness and serves both to protect depositors and to promote the safety of the banking system. Moreover, in enacting ILSA, Congress has established the requirement of minimum capital levels by law and has generally mandated both greater uniformity in capital requirements and an increase in capital levels, particularly in view of its concern about larger banking institutions in the international arena. Finally, higher capital ratio guidelines need not mean any lessening of concern or scrutiny by the Board with respect to other risk factors. The amended guidelines state explicitly that such factors as liquidity, the degree of risk associated with a banking institution's assets, and off-balance sheet exposure will be taken into account in assessing capital adequacy and that the Board will take other relevant factors into account on a case-by-case basis in applying the capital guidelines.

Based on the most recent available data, only 17 state member banks and 61 bank holding companies with assets over $150 million have primary capital ratios (without deducting intangible assets) below the 5.5 percent minimum primary capital guideline. Thus, fewer than 2 percent of all state member banks and 8 percent of all holding companies with assets over $150 million had primary capital ratios below the minimum benchmark. With respect to total capital, 25 state member banks and 80 bank holding companies have total capital ratios (without deducting intangibles) below the 6.0 percent minimum guideline. These numbers pertaining to total capital include some of the same banking organizations whose primary capital ratios also fall below the 5.5 percent minimum primary capital guideline. The figures for the number of state member banks that fall below the guidelines do not take account of the Board's decision to deduct goodwill from the capital of state member banks.

The Continued Use of Total Capital Zones

The Board has decided, in accordance with its July 1984 proposal, to continue using "zones" in assessing the adequacy of total capital. Banking organizations with a ratio of total capital to total assets less than 6.0 percent will be considered undercapitalized, if there are no extenuating circumstances. Institutions with a total capital to total assets ratio of 6.0 to 7.0 percent may be considered to be capitalized at an acceptable level if the Federal Reserve's close scrutiny of other relevent financial and managerial factors shows them to be fully satisfactory. Finally, institutions with a total capital to total assets ratio exceeding 7.0 percent will generally be considered adequately capitalized, unless there are significantly adverse financial or managerial factors. Regardless of the level of total capital, a banking organization with a primary capital ratio below 5.5 percent will generally be considered undercapitalized.

The revised guidelines maintain the same total capital zones for smaller community banking organizations while raising the requirements 0.5 percent in each zone for regional and multinational banking organizations. This increase in the total capital zones for regional and multinational banking organizations was adopted to encourage such organizations to strengthen their total capital positions and to achieve uniformity in the zone requirements for all state member banks and bank holding companies regardless of size.

The comments on the Board's proposal to continue using total capital zones were overwhelmingly favorable. Zones were perceived as being more flexible than a single minimum capital level and as providing management with broad standards for future capital planning. The Board will continue using zones to provide guidance to the management of banking organizations, and to encourage such organizations to maintain total capital levels in excess of the minimum. Total capital zones may also encourage institutions to substitute subordinated debt for short-term borrowings, which may induce greater market discipline.

The Continued Use of Guidelines

The Board will continue its use of guidelines rather than regulations to embody its substantive capital requirements, including minimum capital ratios, capital zones, definitions of primary and secondary capital and treatment of such capital components as intangible assets and mandatory convertible instruments.

The Board's decision to use capital guidelines instead of a regulation is based on its experience with the existing guidelines. This supervisory experience has demonstrated the benefit in working with banking institutions on capital adequacy matters rather than in dealing with them on a more rigid basis under a regulation. Guidelines give the Board flexibility to adjust capital requirements and definitions to changes in the economy, in financial markets, and in banking practices. Flexible guidelines also permit the Federal Reserve to take account of the individual characteristics of a banking institution. Failure to meet the minimum capital levels should not automatically be construed as a violation of a regulation and therefore a violation of law, particularly if the Federal Reserve would have to consider capital adequacy in the context of a broad range of factors in acting upon applications.

The comments received by the Board overwhelmingly favored continued use of guidelines instead of regulations.

Treatment of Intangible Assets

(a) *State member banks.* The Board did not adopt a provision in its July 1984 proposal to require the deduction of all intangible assets in calculating primary (but not total) capital ratios. The Board has decided instead to deduct only goodwill in computing primary *and total* capital ratios of state member banks. Other intangibles, such as mortgage servicing rights and favorable leases, will generally be included in the computation of primary capital, although the guidelines provide the Board with authority and flexibility to make adjustments to capital ratios on a case-by-case basis, based on the level, quality, or nature of intangible assets in relation to the bank's overall financial condition.

Historically, the Board has required state member banks to charge off goodwill immediately (except in those instances where it was acquired in the rescue of a failing bank, in which case a 15 year write-off has been required). Aside from goodwill in the case of banks, however, the Board has made no automatic deduction of intangible assets in computing the primary or total capital ratios of banks or bank holding companies, preferring instead to take the character and level of such assets into account in assessing the capital adequacy of a particular institution.

The Board's July 1984 proposal to deduct all intangible assets from the primary capital of state member banks was designed to conform the Board's definition of primary capital to the proposals of the FDIC and the Comptroller. In taking this step, however, the Board questioned the desirability of such an approach. The overwhelming majority of those commenting opposed any deduction of intangible assets from the primary capital of banks or bank holding companies, noting that intangible assets have economic value and that generally accepted accounting principles permit intangible assets to be recorded in financial statements. Commenters also cited the fact that the deduction of all intangible assets from primary capital would fail to accord any value whatsoever to intangible assets and would not distinguish between different types of intangible assets. Some commenters suggested that concern over intangible assets could be mitigated by requiring appropriate amortization periods. In general, most public commenters viewed the deduction of intangible assets from primary capital as inhibiting sound acquisitions or business transactions involving the booking of intangible assets.

In light of the public comments received and its reservations about the deduction of all intangible assets, the Board has modified its proposal with respect to the treatment of intangibles in banks. Instead of deducting all intangibles from bank primary capital, the Board will deduct only goodwill from primary and total capital. (The Federal Reserve may permit goodwill acquired by a bank in connection with a supervisory merger with a failing institution to be included for capital purposes if it is appropriately amortized.)

Since the Board generally has required state member banks to charge off goodwill immediately, this approach represents little change from existing policy. The accounting treatment, however, will differ from the existing practice in that after the effective date of the revised guidelines, state member banks will be allowed to book and amortize goodwill rather than charge it off, in order to conform to the practice of the FDIC and the Comptroller. As a general principle, intangible assets in state member banks are to be written off over their estimated useful lives, not to exceed 15 years.

Both the FDIC and the Comptroller have amended their original proposals to include at least one kind of intangible, mortgage-servicing rights, in primary capital. Apparently both agencies have concluded that, among other things, the value of the income flow from mortgage servicing is sufficiently certain and stable to warrant treating mortgage servicing as tangible assets. In the Board's view, other intangibles (such as favorable leases) have characteristics more akin to mortgage-servicing rights than to goodwill and should thus be given similar consideration in assessing an institution's capital position.

The Board has included in the guidelines for state member banks a threshold for intangibles of 25 percent of tangible primary capital, above which any tangible assets will be subject to close supervisory scrutiny. In addition to deducting goodwill for the purpose of assessing capital adequacy, the Federal Reserve may, on a case-by-case basis, make further adjustments to a bank's capital ratios based on the amount of intangible assets (aside from goodwill) over the 25 percent threshold or on the specific character of the bank's intangible assets in relation to its overall financial condition. The Board has previously used the 25 percent threshold on a case-by-case basis. The impact of this requirement appears to be minimal. Although 48 state member banks reported intangible assets as of September 30, 1984, only four such banks (all community institutions under $1 billion in total assets) had intangible assets over 25 percent of tangible primary capital.

(b) *Bank Holding Companies.* With respect to bank holding companies, the Board has substantially adopted its July proposal. The Board will continue to take the level and character of intangible assets into account in assessing capital adequacy, but will avoid any automatic deduction of goodwill or other intangible assets from primary or total capital. Prudent banking practices and the principle of the diversification of risk suggest that banking organizations should avoid excessive balance sheet concentration in any category or related categories of intangible assets. Consistent with this concern, the guidelines state that while the Board will consider the amount and nature of all intangible assets, those holding companies with aggregate intangible assets over 25 percent of tangible primary capital or those institutions with lesser but significant amounts of goodwill will be subject to

close scrutiny. In addition, the guidelines state that the Federal Reserve may, on a case-by-case basis, make adjustments to an organization's capital ratios based on the amount of intangible assets in excess of the 25 percent threshold or on the specific character of the organization's intangible assets in relation to its overall financial condition.

Four hundred and eighty-two bank holding companies with consolidated assets in excess of $150 million reported intangible assets on their most recent reports to the Board. Of this total, however, 354 companies had intangible assets less than 15 percent of tangible primary capital. Seventy-six holding companies with assets over $150 million (20 regional institutions and 56 community institutions) had intangible assets in excess of 25 percent of tangible primary capital.

The guidelines provide that banking organizations are expected to review periodically the value at which intangible assets are carried on their balance sheets and the reasonableness of the amortization periods of such assets to determine if there has been impairment of value or if changing circumstances warrant shortening the amortization periods. Banking organizations are instructed to make appropriate reductions in carrying values and amortization periods in light of this review, and examiners will evaluate the treatment of intangible assets during inspections and examinations.

Although the amended capital guidelines for bank holding companies generally do not require a specific deduction of intangible assets for supervisory purposes, the guidelines state that banking organizations contemplating expansion proposals (including state member banks contemplating mergers) should generally ensure that pro forma capital ratios exceed the minimum capital guidelines without significant reliance on intangibles, particularly goodwill. The Board, in reviewing proposals to undertake acquisitions, will take into consideration both the stated primary capital ratio and the primary capital ratio after deducting intangibles. In acting on applications, the Board will evaluate intangible assets and will, as appropriate, adjust capital ratios to include certain intangible assets on a case-by-case basis.

The Treatment of Equity Commitment Notes

The Board has adopted the guidelines proposed in July that treat equity commitment notes as primary capital for bank holding companies but not for state member banks. The Board's current guidelines treat equity commitment notes as a form of primary capital for both bank holding companies and state member banks. In proposing to change the treatment for state member banks, the Board cited an interest in maintaining uniformity among federally regulated banks in light of the proposed exclusion of equity commitment notes by the FDIC and the Comptroller in computing the primary capital levels of State nonmember banks and national banks.

Equity commitment notes, a type of mandatory convertible security, are subordinated debt instruments that must be converted into common or perpetual preferred stock within a specified period of time not to exceed 12 years. Equity commitment notes allow for cash redemption with proceeds from the sale of newly issued common or perpetual preferred stock. Such notes are distinguished from equity contract notes, which obligate the holder to take the common or perpetual preferred stock of the issuer in lieu of cash for repayment of the notes. Under the amended guidelines, equity contract notes continue to be treated as primary capital for bank holding companies and state member banks.

The majority of those commenting on this aspect of the proposal thought that equity commitment notes should continue to be counted as primary capital for banks as well as for bank holding companies. They thought that equity commitment notes are an important vehicle for increasing equity capital and that such notes provide greater flexibility to banking organizations in meeting capital requirements. Some commenters asserted there is no reason the Board should take different positions on commitment notes for bank holding companies and for state member banks.

Several commenters, however, opposed the treatment of commitment notes as primary capital because the instruments, in their view, represent only a promise to issue equity. Moreover, the holder of the notes is not obligated to accept stock in place of the notes as is the case with equity contract notes. Some commenters expressed concern that if a banking organization encountered financial trouble before it could honor its commitment to issue equity, the banking organization would have to cope with less equity than would otherwise be the case.

While equity commitment notes serve a useful purpose by encouraging bank holding companies to make a commitment to issue common or perpetual preferred stock, there is valid concern that some institutions may not honor their commitment to issue equity. The Board believes, however, that commitment notes can be structured to provide substantial guarantees of conversion. To that end, the Board has written a pre-maturity funding requirement into its guidelines. Under this requirement, a bank holding company issuing such notes must issue new common or perpetual preferred stock sufficient to redeem or replace one-third of the amount of the typical 12-year commitment notes by the end of the fourth year, another third by the end of the eighth year, and the final third at least 60 days before the notes mature. Thus, most of the debt will have been funded before maturity.

In addition, the Board has specifically detailed other criteria for equity commitment notes, including specific sanctions and supervisory actions for failure to meet the pre-maturity funding requirements, a subordination requirement for any guarantee of commitment notes provided by a state member bank or bank holding company, and a limitation on the amount of such notes for capital purposes to 10 percent of primary capital excluding mandatory convertible securities.

The Board has also spelled out in more detail the general criteria for mandatory convertible securities, including a maximum 12-year term, limitations on amounts allowable for primary capital purposes, restrictions on redemption, a general prohibition against acceleration of payment, a subordination requirement, and dedication of stock proceeds upon issuance. These requirements for mandatory convertible securities in general and the specific limits imposed on equity commitment notes will provide adequate safeguards to permit reliance on such commitment notes as primary capital for bank holding companies.

The Board believes, however, that federally supervised banks should be treated uniformly with respect to debt and equity instruments they issue. A bank should not be encouraged to alter its status as a national bank, state bank, or member of the Federal Reserve System or to "forum shop" by structuring mergers or other transactions to permit the treatment of debt or equity instruments as primary capital. The Board believes the need for uniformity in the treatment of banks is sufficient reason to exclude equity commitment notes from the primary capital of state member banks. The Board will continue to include equity commitment notes as

primary capital for bank holding companies.

The Board has "grandfathered" any equity commitment notes issued by state member banks prior to May 15, 1985, and it will continue to include such notes in a bank's primary capital.

Issues Relating to Secondary Capital

Equity commitment notes that do not qualify for primary capital for state member banks will qualify in many cases as secondary capital. Secondary capital consists of long-term, unsecured dept (which, in the case of banks, must be subordinated to deposits) and limited-life preferred stock. In proposing to amend the guidelines in July 1984, the Board suggested no changes in the treatment of secondary capital. In particular, under current guidelines secondary capital instruments are required to have an original weighted average maturity of at least seven years. In addition, as these instruments approach maturity, the outstanding balance of the instruments included in secondary capital is discounted. The existing guidelines also limit the amount of secondary capital of a *state member bank* to 50 percent of the bank's primary capital. Several public comments addressed these conditions of secondary capital, and some commenters suggested elimination of one or more of the three conditions.

(a) *Original Weighted Maturity of Seven Years.* The Board has decided to retain the requirement that secondary capital components have an original weighted-average maturity of at least seven years. (The method for determining the weighted-average maturity of a qualifying instrument is defined in 2–419 of the Federal Reserve Regulatory Service, 1976 Federal Reserve Bulletin 603, 41 FR 26201 (June 25, 1976).) This requirement is consistent with the notion that secondary capital instruments should provide a stable source of funds with a reasonably long maturity. Also, exemption from the definition of a deposit under the Board's Regulations D and Q (12 CFR Parts 204 and 217, respectively), requires that subordinated debt have weighted-average maturity of at least seven years. Retention of this requirement is consistent with the positions of the FDIC and the Comptroller.

(b) *Discounting Requirements.* The Board has decided to eliminate the requirement in its guidelines for explicit discounting of secondary capital instruments as they approach maturity. The Board had discounted the outstanding balance of subordinated debt and limited-life preferred stock instruments 20 percent each year during the instruments' last five years before maturity. While this process has a certain analytical appeal—that is, as secondary components approach maturity they become in some respects less capital—it also complicates the calculation of secondary and total capital. Moreover, the information necessary to make this calculation is often difficult to obtain on a regular basis from bank holding companies, and the imposition of a new reporting requirement could involve a considerable burden not justified by the resulting benefits. The Comptroller and the FDIC have also elected not to incorporate this discounting requirement into their regulations. While the Board will eliminate the explicit discounting requirement, the amended guidelines make it clear that the Board will continue, on a case-by-case basis, and particularly in cases of proposed expansion, to evaluate the remaining maturity of secondary capital components in assessing the adequacy of a banking organization's total capital.

(c) *Limiting Secondary Capital to 50 Percent of Primary Capital.* The Board's current guidelines limit aggregate secondary capital in an individual state member bank to 50 percent of the bank's primary capital. The Board has not imposed a similar limitation on the amount of secondary capital components that may be included in a bank holding company's total capital.

Banking organizations should be encouraged to raise additional capital funds through the issuance of instruments subordinated to depositors. Judicious use of subordinated debt can improve a banking organization's overall funding by increasing the maturity of its liabilities. Greater reliance on subordinated debt as a funding vehicle can also enhance the role of capital markets in disciplining the activities of banking organizations, because subordinated debtholders have an incentive to monitor the risks of the banking organizations whose obligations they hold and to charge appropriate risk premiums for the funds they provide.

Nevertheless, the FDIC and Comptroller limit the use of such subordinated debt (and limited-life preferred stock) for secondary capital purposes to 50 percent of primary capital in the case of national banks and state nonmember banks. This 50 percent limitation on secondary capital arises in part from a concern to limit *total* capital, which is the base for determining a national bank's legal lending limit, and in part from a concern that high total capital ratios based on large amounts of secondary capital could be misleading. For any banking organization with a minimally acceptable level of primary capital, the 50 percent limit on secondary capital will not become operative until a bank's total capital ratio exceeds 8.25 percent, well into capital zone 1. The 50 percent requirement, therefore, has very limited impact on a determination of a bank's capital adequacy.

As of September 30, 1984, fewer than 15 banks had secondary capital of 50 percent or more of primary capital. The average ratio of secondary capital to primary capital for those banks issuing secondary capital instruments was less than 10 percent. Given the limited impact of the 50-percent-of-primary-capital rule, the need to treat banks uniformly whenever possible, and the concerns expressed by the FDIC and the Comptroller, the Board has decided to continue its present practice of limiting the secondary capital of state member banks to 50 percent of the primary capital of such banks. The Board will not impose such a limit on bank holding companies. State member banks are free to issue subordinated debt of limited-life preferred stock over the 50 percent limit, but the Board will not include such instruments in their capital.

4. Miscellaneous Issues and Considerations

A number of additional issues were raised by those commenting on the Board's proposal. The Board has considered these comments and included certain changes in the guidelines.

Use of Average Assets

In applying its captial guidelines, the Board has computed primary and total capital ratios of banks and bank holding companies on the basis of financial data available at the close of a particular quarterly reporting period. The FDIC and the Comptroller are planning to use *average* total asset figures in the denominators of their capital ratios and *period-end* capital figures in the numerators of the ratios. This approach is prompted by concerns that the use of period-end asset figures may result in inadvertent violations of the capital requirements if assets should increase at the end of a period in the normal course of business. In addition, there is also a concern that the use of period-end data encourages "reverse window dressing," a practice whereby institutions reduce holdings of liquid assets to boost capital ratios on the last day of each quarter.

While the Board believes these concerns may be dealt with a case-by-case basis, the legitimacy of the

concerns and the interest in uniformity have prompted the Board to amend its practice. The Board will use average total asset figures in computing capital ratios of state member banks. The Board is concerned, however, that some bank holding companies may not routinely keep data that permit easy compilation of quarterly average asset figures and that such a change in computing the capital ratios of bank holding companies at this time may constitute an additional reporting burden. Accordingly, the Board will continue to use period-end total asset figures for bank holding companies while studying whether the use of average total assest figures would impose any substantial new recordkeeping or reporting burdens.

Off-Balance Sheet Risk

The amended guidelines require that state member banks or bank holding companies with high or inordinate off-balance sheet exposure hold additional primary capital to compensate for this risk. The guidelines contain no explicit quantitative method for taking off-balance sheet risk into consideration in computing primary and total capital ratios. Several commenters argued that capital guidelines or regulations have the unintended and undesirable effect of encouraging banking institutions to engage in activities and to employ accounting techniques that are designed to take or to keep assets off the balance sheet. This practice, known as "off-balance sheet banking," results in higher reported capital ratios but does not reduce the risk to banking organizations.

To provide more guidance in the area of off-balance sheet risk the Board has included in the amended guidelines the following language in place of the general reference to off-balance sheet banking in the current guidelines.

> The Federal Reserve will also take into account the sale of loans or other assets with recourse and the volume and nature of all off-balance sheet risk. Particularly close attention will be directed to risks associated with standby letters of credit and participation in joint venture activities. The Federal Reserve will review the relationship of all on- and off-balance sheet risks to capital and will require those institutions with high or inordinate levels of risk to hold additional primary capital. In addition, the Federal Reserve will continue to review the need for more explicit procedures for factoring on- and off-balance sheet risks into the assessment of capital adequacy.

The Board intends to encourage banking institutions to better monitor and control risks on a voluntary basis and thus to avoid the necessity of more formal limits or controls on off-balance sheet activity. Moreover, examiners will be instructed to review carefully the nature and degree of all off-balance sheet risks and take these risks into account in assigning capital ratings under the Uniform Financial Institutions Rating System.

Risk-Based Capital Ratios

A number of commenters, particularly some large bank holding companies, indicated that a ratio of capital to risk assets would be of much greater analytical value to regulators than a capital to total assets ratio, and would be consistent with regulatory trends in other countries. These commenters argued that a risk-based capital ratio would exclude federal funds, short-term U.S. Treasury securities and other "riskless" assets from the asset base of the ratio and, therefore, avoid potentially adverse effects on liquidity. These commenters generally acknowledged, however, that the techniques and definitions needed to develop a risk-based capital ratio would have to be predicated upon considerable research and should probably include some measurement of off-balance sheet risk.

The Board has not adopted capital guidelines based on a ratio of capital to risk assets at this time. The amended guidelines indicate that the Board will take the overall degree of risk associated with an organization's assets into consideration in assessing compliance with the capital guidelines. The capital guidelines apply to sound, well-managed banking organizations operating with moderate risk in their loan and investment portfolios. Organizations operating with more risk are expected to hold additional capital to compensate for these risks. The Board recognizes that risk must be taken into consideration in assessing capital adequacy. At this time, however, it is more appropriate to do so on a case-by-case basis than with quantitative standards.

Uniformity of Capital Requirements for Banks and Thrift Institutions

Several comments emphasized the competitive disadvantage of banks vis-a-vis thrift institutions because thrifts may operate at lower capital levels. The Federal Home Loan Bank Board has recently adopted rules requiring federally insured thrift institutions undertaking significant growth to increase their net worth positions. The Board has stated its support of this proposal and has urged that the Federal Home Loan Bank Board recognize the need to move toward higher capital-to-assets ratios for thrifts as promptly as possible. While there is a significant disparity between the capital levels at which thrifts and banks are required to operate, the appropriate way to deal with this issue is to support higher ratios for the thrift industry. To that end, the establishment by the banking regulators of uniform minimum capital levels for all federally supervised banking organizations has provided a clear statement of what they view as an appropriate target for all depository institutions.

Applicability of the Guidelines to Bankers' Banks

Several commenters requested clarification on whether the capital guidelines apply to "bankers' banks." A number of commenters indicated that the bankers' banks should be exempt from the guidelines because they generally engage in "low risk" activities. However, bankers' banks are not prohibited from taking risks; consequently, the Board has taken no action to exclude bankers' banks from the uniform capital standards in its guidelines.

Treatment of Foreign Banks Under the Guidelines

A number of commenters raised the issue of the application of the capital guidelines to foreign-domiciled banking organizations with banking operations in the United States. While some commenters suggested it would be preferable for such foreign banks to be subject to the Board's capital guidelines, it was also requested that foreign banks be specifically excluded from coverage, at least until the Board has completed its discussions with foreign bank supervisors on capital and international lending issues as required by ILSA.

The Board is discussing with foreign bank supervisors appropriate capital standards for banks operating internationally. Pending completion of those discussions, the Board has decided to review the financial condition, including the capital adequacy, of foreign banks with operations in the United States on a case-by-case basis. The Board will continue to scrutinize the capital of such foreign banking organizations with special care when those institutions propose to expand operations or make additional acquisitions in the United States. The capital guidelines apply to any state member bank or bank holding company (other than a qualifying foreign banking organization as defined by Regulation K), regardless of ownership.

Technical Changes to Criteria for Mandatory Convertible Securities

The Board has made certain technical changes in the existing guidelines with respect to mandatory convertible securities. The modifications for the most part are designed to update the guidelines to reflect existing policy and to correct deficiencies in the existing criteria. The modifications are as follows:

a. The guidelines have been amended to allow specifically for the treatment of "hybrid mandatory convertibles" as primary capital. These instruments combine features of equity commitment notes with those of equity contract notes. For purposes of the guidelines, such instruments would be treated as equity contract notes.

b. The guidelines have been amended to indicate that a bank or bank holding company issuing equity generally must decide during the quarter in which the securities are issued whether or not the proceeds are to be used to satisfy the requirement to issue stock under an equity commitment or equity contract note. This dedication requirement is designed to reduce the possibility that the primary capital ratio of an institution might be overstated. An institution's primary capital would be overstated if the issuer counts both the mandatory convertible securities and the stock issued to replace those securities as primary capital at the same time. Whenever stock is issued and is dedicated to satisfy a note funding requirement, the amount of outstanding mandatory convertible debt that counts as primary capital is reduced by the amount of stock issued. In general, any dedication of the proceeds of a common or perpetual preferred stock issuance to satisfy a funding requirement must be made in the quarter in which the stock is issued. As a general rule, if the dedication is not made within the prescribed period, then the stock issued cannot later be dedicated to satisfy any funding requirement.

c. The guidelines have been amended to indicate that documentation certified by an authorized agent of the issuer showing the amount of stock issued, the dates of issue, and the amounts of such issues dedicated to the retirement or redemption of mandatory convertible securities will satisfy the dedication requirement.

d. The guidelines have been amended to state that failure to meet the funding requirements of an equity commitment note will be viewed as a breach of a regulatory commitment, will result in appropriate supervisory action, and will be taken into consideration by the Board in acting on statutory applications. This provision is designed to ensure that the issuer will honor its commitment to issue equity.

e. The guidelines have been amended to indicate that common or perpetual preferred stock issued under dividend reinvestment plans, or issued to finance acquisitions, including acquisitions of business entities, may be dedicated to satisfy any mandatory convertible note funding requirements.

Perpetual Debt

Several institutions have urged the Board to consider treating "perpetual debt" as a form of primary capital. The Board's July proposal did not make any reference to perpetual debt. Although it appears that no commercial bank or bank holding company in the United States has ever issued perpetual debt, interest in perpetual debt has increased recently as a result of a ruling by the Bank of England that would permit United Kingdom institutions to count perpetual subordinate debt as primary capital under certain conditions. The Board has decided that perpetual debt will not be afforded the status of primary capital at this time. The Board, however, will continue to study the issue to determine whether to seek public comment.

5. The Procedural Regulation

The Board has adopted, with only minor wording or technical changes, the procedural regulation it proposed in July 1984, to require compliance with the capital guidelines and, in particular, with the minimum capital ratios. The basic procedures parallel those of the FDIC and the Comptroller.

The Board has added a definitional provision to the procedural regulation to clarify that the capital directive procedures and those procedures for setting capital levels for individual institutions are intended to apply to the individual nonbank subsidiaries of bank holding companies as well as to the holding companies on a consolidated basis. While the amended guidelines have not applied substantive capital requirements to the nonbank subsidiaries of bank holding companies, the amended guidelines emphasize that "the Board is placing greater weight on the building-block approach for assessing capital requirements" and that the "nonbank subsidiaries of a banking organization should maintain levels of capital consistent with levels that have been established by industry norms or standards, by Federal or State regulatory agencies . . . or that may be established by the Board after taking into account risk factors of a particular industry." The procedural regulation will permit the Board to enforce its capital requirements for nonbank subsidiaries of bank holding companies on an industry-wide basis or in individual cases. The Report of the Senate Committee on Banking, Housing and Urban Affairs accompanying ILSA, S. Rep. 98–122, 98th Congress, 1st Session, 17 (1983), demonstrates that ILSA provides authority for extending capital requirements to nonbank affiliates of banks, stating: "... any of the provisions of the bill may be applied by the appropriate federal banking agency to any affiliate of any insured bank, including any bank holding company individually or on a consolidated basis for its non-bank subsidiaries. . ."

Initial Implementation

The procedural regulation requires that any state member bank or bank holding company not meeting the uniform minimum capital standards in the guidelines at the time they become effective, must submit to the Reserve Bank within 90 days a plan indicating how the banking organization intends to increase its capital to the required level within a reasonable period of time. Certain administrative and judicial enforcement procedures are outlined in the regulation for failure to submit a capital plan.

Some commenters expressed concern over the time that banking organizations will be given to meet the guidelines. In accordance with its concern for flexibility, the Board has avoided establishing a fixed rule defining a reasonable time for compliance in all cases. The Board will assess each organization's plan on a case-by-case basis. Nevertheless, the Board believes that, in general, banking organizations should comply with the minimum ratios within 12 to 18 months of the effective date of the revised guidelines.

Establishing Capital Requirements Above the Uniform Minimum

The Board may also require particular banks or bank holding companies to maintain more than the minimum level of capital if the financial condition, management, or future prospects of the institution make a higher capital level necessary and appropriate. The amended guidelines indicate the Board will pay particular attention to risk factors, including off-balance sheet risk, and to liquidity. The Board will discourage the practice of meeting capital guidelines by reducing the level of liquid assets relative to total assets of the institution. The process of

determining the adequacy of an institution's capital will begin with a qualitative evaluation of the critical variables that directly bear on its overall financial condition. These variables include the quality, type, and diversification of assets; current and historical earnings; liquidity; appropriate policies for loan charge-offs; risks arising from interest rate mismatches; the quality of management; and other activities that may expose the bank to risks, including off-balance sheet risks. Institutions with significant weaknesses in one or more of these areas will be expected to maintain higher capital levels than the minimums set forth in the guidelines. Institutions currently or prospectively under any formal administrative action, final order, or condition or agreement that sets forth a more stringent capital requirement shall continue to meet the requirement therein.

In addition to procedures now used by the Board to require a higher capital level (e.g. written agreements or memoranda between the Board and the financial institution, cease and desist orders, and conditions attached to orders issued on applications or notices), the amended regulation provides for a specific notice and comment and directive procedure. The Board may consider failure to meet the minimum capital requirement or a higher capital requirement set by the Board as bearing adversely upon applications or notices that a bank or bank holding company may file.

Directives

Section 908 of ILSA (12 U.S.C. 3907) authorizes the appropriate banking agency to issue a directive to a banking institution that fails to meet the minimum capital requirement. A directive may require a plan for achieving such requirement. A directive, including a capital adequacy plan submitted thereunder, is a final order enforceable in the same manner as a final cease and desist order issued under 12 U.S.C. 1818(b). The issuance of a directive is discretionary, and a directive may be issued in lieu of, in conjunction with, or in addition to existing enforcement tools. The Board has adopted notice and comment procedures for issuance of a directive.

6. Adoption of a Single Set of Guidelines for Member Banks and Bank Holding Companies

The Board has amended its July proposal to require separate guidelines for state member banks to be printed as an appendix to the Board's Regulation H, 12 CFR Part 208 and for bank holding companies to be printed as an appendix to the Board's Regulation Y, 12 CFR Part 225. Because they are so similar, the Board will continue to include them in one document, published as Appendix A to Regulation Y, 12 CFR Part 225. This will avoid duplication in the Code of Federal Regulations. The Board will add a section to Regulation H, 12 CFR 208.13, noting that state member bank capital requirements are in Regulation Y.

To summarize, the amended capital adequacy guidelines distinguish between state member banks and bank holding companies in four specific areas, as follows:

a. *Intangibles.* The guidelines require the automatic deduction of goodwill from primary and total capital for state member banks but not for bank holding companies.

b. *Equity Commitment notes.* The amended guidelines treat equity commitment notes as primary capital for bank holding companies but not for state member banks.

c. *Secondary capital.* The amended guidelines limit secondary capital, including subordinated debt and limited-life preferred stock, to 50 percent of primary capital for state member banks but not for bank holding companies.

d. *Average Assets.* For state member banks the Board will use average total assets of the quarterly reporting period in the denominator of primary and total capital ratios. The Board will continue to use period-end asset figures in the denominator of capital ratios for bank holding companies.

Regulatory Flexibility Analysis—Paperwork Reduction Act. The Board certified that adoption of these amended guidelines is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The amended guidelines may have a substantial impact on a comparatively small number of regional or multinational banking organizations, but that impact will be minimized by the extended phase-in period and the substantial advance notice of adoption of these guidelines. Moreover, the potential impact on certain organizations is outweighed by the benefits of uniform capital standards, improved safety and soundness of large banking organizations, and increased stability of the banking system.

The Board is required to consider capital in a number of situations. These include applications for acquisitions by bank holding companies, application for mergers with state member banks, applications for membership in the Federal Reserve System, and supervisory actions when necessary. In addition, 12 U.S.C. 3907(a)(1) requires the Board to "cause banking institutions to achieve and maintain adequate capital by establishing minimum levels of capital for such banking institutions and by using such other methods as the appropriate federal banking agency deems appropriate."

In carrying out its supervisory responsibilities and in approving individual mergers and acquistions, the Board has always considered capital adequacy. In December 1981, the Board issued capital adequacy guidelines to inform banks, bank holding companies, and the public of its policies on capital and capital adequacy. The Board is now amending those guidelines to establish more uniform standards for large and small banking institutions and for greater uniformity among federal banking agencies.

Historically, the Board has required higher capital ratios for small banks and bank holding companies than for larger ones. To the extent that this regulation equalizes requirements, it will lessen the burden on small banks and small bank holding companies.

In accordance with section 3507 of the Paperwork Reduction Act of 1980 and 5 CFR 1320.13, the proposed information collection requirement in the regulation was approved by the Board under authority delegated by the Office of Management and Budget.

List of Subjects

12 CFR Part 208

Banks, Banking, Federal Reserve System, Reporting and recordkeeping requirements, Securities.

12 CFR Part 225

Banks, Banking, Federal Reserve System, Holding companies, Reporting and recordkeeping requirements.

12 CFR Part 263

Administrative practice and procedure, Federal Reserve System.

Pursuant to the Board's authority under the International Lending Supervision Act of 1983, 12 U.S.C. 3907 and 3909; section 5(b) of the Bank Holding Company Act of 1956, 12 U.S.C. 1844(b); the Financial Institutions Supervisory Act of 1966, 12 U.S.C. 1818; and sections 9 and 11(a) of the Federal Reserve Act, 12 U.S.C. 248, 324 and 329, the Board hereby amends 12 CFR Parts 208, 225 and 263 as set forth below:

PART 208—MEMBERSHIP OF STATE BANKING INSTITUTIONS IN THE FEDERAL RESERVE SYSTEM

1. 12 CFR Part 208 is amended by revising the authority for the part, and by adding a new § 208.13 to read as follows:

Authority: 12 U.S.C. 248, 321–338, 486, 1814, 3907, 3909, unless otherwise noted.

§ 208.13 Capital adequacy.

The standards and guidelines by which the capital adequacy of state member banks will be evaluated by the Board are set forth in Appendix A to the Board's Regulation Y, 12 CFR Part 225.

PART 225—BANK HOLDING COMPANIES AND CHANGE IN BANK CONTROL

2. 12 CFR Part 225 is amended, under authority cited in this part including 12 U.S.C. 1844(b), 1817(j)(13), 1818(b), and Pub. L. 98–181, Title IX (12 U.S.C. 3907 and 3909), by revising Appendix A to read as follows:

Appendix A—Capital Adequacy Guidelines for Bank Holding Companies and State Member Banks

The Board of Governors of the Federal Reserve System has adopted minimum capital ratios and guidelines to provide a framework for assessing the adequacy of the capital of bank holding companies and state member banks (collectively "banking organizations"). The guidelines generally apply to all state member banks and bank holding companies regardless of size and are to be used in the examination and supervisory process as well as in the analysis of applications acted upon by the Federal Reserve. The Board of Governors will review the guidelines from time to time for possible adjustment commensurate with changes in the economy, financial markets, and banking practices.

Two principal measurements of capital are used—the primary capital ratio and the total capital ratio. The definitions of primary and total capital for banks and bank holding companies and formulas for calculating the capital ratios are set forth below in the definitional sections of these guidelines.

Capital Guidelines

The Board has established a minimum level of primary capital to total assets of 5.5 percent and a minimum level of total capital to total assets of 6.0 percent. Generally, banking organizations are expected to operate above the minimum primary and total capital levels. Those organizations whose operations involve or are exposed to high or inordinate degrees of risk will be expected to hold additional capital to compensate for these risks.

In addition, the Board has established the following three zones for total capital for banking organizations of all sizes:

TOTAL CAPITAL RATIO

(In percent)

Zone 1	Above 7.0.
Zone 2	6.0 to 7.0.
Zone 3	Below 6.0.

The capital guidelines assume adequate liquidity and a moderate amount of risk in the loan and investment portfolios and in off-balance sheet activities. The Board is concerned that some banking organizations may attempt to comply with the guidelines in ways that reduce their liquidity or increase risk. Banking organizations should avoid the practice of attempting to meet the guidelines by decreasing the level of liquid assets in relation to total assets. In assessing compliance with the guidelines, the Federal Reserve will take into account liquidity and the overall degree of risk associated with an organization's operations, including the volume of assets exposed to risk.

The Federal Reserve will also take into account the sale of loans or other assets with recourse and the volume and nature of all off-balance sheet risk. Particularly close attention will be directed to risks associated with standby letters of credit and participation in joint venture activities. The Federal Reserve will review the relationship of all on- and off-balance sheet risks to capital and will require those institutions with high or inordinate levels of risk to hold additional primary capital. In addition, the Federal Reserve will continue to review the need for more explicit procedures for factoring on- and off-balance sheet risks into the assessment of capital adequacy.

The capital guidelines apply to both banks and bank holding companies on a consolidated basis.[1] Some banking organizations are engaged in significant nonbanking activities that typically require capital ratios higher than those of commercial banks alone. The Board believes that, as a matter of both safety and soundness and competitive equity, the degree of leverage common in banking should not automatically extend to nonbanking activities. Consequently, in evaluating the consolidated capital positions of banking organizations, the Board is placing greater weight on the building-block approach for assessing capital requirements. This approach generally provides that nonbank subsidiaries of a banking organization should maintain levels of capital consistent with the levels that have been established by industry norms or standards, by Federal or State regulatory agencies for similar firms that are not affiliated with banking organizations, or that may be established by the Board after taking into account risk factors of a particular industry. The assessment of an organization's consolidated capital adequacy must take into account the amount and nature of all nonbank activities, and an institution's consolidated capital position should at least equal the sum of the capital requirements of the organization's bank and nonbank subsidiaries as well as those of the parent company.

Supervisory Action

The nature and intensity of supervisory action will be determined by an organization's compliance with the required minimum primary capital ratio as well as by the zone in which the company's total capital ratio falls. Banks and bank holding companies with primary capital ratios below the 5.5 percent minimum will be considered undercapitalized unless they can demonstrate clear extenuating circumstances. Such banking organizations will be required to submit an acceptable plan for achieving compliance with the capital guidelines and will be subject to denial of applications and appropriate supervisory enforcement actions.

The zone in which an organization's total capital ratio falls will normally trigger the following supervisory responses, subject to qualitative analysis:

For institutions operating in Zone 1, the Federal Reserve will:

—Consider that capital is generally adequate if the primary capital ratio is acceptable to the Federal Reserve and is above the 5.5 percent minimum.

For institutions operating in Zone 2, the Federal Reserve will:

—Pay particular attention to financial factors, such as asset quality, liquidity, off-balance sheet risk, and interest rate risk, as they relate to the adequacy of capital. If these areas are deficient and the Federal Reserve concludes capital is not fully adequate, the Federal Reserve will intensify its monitoring and take appropriate supervisory action.

For institutions operating in Zone 3, the Federal Reserve will:

—Consider that the institution is undercapitalized, absent clear extenuating circumstances;

—Require the institution to submit a comprehensive capital plan, acceptable to the Federal Reserve, that includes a program for achieving compliance with the required minimum ratios within a reasonable time period; and

—Institute appropriate supervisory and/or administrative enforcement action, which may include the issuance of a capital directive or denial of applications, unless a capital plan acceptable to the Federal Reserve has been adopted by the institution.

Treatment of Intangible Assets for the Purpose of Assessing the Capital Adequacy of Bank Holding Companies and State Member Banks

In considering the treatment of intangible assets for the purpose of assessing capital

[1] The guidelines will apply to bank holding companies with less than $150 million in consolidated assets on a bank-only basis unless (1) the holding company or any nonbank subsidiary is engaged directly or indirectly in any nonbank activity involving significant leverage or (2) the holding company or any nonbank subsidiary has outstanding significant debt held by the general public. Debt held by the general public is defined to mean debt held by parties other than financial institutions, officers, directors, and principal shareholders of the banking organization or their related interests.

adequacy, the Federal Reserve recognizes that the determination of the future benefits and useful lives of certain intangible assets may involve a degree of uncertainty that is not normally associated with other banking assets. Supervisory concern over intangible assets derives from this uncertainty and from the possibility that, in the event an organization experiences financial difficulties, such assets may not provide the degree of support generally associated with other assets. For this reason, the Federal Reserve will carefully review the level and specific character of intangible assets in evaluating the capital adequacy of state member banks and bank holding companies.

The Federal Reserve recognizes that intangible assets may differ with respect to predictability of any income stream directly associated with a particular asset, the existence of a market for the asset, the ability to sell the asset, or the reliability of any estimate of the asset's useful life. Certain intangible assets have predictable income streams and objectively verifiable values and may contribute to an organization's profitability and overall financial strength. The value of other intangibles, such as goodwill, may involve a number of assumptions and may be more subject to changes in general economic circumstances or to changes in an individual institution's future prospects. Consequently, the value of such intangible assets may be difficult to ascertain. Consistent with prudent banking practices and the principle of the diversification of risks, banking organizations should avoid excessive balance sheet concentration in any category or related categories of intangible assets.

Bank Holding Companies

While the Federal Reserve will consider the amount and nature of all intangible assets, those holding companies with aggregate intangible assets in excess of 25 percent of tangible primary capital (i.e., stated primary capital less all intangible assets) or those institutions with lesser, although still significant, amounts of goodwill will be subject to close scrutiny. For the purpose of assessing capital adequacy, the Federal Reserve may, on a case-by-case basis, make adjustments to an organization's capital ratios based upon the amount of intangible assets in excess of the 25 percent threshold level or upon the specific character of the organization's intangible assets in relation to its overall financial condition. Such adjustments may require some organizations to raise additional capital.

The Board expects banking organizations (including state member banks) contemplating expansion proposals to ensure that pro forma capital ratios exceed the minimum capital levels without significant reliance on intangibles, particularly goodwill. Consequently, in reviewing acquisition proposals, the Board will take into consideration both the stated primary capital ratio (that is, the ratio without any adjustment for intangible assets) and the primary capital ratio after deducting intangibles. In acting on applications, the Board will take into account the nature and amount of intangible assets and will, as appropriate, adjust capital ratios to include certain intangible assets on a case-by-case basis.

State Member Banks

State member banks with intangible assets in excess of 25 percent of intangible primary capital will be subject to close scrutiny. In addition, for the purpose of calculating capital ratios of state member banks, the Federal Reserve will deduct goodwill from primary capital and total capital. The Federal Reserve may, on a case-by-case basis, make further adjustments to a bank's capital ratios based on the amount of intangible assets (aside from goodwill) in excess of the 25 percent threshold level or on the specific character of the bank's intangible assets in relation to its overall financial condition. Such adjustments may require some banks to raise additional capital.

In addition, state member banks and bank holding companies are expected to review periodically the value at which intangible assets are carried on their balance sheets to determine whether there has been any impairment of value or whether changing circumstances warrant a shortening of amortization periods. Institutions should make appropriate reductions in carrying values and amortization periods in light of this review, and examiners will evaluate the treatment of intangible assets during on-site examinations.

Definition of Capital To Be Used in Determining Capital Adequacy of Bank Holding Companies and State Member Banks

Primary Capital Components

The components of primary capital are:

—Common stock,
—Perpetual preferred stock (preferred stock that does not have a stated maturity date and that may not be redeemed at the option of the holder),
—Surplus (excluding surplus relating to limited-life preferred stock),
—Undivided profits,
—Contingency and other capital reserves,
—Mandatory convertible instruments [1],
—Allowance for possible loan and lease losses (exclusive of allocated transfer risk reserves),
—Minority interest in equity accounts of consolidated subsidiaries.

Secondary Capital Components

The components of secondary capital are:

—Limited-life preferred stock (including related surplus) and
—Bank subordinated notes and debentures and unsecured long-term debt of the parent company and its nonbank subsidiaries.

Restrictions Relating to Capital Components

To qualify as primary or secondary capital, a capital instrument should not contain or be covered by any convenants, terms, or restrictions that are inconsistent with safe and sound banking practices. Examples of such terms are those regarded as unduly interfering with the ability of the bank or holding company to conduct normal banking operations or those resulting in significantly higher dividends or interest payments in the event of a deterioration in the financial condition of the issuer.

The secondary components must meet the following conditions to qualify as capital:

—The instrument must have an original weighted-average maturity of at least seven years.
—The instrument must be unsecured.
—The instrument must clearly state on its face that it is not a deposit and is not insured by a federal agency.
—Bank debt instruments must be subordinated to claims of depositors.
—For banks only, the aggregate amount of limited-life preferred stock and subordinate debt qualifying as capital may not exceed 50 percent of the amount of the bank's primary capital.

As secondary capital components approach maturity, the banking organization must plan to redeem or replace the instruments while maintaining an adequate overall capital position. Thus, the remaining maturity of secondary capital components will be an important consideration in assessing the adequacy of total capital.

Capital Ratios

The primary and total capital ratios for bank holding companies are computed as follows:

Primary capital ratio:

Primary capital components/Total assets + Allowance for loan and lease losses (exclusive of allocated transfer risk reserves)

Total capital ratio:

Primary capital components + Secondary capital components/Total assets + Allowance for loan and lease losses (exclusive of allocated transfer risk reserves)

The primary and total capital ratios for state member banks are computed as follows:

Primary capital ratio:

Primary capital components—Goodwill/Average total assets + Allowance for loan and lease losses (exclusive of allocated transfer risk reserves)—Goodwill

Total capital ratio:

Primary capital components + Secondary capital components—Goodwill/Average total assets + Allowance for loan and lease losses (exclusive of allocated transfer risk reserves)—Goodwill

Generally, period-end amounts will be used to calculate bank holding company ratios. However, the Federal Reserve will discourage temporary balance sheet adjustments or any other "window dressing" practices designed to achieve transitory compliance with the guidelines. Banking organizations are expected to maintain adequate capital positions at all times. Thus, the Federal Reserve will, on a case-by-case basis, use average total assets in the calculation of bank holding company capital ratios whenever this approach provides a

[1] See the definitional section below that lists the criteria for mandatory convertible instruments to qualify as primary capital.

more meaningful indication of an individual holding company's capital position.

For the calculation of bank capital ratios, "average total assets" will generally be defined as the quarterly average total assets figure reported on the bank's Report of Condition. If warranted, however, the Federal Reserve may calculate bank capital ratios based upon total assets as of period-end. All other components of the bank's capital ratios will be based upon period-end balances.

Criteria for Determining the Primary Capital Status of Mandatory Convertible Securities of Bank Holding Companies and State Member Banks

Mandatory convertible securities are subordinated debt instruments that are eventually transformed into common or perpetual preferred stock within a specified period of time, not to exceed 12 years. To be counted as primary capital, mandatory convertible securities must meet the criteria set forth below. These criteria cover the two basic types of mandatory convertible securities: "equity contract notes"—securities that obligate the holder to take common or perpetual preferred stock of the issuer in lieu of cash for repayment of principal, and "equity commitment notes"—securities that are redeemable only with the proceeds from the sale of common or perpetual preferred stock. Both equity commitment notes and equity contract notes qualify as primary capital for bank holding companies, but only equity contract notes qualify as primary capital for banks.[3]

Criteria Applicable to Both Types of Mandatory Convertible Securities

a. The securities must mature in 12 years or less.

b. The maximum amount of mandatory convertible securities that may be counted as primary capital is limited to 20 percent of primary capital, exclusive of mandatory convertible securities.[4] (Amounts outstanding in excess of the 20 percent limitation may be counted as secondary capital provided they meet the requirements of secondary capital instruments.)

c. The issuer may redeem securities prior to maturity only with the proceeds from the sale of common or perpetual preferred stock of the bank or bank holding company. Any exception to this rule must be approved by the Federal Reserve. The securities may not be redeemed with the proceeds of another issue of mandatory convertible securities. Nor may the issuer repurchase or acquire its own mandatory convertible securities for resale or reissuance.

d. Holders of the securities may not accelerate the payment of principal except in the event of bankruptcy, insolvency, or reorganization.

e. The securities must be subordinate in right of payment to all senior indebtedness of the issuer. In the event that the proceeds of the securities are reloaned to an affiliate, the loan must be subordinated to the same degree as the original issue.

f. An issuer that intends to dedicate the proceeds of an issue of common or perpetual preferred stock to satisfy the funding requirements of an issue of mandatory convertible securities (i.e. the requirement to retire or redeem the notes with the proceeds from the issuance of common or perpetual preferred stock) generally must make such a dedication during the quarter in which the new common or preferred stock is issued.[5] As a general rule, if the dedication is not made within the prescribed period, then the securities issued may not at a later date be dedicated to the retirement or redemption of the mandatory convertible securities.[6]

Additional Criteria Applicable to Equity Contract Notes

a. The note must contain a contractual provision (or must be issued with a mandatory stock purchase contract) that requires the holder of the instrument to take the common or perpetual stock of the issuer in lieu of cash in satisfaction of the claim for principal repayment. The obligation of the holder to take the common or perpetual preferred stock of the issuer may be waived if, and to the extent that, prior to the maturity date of the obligation, the issuer sells new common or perpetual preferred stock and dedicates the proceeds to the retirement or redemption of the notes. The dedication generally must be made during the quarter in which the new common or preferred stock is issued.

b. A stock purchase contract may be separated from a security only if: (1) The holder of the contract provides sufficient collateral[7] to the issuer, or to an independent trustee for the benefit of the issuer, to assure performance under the contract and (2) the stock purchase contract requires the purchase of common or perpetual preferred stock.

Additional Criteria Applicable to Equity Commitment Notes

a. The indenture or note agreement must contain the following two provisions:

1. The proceeds of the sale of common or perpetual preferred stock will be the sole source of repayment for the notes, and the issuer must dedicate the proceeds for the purpose of repaying the notes. (Documentation certified by an authorized agent of the issued showing the amount of common or perpetual preferred stock issued, the dates of issue, and amounts of such issues dedicated to the retirement or redemption of mandatory convertible securities will satisfy the dedication requirement.)

2. By the time that one-third of the life of the securities has run, the issuer must have raised and dedicated an amount equal to one-third of the original principal of the securities. By the time that two-thirds of the life of the securities has run, the issuer must have raised and dedicated an amount equal to two-thirds of the original principal of the securities. At least 60 days prior to the maturity of the securities, the issuer must have raised and dedicated an amount equal to the entire original principal of the securities. Proceeds dedicated to redemption or retirement of the notes must come only from the sale of common or perpetual preferred stock.[8]

b. If the issuer fails to meet any of these periodic funding requirements, the Federal Reserve immediately will cease to treat the unfunded securities as primary capital and will take appropriate supervisory action. In addition, failure to meet the funding requirements will be viewed as a breach of a regulatory commitment and will be taken into consideration by the Board in acting on statutory applications.

c. If a security is issued by a subsidiary of a bank or bank holding company, any guarantee of the principal by that subsidiary's parent bank or bank holding company must be subordinate to the same degree as the security issued by the subsidiary and limited to repayment of the principal amount of the security at its final maturity.

d. The maximum amount of equity commitment notes that may be counted as primary capital for a bank holding company is limited to 10 percent of primary capital exclusive of mandatory convertible securities. Amounts outstanding in excess of the 10 percent limitation may be counted as secondary capital provided they meet the requirements of secondary capital instruments.

3. 12 CFR Part 263 is amended by adding a new Subpart D, including a

[3] Equity commitment notes that were issued by state member banks prior to May 15, 1985 will continue to be included in primary capital.

[4] The maximum amount of equity commitment notes that may be counted as primary capital is limited to 10 percent of primary capital exclusive of mandatory convertible securities.

[5] Common or perpetual preferred stock issued under dividend reinvestment plans or issued to finance acquisitions, including acquisitions of business entities, may be dedicated to the retirement or redemption of the mandatory convertible securities. Documentation certified by an authorized agent of the issuer showing the amount of common stock or perpetual preferred stock issued, the dates of issue, and amounts of such issues dedicated to the retirement or redemption of mandatory convertible securities will satisfy the dedication requirement.

[6] The dedication procedure is necessary to ensure that the primary capital of the issuer is not overstated. For each dollar of common or perpetual preferred proceeds dedicated to the retirement or redemption of the notes, there is a corresponding reduction in the amount of outstanding mandatory securities that may qualify as primary capital. *De minimis* amounts (in relation to primary capital) of common or perpetual preferred stock issued under arrangements in which the amount of stock issued is not predictable, such as dividend reinvestment plans and employee stock option plans (but excluding public stock offerings and stock issued in connection with acquisitions), should be dedicated by no later than the company's fiscal year end.

[7] Collateral is defined as: (1) Cash or certificates of deposit; (2) U.S. government securities that will mature prior to or simultaneous with the maturity of the equity contract and that have a par or maturity value at least equal to the amount of the holder's obligation under the stock purchase contract; (3) standby letters of credit issued by an insured U.S. bank that is not an affiliate of the issuer; or (4) other collateral as may be designated from time to time by the Federal Reserve.

[8] The funded portions of the securities will be deducted from primary capital to avoid double counting.

section of the authority under which the subpart is issued, to read as follows:

PART 263—RULES OF PRACTICE FOR HEARINGS

* * * * *

Subpart D—Procedures for Issuance and Enforcement of Directives To Maintain Adequate Capital

Sec.

263.35 Authority, purpose and scope.
263.36 Definitions.
263.37 Establishment of minimum capital levels.
263.38 Procedures for requiring maintenance of adequate capital.
263.39 Enforcement of directive.
263.40 Establishment of increased capital level for individual bank or bank holding company.

Authority: International Lending Supervision Act of 1983 ("ILSA"), 12 U.S.C. 3907; section 5(b), Bank Holding Company Act ("BHC Act"), 12 U.S.C. 1844(b); Financial Institutions Supervisory Act of 1966 ("FIS Act"), 12 U.S.C. 1818(b)–(n); and sections 9 and 11(i), Federal Reserve Act, 12 U.S.C. 248, 324, 329.

Subpart D—Procedures for Issuance and Enforcement of Directives To Maintain Adequate Capital

§ 263.35 Authority, purpose, and scope.

(a) *Authority.* This subpart is issued under authority of the International Lending Supervision Act of 1983 ("ILSA"), 12 U.S.C 3907, 3909; section 5(b) of the Bank Holding Company Act ("BHC Act"), 12 U.S.C. 1844(b); the Financial Institutions Supervisory Act of 1966 ("FIS Act"), 12 U.S.C. 1818(b)–(n); and sections 9 and 11(i) of the Federal Reserve Act, 12 U.S.C. 248, 324, 329.

(b) *Purpose and scope.* This subpart establishes procedures under which the Board may issue a directive or take other action to require a state member bank or a bank holding company to achieve and maintain adequate capital. The information collection requirement contained in this requlation has been approved by the Office of Management and Budget under the provisions of 44 U.S.C. Chapter 35 and has been assigned OMB No. 7100–0209.

§ 263.36 Definitions.

(a) "Bank holding company" means any company that controls a bank as defined in section 2 of the BHC Act, 12 U.S.C. 1841, and in the Board's Regulation Y (12 CFR 225.2(b)) or any direct or indirect subsidiary thereof other than a bank subsidiary as defined in section 2(c) of the BHC Act, 12 U.S.C. 1841(c), and in the Board's Regulation Y (12 CFR 225.2(a)).

(b) "Capital Adequacy Guidelines" means those guidelines for bank holding companies and state member banks contained in Appendix A to the Board's Regulation Y (12 CFR Part 225).

(c) "Directive" means a final order issued by the Board pursuant to ILSA (12 U.S.C. 3907(b)(2)) requiring a state member bank or bank holding company to increase capital to or maintain capital at the minimum level set forth in the Board's Capital Adequacy Guidelines or as otherwise established under procedures described in §263.40 of this subpart.

(d) "State member bank" means any state-chartered bank that is a member of the Federal Reserve System.

§ 263.37 Establishment of minimum capital levels.

The Board has established minimum capital levels for state member banks and bank holding companies in its Capital Adequacy Guidelines. The Board may set higher capital levels as necessary and appropriate for a particular state member bank or bank holding company based upon its financial condition, managerial resources, prospects, or similar factors, pursuant to the procedures set forth in §263.40 of this subpart.

§ 263.38 Procedures for requiring maintenance of adequate capital.

(a) *Submission of capital improvement plan.* Any state member bank or bank holding company that may not be in compliance with the Board's Capital Adequacy Guidelines on the date that this regulation becomes effective shall, within 90 days, submit to its appropriate Federal Reserve Bank for review a plan describing the means and the time schedule by which the bank or bank holding company shall achieve the required minimum level of capital.

(b) *Issuance of directive—(1) Notice of intent to issue directive.* If a state member bank or bank holding company is operating with less than the minimum level of capital established in the Board's Capital Adequacy Guidelines, or as otherwise established under the procedures described in § 263.40 of this subpart, the Board may issue and serve upon such state member bank or bank holding company written notice of the Board's intent to issue a directive to require the bank or bank holding company to achieve and maintain adequate capital within a specified time period.

(2) *Contents of notice.* The notice of intent to issue a directive shall include:

(i) The required minimum level of capital to be achieved or maintained by the institution;

(ii) Its current level of capital;

(iii) The proposed increase in capital needed to meet the minimum requirements;

(iv) The proposed date or schedule for meeting these minimum requirements;

(v) When deemed appropriate, specific details of a proposed plan for meeting the minimum capital requirements; and

(vi) The date for a written response by the bank or bank holding company to the proposed directive, which shall be at least 14 days from the date of issuance of the notice unless the Board determines a shorter period is necessary because of the financial condition of the bank or bank holding company.

(3) *Response to notice.* The bank or bank holding company may file a written response to the notice within the time period set by the Board. The response may include:

(i) An explanation why a directive should not be issued;

(ii) Any proposed modification of the terms of the directive;

(iii) Any relevant information, mitigating circumstances, documentation or other evidence in support of the institution's position regarding the proposed directive; and

(iv) The institution's plan for attaining the required level of capital.

(4) *Failure to file response.* Failure by the bank or bank holding company to file a written response to the notice of intent to issue a directive within the specified time period shall constitute a waiver of the opportunity to respond and shall constitute consent to the issuance of such directive.

(5) *Board consideration of response.* After considering the response of the bank or bank holding company, the Board may:

(i) Issue the directive as originally proposed or in modified form;

(ii) Determine not to issue a directive and so notify the bank or bank holding company; or

(iii) Seek additional information or clarification of the response by the bank or bank holding company.

(6) *Contents of directive.* Any directive issued by the Board may order the bank or bank holding company to:

(i) Achieve or maintain the minimum capital requirement established pursuant to the Board's Capital Adequacy Guidelines or the procedures in § 263.40 of this subpart by a certain date;

(ii) Adhere to a previously submitted plan or submit for approval and adhere to a plan for achieving the minimum capital requirement by a certain date;

(iii) Take other specific action as the Board directs to achieve the minimum

capital levels, including requiring a reduction of assets or asset growth or restriction on the payment of dividends; or

(iv) A combination of the above actions.

(7) *Request for reconsideration of directive.* Any state member bank or bank holding company, upon a change in circumstances, may request the Board to reconsider the terms of a directive and may propose changes in the plan under which it is operating to meet the required minimum capital level. The directive and plan continue in effect while such request is pending before the Board.

§ 263.39 Enforcement of directive.

(a) *Judicial and administrative remedies.* (1) Whenever a bank or bank holding company fails to follow a directive issued under this subpart, or to submit or adhere to a capital adequacy plan as required by such directive, the Board may seek enforcement of the directive, including the capital adequacy plan, in the appropriate United State district court, pursuant to section 908 (b)(2)(B)(ii) of ILSA (12 U.S.C. 3907(b)(2)(B)(ii) and to section 8(i) of the Federal Deposit Insurance Act (12 U.S.C. 1818(i)), in the same manner and to the same extent as if the directive were a final cease and desist order.

(2) The Board, pursuant to section 910(d) of ILSA (12 U.S.C. 3909(d)), may also assess civil money penalties for violation of the directive against any bank or bank holding company and any officer, director, employee, agent, or other person participating in the conduct of the affairs of the bank or bank holding company, in the same manner and to the same extent as if the directive were a final cease and desist order.

(b) *Other enforcement actions.* A directive may be issued separately, in conjunction with, or in addition to any other enforcement actions available to the Board, including issuance of cease and desist orders, the approval or denial of applications or notices, or any other actions authorized by law.

(c) *Consideration in application proceedings.* In acting upon any application or notice submitted to the Board pursuant to any statute administered by the Board, the Board may consider the progress of a state member bank or bank holding company or any subsidiary thereof in adhering to any directive or capital adequacy plan required by the Board pursuant to this subpart, or by any other appropriate banking supervisory agency pursuant to ILSA. The Board shall consider whether approval or a notice of intent not to disapprove would divert earnings, diminish capital, or otherwise impede the bank or bank holding company in achieving its required minimum capital level or complying with its capital adequacy plan.

§ 263.40 Establishment of increased capital level for individual bank or bank holding company.

(a) *Establishment of capital levels for individual institutions.* The Board may establish a capital level higher than that specified in the Board's Capital Adequacy Guidelines for an individual bank or bank holding company pursuant to:

(1) A written agreement or memorandum of understanding between the Board or the appropriate Federal Reserve Bank and the bank or bank holding company;

(2) A temporary or final cease and desist order issued pursuant to section 8(b) or (c) of the FIS Act (12 U.S.C. 1818(b) or (c));

(3) A condition for approval of an application or issuance of a notice of intent not to disapprove a proposal;

(4) Or other similar means; or

(5) The procedures set forth in subsection (b) of this section.

(b) *Procedure to establish higher capital requirement*—(1) *Notice.* When the Board determines that capital levels above those in the Board's Capital Adequacy Guidelines may be necessary and appropriate for a particular bank or bank holding company under the circumstances, the Board shall give the bank or bank holding company notice of the proposed higher capital requirement and shall permit the bank or bank holding company an opportunity to comment upon the proposed capital level, whether it should be required and, if so, under what time schedule. The notice shall contain the Board's reasons for proposing a higher level of capital.

(2) *Response.* The bank or bank holding company shall be allowed at least 14 days to respond, unless the Board determines that a shorter period is necessary because of the financial condition of the bank or bank holding company. Failure by the bank or bank holding company to file a written response to the notice within the time set by the Board shall constitute a waiver of the opportunity to respond and shall constitute consent to issuance of a directive containing the required minimum capital level.

(3) *Board decision.* After considering the response of the institution, the Board may issue a written directive to the bank or bank holding company setting an appropriate capital level and the date on which this capital level will become effective. The Board may require the bank or bank holding company to submit and adhere to a plan for achieving such higher captial level as the Board may set.

(4) *Enforcement of higher capital level.* The Board may enforce the capital level established pursuant to the procedures described in this section and any plan submitted to achieve that capital level through the procedures set forth in § 263.39 of this subpart.

Board of Governors of the Federal Reserve System, April 17, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-9694 Filed 4-23-85; 8:45 am]

BILLING CODE 6210-01-M

---

12 CFR Part 265

[Docket No. R-0511]

Rules Regarding Delegation of Authority; Submit Capital Plan

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors is amending 12 CFR Part 265, its Rules Regarding Delegation of Authority, to delegate to the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, the authority under the Board's Procedures for Issuance and Enforcement of Directives to Maintain Adequate Capital, §§ 263.38 and 263.40 of Subpart D of the Board's Rules of Practice for Hearings, to issue notices that state member banks or bank holding companies have insufficient levels of capital and that direct such banking organizations to file capital improvement plans.

EFFECTIVE DATE: May 15, 1985.

FOR FURTHER INFORMATION CONTACT: James E. Scott, Senior Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, (202) 452-3513.

SUPPLEMENTARY INFORMATION: (1) The Board is amending its Rules Regarding Delegation of Authority to delegate to the Director of the Division of Banking Supervision and Regulation, with the concurrence of the General Counsel, the authority to take preliminary actions to require state member banks and bank holding companies to increase and maintain adequate levels of capital as defined by the Board's revised capital guidelines or as set by the Board for an individual banking organization. In particular, the Director has the authority pursuant to procedures set forth in

§§ 263.38 and 263.40 of the Board's recently adopted Procedures for Issuance and Enforcement of Directives to Maintain Adequate Capital, 12 CFR 263.38 and 263.40, to issue a notice to a particular state member bank or bank holding company indicating that said banking organization has failed to maintain capital at the levels set forth in the Board's capital adequacy guidelines (Appendix A to the Board's Regulation Y, 12 CFR Part 225) or at such levels as may be appropriate in consideration of the financial condition of the particular banking organization. The notice of the need to increase capital may also require the banking organization to which it is directed to submit a plan to increase capital. The notice issued by the Director is a preliminary action to which the banking organizations may respond before the Board decides whether to take final action to require an increase in capital. The Board finds the delegation of its authority to screen banking organizations for compliance with uniform minimum levels of capital and to preliminarily identify those organizations that should maintain higher capital levels is necessary and appropriate because of the substantial number of banking organizations that must be systematically and repeatedly reviewed, because the notice is only a preliminary procedure, and because in its capital guidelines the Board has articulated the standards to be applied.

(2) The Board finds that the notice, opportunity to comment, and deferral of effective date procedures of 5 U.S.C. 553(b) are unnecessary in connection with this proceeding because it relates to agency procedures. For the same reasons, the expanded rulemaking procedures set forth in the Board's policy statement of January 15, 1979 (44 FR 3957), will not be followed in connection with this proceeding.

List of Subjects in 12 CFR Part 265

Authority delegations (Government agencies), Federal Reserve System.

Pursuant to the provisions of section 11(k) of the Federal Reserve Act (12 U.S.C. 248(k)), the Board hereby amends 12 CFR 265.2 by adding paragraph (c)(33) to read as follows:

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

* * * * *

(c) * * *

(33) Under the Provisions of §§ 263.38 and 263.40 of the Board's Procedures for Issuance and Enforcement of Directives to Maintain Adequate Capital, Subpart D of the Board's Rules of Practice for Hearings (12 CFR Part 263), and with the concurrence of the general counsel, to issue a notice that a state member bank or bank holding company has insufficient capital and that directs said banking organization to file with its regional Reserve Bank a capital improvement plan.

By order of the Board of Governors of the Federal Reserve System, April 17, 1985.

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-9695 Filed 4-23-85; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Parts 531, 552, 563 and 571

[No. 85-288]

Combinations Involving Federal Stock Associations; de Novo Policy Statement; and Technical Corrections

Dated: April 17, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule; request for comments.

SUMMARY: The Federal Home Loan Bank Board ("Board") is amending its regulations relating to combinations involving federal stock associations to expand the types of entities with which federal associations may combine in certain types of transactions, to correct an omission and several typographical errors in the same regulation, to make conforming amendments to several other sections of the regulations, and to clarify that only institutions which have been operating in substantially the same form under another charter for at least three years will not be treated as a *de novo* under the Board's policies governing *de novo* institutions.

DATES: Effective April 23, 1985. Comments must be received by June 24, 1985.

ADDRESS: Send comments to Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552. Comments will be available for public inspection at that address.

FOR FURTHER INFORMATION CONTACT: David A. Permut, (202) 377-6962, Attorney, Corporate and Securities Division, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

I. Background

Various types of financial institutions have expressed interest in converting to become federally-chartered and, in most cases, FSLIC-insured, thrift institutions. For example, some banks have concluded that their business is predominantly housing- and consumer-oriented and could be conducted more efficiently consistent with the goals and purposes of a federal thrift charter. The Board has no objection to such charter conversions, provided, of course, that the converted entity will operate in a manner consistent with a commitment to economical home finance and in compliance with other applicable thrift statutes and regulations.

Charter conversions are already available for institutions located in some states. If state law permits, for example, a state-chartered bank may convert to a state-chartered savings and loan association or savings bank and then apply to convert to federal charter pursuant to section 5(i) or section 5(o) of the Home Owners' Loan Act of 1933 ("HOLA"). 12 U.S.C. 1464(o).[1] However, because few states authorize such "state-law charter conversions",[2] most institutions can accomplish the conversion only by applying for a charter for a new federal association, or entering into an agreement with an existing federal association, and then causing the new federal association, or the existing federal association, to purchase most of the assets and assume most of the liabilities of the entity (a "P&A conversion"). The entity would then surrender its charter and, in most cases, its FDIC or other account insurance, in favor of FSLIC account insurance.

There is currently a regulatory impediment to Board approval of this type of P&A conversion, however, in the form of current § 552.13(c)(1) of the Federal Regulations, which governs transactions involving combinations of Federal stock associations and provides, in relevant part, that:

[1] In the case of a national bank, the national bank could first convert to a state-chartered bank, or state law may permit both state-chartered and national banks to convert to a state-chartered savings and loan association or savings bank.

[2] The following states are believed to permit some type of conversion from commercial bank to savings and loan: California, Connecticut, Florida, Maine, Missouri (to federal savings bank), Pennsylvania (in two steps), Utah, Virginia and Washington. In addition, the Idaho and Illinois statutes are silent on the matter and may permit such conversion. Michigan would allow commercial banks to convert to state-chartered thrifts if such a conversion is permissible under federal regulation.

(c) Federal stock associations may combine with other associations [3] in the following ways: (1) Mergers or bulk purchases of assets in exchange for liabilities: *Provided*, that (i) *all constituent associations have accounts insured by the [FSLIC], except for Federal associations the deposits of which are insured by the [FDIC]. . . . (emphasis added).*

Accordingly, the current regulations give rise to a significant difference in the ability of financial institutions located in different states to convert to a federal thrift charter. If the financial institution is located in one of the many states that does not have a state-law charter conversion process, the conversion is effectively foreclosed because the Board's current regulations prevent a federal stock association from purchasing the assets and assuming the liabilities of any institution which is not already insured by the FSLIC (with the exception of federal savings banks with FDIC insurance). The practical effect is that commercial banks and others are precluded from utilizing P&A conversions to become federal thrifts and can convert to thrifts in only the handful of states that provide for a state-law charter conversion.

II. Current Regulation

When the current version of § 552.13 was adopted in 1979, the Board expressed the view that the HOLA required that Federal associations be allowed to merge or to engage in bulk purchase transactions only with other FSLIC-insured institutions.[4] This conclusion apparently was based on the language of section 5(d)(11) of the HOLA, which states that:

> The Board shall have power to make rules and regulations [5] for the reorganization, consolidation, liquidation, and dissolution of associations, for the merger of associations with associations or with any institutions the accounts of which are insured by the Federal Savings and Loan Insurance Corporation, . . . 12 U.S.C. 1464(d)(1) [1982]

Thus, current § 552.13(c)(1) appears to have been premised on two assumptions: First, that the provisions of section 5(d)(11) authorizing the Board to make rules and regulations for the merger of Federal associations with other Federal associations and FSLIC-insured thrifts meant that those were the only types of entities with which a federal association may be permitted to merge; and second, that a bulk purchase of assets must be treated as a merger under the statute, rather than being categorized as another type of transaction. The Board has now re-examined the basis for the latter assumption and has concluded that the statute does not require bulk purchases to be treated in the same manner as a merger.

A bulk purchase of assets and assumption of liabilities where all or substantially all of the assets of one entity are acquired by another entity is, in corporate structure, a reorganization, rather than a merger. In basic terms, mergers involve two or more corporations where one corporation absorbs one or more other corporations which then cease to exist. Consolidations also involve more than one corporation and occur where a new corporation is formed to absorb one or more existing corporations which cease to exist. By contrast, reorganizations involve a single corporation and include bankruptcies, conversions (savings banks to savings and loan associations, mutual to stock, state to Federal, Federal to state) and bulk-asset purchases. Fletcher Cyc Corp (Perm Ed) section 7041, 7043, 7085, 7201, and 7205.

As a result of its reexamination of the issue, the Board believes that even if the HOLA limits the entities with which a Federal association may *merge*, the statute need not be read to place those limits on reorganizations. Since the HOLA does not compel the Board to similarly restrict reorganizations such as this type of bulk-purchase-of-assets transaction, the Board has concluded that it has the authority to amend § 552.13 to permit federal associations to engage in such transactions with entities other than those chartered by the Board or insured by the FSLIC. Further, the Board has concluded that it would be desirable to reduce the current regulatory impediment to P&A conversions to permit a wider range of entities to convert to federal thrift charters and remove the discrepancy that now exists between the ability of entities located in different states to convert to federal thrift charters.

III. Scope of Expansion of P&A Authority

There is a broad range of entities that have the potential to become federal thrifts through a P&A conversion. These include (1) FDIC-insured national banks; (2) FDIC-insured state-chartered banks; (3) other FDIC-insured depository institutions, such as industrial banks; (4) state or privately insured depository institutions; (5) uninsured depository institutions; (6) credit-furnishing entities, such as consumer finance or mortgage-banking companies; and (7) any corporation or other business entity that engages in activities permissible for a Federal association.

With entities that are not depository institutions, however, it is difficult for the Board to assess whether the entity's policies are consistent with economical home financing and whether the new thrift formed from that entity will be financially strong. Therefore, rather than permitting a Federal association to engage in a bulk P&A transaction with all types of entities, the Board has preliminarily determined to limit the types of entities eligible to engage in a bulk P&A conversion with a Federal association to depository institutions, whether or not insured by the FDIC, state insurance funds or private insurance funds. In the Board's view, these types of institutions are most likely to be able to meet the statutory criteria for Federal Home Loan Bank membership (a prerequisite to receipt of FSLIC insurance), namely, a demonstrable commitment to economical home financing, and would have operations that are capable of being examined pursuant to existing procedures in order to determine eligibility for insurance.

IV. Converting Institutions as de Novos

The conversion of banks and other financial institutions to Federal thrift charters also has raised the question whether the new Federal association, whether the product of a state-law charter conversion or created in a P&A conversion with another entity, should be subject to the Board's policies applicable to *de novo* institutions. Although the thrift would be newly created, the Board recognizes that the converted entity may have had a record as a regulated depository institution.

In 1983, the Board amended the Regulations of the Federal Savings and Loan Insurance Corporation ("Insurance Regulations") by adopting a policy statement at 12 CFR 571.6 relating to insurance of accounts of *de novo* institutions. Board Resolution No. 83-653 (48 FR 54320; December 2, 1983). That section defined "*de novo* institution" and "*de novo* applicant" to mean:

> [A]ny savings and loan association, building and loan association, homestead association, cooperative bank, or savings bank which has submitted to the appropriate Federal Home Loan Bank an application for

---

[3] The term "association" is defined, for purposes of § 552.13, as: "Any building and loan, savings and loan, or homestead association, or cooperative or savings bank organized under Federal or state law, including interim Federal associations and interim state associations." 12 CFR 552.13(b)(1).

[4] Board Resolution No. 79-445, dated August 16, 1979 (44 FR 48241; August 22, 1979).

[5] The Board has adopted separate sets of regulations for each of the Corporate transactions enumerated in the HOLA: Mergers, 12 CFR 546.2, 552.13, 563.22; Consolidations, 12 CFR 546.2, 552.13, 563.22; Conversions, 12 CFR 543.8, 544.3, 546.5 (1982), 563b; Purchase of Assets, 12 CFR 552.13, 563.22; Liquidations, 12 CFR Parts 547, 548 and 549; Dissolutions, 12 CFR 546.4.

insurance of accounts, or a request for a commitment to insure accounts, or an application for permission to organize a Federal association, and *the business of which has not been conducted previously under any charter.* 12 CFR 571.6(d) (1983) (emphasis added).

The preamble to the statement of policy specifically excluded in its description of a *de novo* institution "existing, operating institutions that convert from state insurance to FSLIC insurance or FDIC to FSLIC insurance, or which for legitimate tax purposes reorganize under a new charter." (48 FR at 54322). That preamble language expressed the Board's intent at the time to allow some existing entities to become thrifts without meeting special minimum capital and other requirements for *de novo* institutions in recognition of the fact that such entities have a proven track record and could be adequately evaluated through an eligibility examination and viability analysis.

However, the Board recently has been apprised of efforts by some prospective organizers to start up state-chartered institutions, operate those institutions for a short period of time and then seek to obtain FSLIC insurance, asserting that the institution is excluded from the definition of "*de novo* institution" and "*de novo* applicant" under 12 CFR 571.6(d) because the institution's business has been conducted previously under another charter. Other organizers have argued that where a *de novo* is being formed out of a part of an existing institution, *e.g.*, a branch or group of branches, that the newly chartered institution should not be categorized as a *de novo*. The potential for evasion of the Board's *de novo* policies presented by these structures has led the Board to determine that it is necessary to amend the *de novo* policy statement to codify the Board's intent as expressed in the preamble to its 1983 amendment, that the Board's *de novo* policies will be applied where the business conducted under a previous charter has not been in existence, in substantially the form it is proposed to be conducted under its new charter, for a specified period of time. Since most of the *de novo* policies apply for three years, the Board has preliminarily determined to apply the *de novo* policies to a new association, whether the product of a state-law charter conversion or created in a P&A conversion with another entity, when the predecessor entity has operated under its present charter for fewer than three years. Entities in operation three years or more, where the predecessor entity operated in substantially the same form as the new institution, would, therefore, not be treated as *de novo*, and the Board has accordingly amended § 571.6(d) and made a conforming amendment to § 563.13(g).

V. Procedures

The Board takes this opportunity to note that in determining to grant insurance of accounts to depository institutions, the Board has looked to whether (1) the institution meets the minimum capital requirements of the FDIC, which is currently 5.5% primary capital to total assets; (2) projections indicate an ability by the institution to meet applicable net-worth requirements for savings and loan associations over a five-year period; and (3) the institution successfully undergoes an eligibility examination. Where an institution has a history of examination by the FDIC or the Comptroller of the Currency, however, the Board or its delegatee may elect to rely on the institution's examination rating where the rating indicates sufficient operating strength over recent examination periods.

These policies are not intended to supplant requirements, where applicable, for applications for bank membership, insurance of accounts, permission to organize interim Federal *de novo* stock associations, and to increase accounts of an insurable type when the P&A conversion occurs with an existing Federal association, as well as for changes in control and holding company acquisitions. In addition, until the Board has gained experience with the types of P&A conversions authorized today, it is the Board's view that these types of applications raise significant issues of law or policy and should be referred to the Board for its consideration.

VI. Miscellaneous

It has come to the Board's attention that the notice provisions of 12 CFR 552.13(i) (1984) added by Board Resolution No. 82–788, 48 FR 178, January 3, 1983, contain several typographical errors and omissions to two paragraphs pertaining to the procedures to be followed when an interim institution is merged with an existing association as part of the formation of a savings and loan holding company. That paragraph was inadvertently omitted due to another amendment, adopted on the same day, to other provisions of § 552.13. The Board is, therefore, taking this opportunity to reinsert the omitted provisions at § 552.13(i)(1) and (3) and correct the typographical errors.

In addition, the Board is taking this opportunity to amend § 531.10 and 563.18–2 to conform to the changes made in § 552.13. The Board has determined not to amend its regulations at § 546.2 since that section deals only with mergers of Federal associations and the changes in this regulation concern P&A transactions involving Federal associations. Similarly, the Board has determined not to amend § 563.22 which deals with P&A transactions, including bulk P&A transactions between FSLIC-insured institutions which are not federally chartered. Section 563.22 applies to Federal associations only in connection with P&A transactions constituting branch office purchases or sales, not a transfer of substantially all the assets or liabilities, which is the subject addressed by this regulation.

Final Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act (5 U.S.C 601 *et seq.*), the Board is providing the following regulatory flexibility analysis.

1. *Reasons, objectives, and legal basis underlying the rules.* These factors are discussed elsewhere in the supplementary information.

2. *Small entities to which the rules will apply.* The amendments will apply to all federal stock associations regardless of size.

3. *Impact of the rules on small institutions.* The amendments will not have an adverse impact on small institutions. The changes will increase the number of possible business combinations institutions may make and thus are expected to have a beneficial impact on large and small institutions alike.

4. *Overlapping or conflicting federal rules.* There are no known federal rules that may duplicate, overlap, or conflict with these policies.

5. *Alternatives to the proposed rules.* The amendments offer the best alternative to lessen restrictions on business combinations within the regulated industry without unduly increasing the risk to the FSLIC.

List of Subjects in 12 CFR Parts 531, 552, 563 and 571

Savings and Loan Associations.

The Board finds that observance of the notice and comment period prescribed in 12 U.S.C. 553(b) and 12 CFR 508.11 and the 30-day delay of the effective date as prescribed in 12 U.S.C. 553(d) and 12 CFR 508.14 is unnecessary because the amendments in part constitute interpretative rules and statements of Board policy, and generally relieve current restrictions. The Board is adopting these liberalizing amendments in final form in order to immediately provide needed flexibility for depository institutions considering

charter conversions and to gain experience with this type of transaction. However, the Board is additionally providing a 60-day public comment period.

Accordingly, the Federal Home Loan Bank Board hereby amends Part 531, Subchapter B, Part 552, Subchapter C, and Parts 563 and 571, Subchapter D, Chapter V of Title 12, *Code of Federal Regulations*, as set forth below.

Subchapter B—Federal Home Loan Bank System

PART 531—STATEMENTS OF POLICY

§ 531.10 [Amended]

1. Amend § 531.10(a) by inserting the phrase "For purposes of this section only" at the beginning of the second sentence thereof.

Subchapter C—Federal Savings and Loan System

PART 552—STOCK ASSOCIATIONS

2. Amend § 552.13 by designating paragraphs (b)(2), (b)(3), (b)(4), (b)(5), (b)(6), (b)(7), (b)(8), and (b)(9) as paragraphs (b)(3), (b)(4), (b)(6), (b)(7), (b)(8), (b)(11), (b)(9), and (b)(10); respectively; by adding new paragraphs (b)(2) and (b)(5); by revising new paragraphs (b)(6), (b)(7), and (b)(9); by revising the text of paragraph (c) preceding paragraph (c)(1), removing the text preceding the colon before the proviso in paragraph (c)(1) and substituting "Mergers" therefor, and adding a new paragraph (c)(3); by amending the second sentence in paragraph (d); by revising paragraphs (i)(1), (i)(3) and (i)(4); and by removing paragraph (j)(4); as follows:

§ 552.13 Combinations involving Federal stock associations.

* * * * *

(b) *Definitions.* * * *

(2) *Bulk purchase of assets.* A transfer of all or substantially all the assets and may include the assumption of all or substantially all the liabilities of an association or a depository institution to or from a Federal stock association.

* * * * *

(5) *Depository institution.* Any commercial bank (including a private bank), a savings bank, a trust company, a savings and loan association, a building and loan association, a homestead association, a cooperative bank, an industrial bank or a credit union, chartered in the United States and having its principal office located in the United States.

(6) *Disappearing association.* An association whose corporate existence does not continue after a merger or consolidation effected under this section.

(7) *Merger.* Uniting two or more associations by the transfer of all property rights and franchises to the resulting association, which retains its corporate identity.

* * * * *

(9) *Resulting association.* An association whose corporate existence continues after a merger, or the association resulting from a consolidation of two or more associations.

(c) *Forms of combination.* Federal stock associations may combine in the following ways:

* * * * *

(3) Bulk purchases of assets: *Provided,* That the association: (i) Meets the requirements for Federal Home Loan Bank membership and insurance of accounts; (ii) conforms, within the time prescribed by the Board, to the requirements of section 5(c) of the Home Owners' Loan Act; and (iii) the transferor is not a mutual association.

(d) *Agency approval.* * * * In determining whether to confer such approval, the Board shall apply the criteria set out in § 571.5 of this chapter and shall impose any conditions it deems necessary or appropriate to ensure compliance with those criteria and the requirements of this chapter.

* * * * *

(i) *Notice*—(1) *Notice to stockholders.* In addition to joint publication of notice by constituent associations pursuant to § 543.2(d) of this Subchapter, Federal stock associations shall mail notice of the filing of applications to stockholders within 10 days of filing. The contents of the notice shall include: (i) A statement that an application under this section has been filed with the Board; (ii) the name and address of the home or principal office of each constituent association; (iii) a brief summary of the principal terms of the combination agreement; (iv) the name and address of the home office of the resulting association; (v) a statement as to which offices of constituent associations are to be maintained as home office or branches and which are to be discontinued; (vi) a statement that any person may file written comments concerning the application which will be considered by the Board if filed with the Office of the Principal Supervisory Agent and the Office of the Secretary (with addresses disclosed) within 10 days (or within 30 days if advice is filed within the first 10 days stating that more time is needed to furnish additional information) of publication or such later date as may be permitted by the Office of the Principal Supervisory Agent; and (vii) a statement that the application and all comments filed pursuant to the notice shall be available for public inspection by any person at the above offices, except for any material exempt from disclosure pursuant to the Freedom of Information Act. Promptly after publication of the notice, the constituent associations shall jointly file with the Board two copies of the notice and publisher's affidavit of publication.

* * * * *

(3) *Procedure.* Processing of an application under this section shall follow the procedures set forth in this paragraph (i) and in §§ 543.2(e) and 543.2(f) of this subchapter unless, in the case of mergers involving an interim Federal association or an interim state institution, the merging institution is immediately acquired under § 584.4, in which case § 584.4(h)(1) of this Chapter shall apply.

(4) *Supervisory exception.* This paragraph (i) does not apply to combinations instituted for supervisory reasons.

* * * * *

SUBCHAPTER D—FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

3. Amend § 563.13(g) by inserting before the period at the end of paragraph (7) thereof the following:

§ 563.13 Regulatory net-worth requirement.

* * * * *

(g) *Definitions.* * * *

* * * * *

(7) * * * and the business of which has not been conducted in substantially the same form as is proposed to be conducted by the *de novo* institution for a period of three years.

§ 563.18-2 [Amended]

4. Amend § 563.18-2(d)(ii) by adding the phrase "or § 552.13" after the phrase "Part 546".

PART 571—STATEMENTS OF POLICY

5. Amend § 571.6 by inserting before the period at the end of paragraph (h) the following:

§ 571.6 Policy considerations regarding "de novo" applications for insurance of accounts.

* * * * *

(h) * * * and the business of which has not been conducted in substantially the same form as is proposed to be conducted by the *de novo* institution for a period of three years.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 5(d)(11), 48 Stat. 131 (12 U.S.C. 1464); secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1728, 1730); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943-48 Comp., 1071)

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-9619 Filed 4-23-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 71 and 75

[Airspace Docket No. 84-AWA-35]

Alteration of Jet Route J-174 and Associated Control Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These actions extend Jet Route J-174 offshore from Hampton, NY, to Snow Hill, MD, and alter a control area associated with the jet route. Extension of J-174 is an integral part of a major air traffic management program to alleviate air traffic congestion and compression conditions along the east coast of the United States. In conjunction with extension of J-174, several ancillary nonrulemaking airspace actions will be taken. They include some reconfiguration of Warning Areas W-105, W-106, W-107, and W-108; and the realignment of Atlantic Routes A-20 and A-23. The associated nonrule airspace actions will be effected simultaneously with the alteration of J-174 to assure uninterrupted Department of Defense operations in the interest of national defense.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On March 8, 1985, the FAA proposed to amend Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to extend offshore Jet Route J-174 from Hampton, NY, to Snow Hill, MD, (50 FR 9453). The proposed extension was seen as an integral part of a major air traffic management program to alleviate air traffic congestion and compression conditions along the east coast of the United States. The overall objectives of the east coast plan are to adjust inbound/outbound routings along the east coast and the New York Metroplex areas in order to provide the optimum use of airspace and reduce departure and arrival delays between Chicago, New York, Atlanta and Miami. At present, east coast traffic flows are saturated and compressed to the extent that they restrict the movement of traffic into and out of the New York Metroplex. The magnitude of the congestion and compression problem is such that approximately 25 percent of the national total of delays occur within the New York Metroplex area.

In the proposal, it was stated that the east coast plan is designed to make optimum use of limited airspace resources. It was explained that one of the constraints to the free flow of traffic along the east coast is otherwise useable airspace designated as offshore warning areas. A warning area is a nonregulatory designation of airspace of defined dimensions over international waters that contains activity which may be hazardous to nonparticipating aircraft.

In consideration of both civilian air commerce and national defense needs, the FAA proposed the extension offshore of Jet Route J-174. The route is expected to absorb and distribute a substantial portion of inland high altitude air traffic movements while posing minimal impact on warning area airspace. It was explained that at the point of greatest penetration, the jet route and associated control area would extend approximately 15 miles into Warning Area W-107A and 8 miles into Warning Area W-108A. In summary, the availability of Jet Route J-174 was seen as crucial to the success of overall east coast air traffic management while having minimal impact on Department of Defense activity and providing substantial benefit to all users.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA.

The Air Transport Association of America strongly endorsed the proposal, stating that there is a need for a comprehensive review of the airway structure within the National Airspace System. ATA stated that the initiation of the east coast plan by FAA is the first step in attaining such a goal and that accordingly the Association strongly endorsed the proposed alteration of Jet Route J-174 and the associated control area.

The Port Authority of New York endorsed the proposed extension stating that as operator of the three busiest airports in the area, it supported programs that alleviate air traffic congestion and compression along the east coast of the United States.

The initial Department of Defense response to the proposal was that the proposed route would have an unacceptable impact on DOD operations in Warning Areas W-107A and W-108A. The DOD stated it was aware of traffic management problems faced by the FAA in the New York hub area and was willing to work toward a solution. However, the Department was concerned that the FAA had not fully investigated its alternatives such as procedural changes, resectorization, or personnel manning and training as methods for solving the traffic management problem. The DOD believed that a joint DOD/FAA planning group could review current operational constraints, air traffic control routing and warning area boundary changes as a means of lessening the initially perceived unacceptable impact of the proposal. The Department stated that it sought not to delay, but to resolve the issue for the mutual benefit of military and civil aviation.

In response to the DOD concerns, the East Coast Traffic Management Plan is, in itself, an intensive effort to design the most efficient complex of air traffic routings, air traffic flows, control sector configurations, and use of available personnel to achieve system efficiencies for all airspace users, including the military. The plan entails substantial realignment of inbound, outbound, and en route flows to major east coast hubs and substantial resectorization of several air route traffic control centers. Over the past several years, the DOD and the FAA have been involved in mutual exploration of possible offshore routes but without positive results. The extension of J-174 was offered as the most feasible route having the least impact on offshore DOD activities while offering the maximum benefit to all other users and the ATC system. By virtue of its capability to absorb a substantial portion of daily inland air traffic demand along the eastern corridor, J-174 is considered to be the keystone of the entire east coast plan.

The FAA fully recognizes the DOD's mission to provide for the national defense and in particular, the need for adequately-sized offshore warning areas. The amended Federal Aviation

Act of 1958 is clear in that both air commerce and the needs of national defense must be considered. In addition, Executive Order 10854 extended application of the Act outside of U.S. jurisdiction under appropriate international agreements and consistent with the requirements of national defense.

As a result of the DOD's willingness to work toward a solution beneficial to both civil and military aviation, the DOD and FAA were able to reach an agreement on use of the offshore airspace which permits establishment of the new civil jet route. In the interest of a more efficient National Airspace System, Jet Route J-174 and its associated control area will be extended from Hampton, NY, to Snow Hill, MD, effective June 6, 1985. In the interest of maintaining the DOD's national defense capability, the FAA will simultaneously effect the nonrule airspace actions below.

Ancillary Nonrule Actions

Effective June 6, 1985, Warning Areas W-105, W-106, W-107, and W-108 will be reconfigured, and, to accomplish the reconfiguration, Atlantic Routes A-20 and A-23 will be realigned. In addition, certain fixes and a holding pattern and associated holding pattern airspace area will be established whose boundaries will not overlap into Warning Area airspace.

The nonrule action upon which all others are dependent is the reconfiguration of W-107. Essentially, W-107 will be expanded to the north to assure continued operating ability of DOD mission aircraft. The expansion of W-107 to the north will be accomplished by realigning A-20 6 degrees to the north and A-23 3 degrees to the north. The new northern edge of W-107 will be its boundary with the protected airspace of A-20. The complete reconfiguration of W-107 will result in a complex of subdivisions. Subdividing the Warning Area is accomplished to provide warning area airspace above and below the jet route and to assure, by procedural agreement, that when certain portions or altitudes are not in use by the DOD, efficient use of the available airspace may be made by ATC. For example, a subdivision of W-107 will exist below J-174 up to and including 17,000 feet MSL.

The expansion to the north of W-107 and the resultant realignment of A-20 and A-23 to the north will also require the reconfiguration of W-105 to provide necessary protected airspace on the north side of A-23. In addition, a certain amount of W-106 which underlies W-105 will be reconfigured to assure useable airspace by ATC to control and flow oceanic air traffic to and from the New York airport complex. Again, the subdivisions of W-105 and W-106 are the result of procedural agreement perceived by both agencies to be the most efficient use of airspace consistent with the needs of ATC and the DOD mission activity.

W-108 will be slightly reconfigured to assure the most efficient use and accessibility by DOD mission aircraft.

Jet Route J-174, Atlantic Routes A-20 and A-23 and the reconfigured Warning Areas W-105, W-106, W-107, and W-108 will appear on appropriate charts dated June 6, 1985. Although the decision to reconfigure and chart the warning areas has been made in accordance with FAA/DOD agreement, the FAA is circularizing the warning area reconfiguration to all interested parties to provide full user awareness of and participation in the changes being made. In this regard, the FAA will consider all comments received from the circularization of the warning areas and may make changes on the basis of comments received. Any changes made as a result of public circularization of the warning areas will be fully coordinated with the DOD. Sections 71.161 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The Rule

These amendments to Parts 71 and 75 of the Federal Aviation Regulations extend Jet Route J-174 offshore from Hampton, NY, to Snow Hill, MD, and alter an associated control area. The vertical limits of the jet route extend from Flight Level 180 to and including Flight Level 410 from Hampton, NY, to lat. 38°45'00" N., long. 74°44'00" W.; and from Flight Level 240 to and including Flight Level 410 from lat. 38°45'00" N., long. 74°44'00" W.; to Snow Hill, MD.

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

List of Subjects in 14 CFR Parts 71 and 75

Control areas, Jet routes, Aviation safety.

Adoption of the Amendments

Accordingly, pursuant to the authority delegated to me, § 71.161 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) are amended, as follows:

PART 71—[AMENDED]

§ 71.161 [Amended]

J-174 [Revised]

From Snow Hill, MD, via Hampton, NY; Hyannis, MA, to HERIN INT. Airspace below FL 240 is excluded between Snow Hill and lat. 38°45'00" N., long. 74°44'00" W. Airspace above FL 410 is excluded between Snow Hill and Hamption.

PART 75—[AMENDED]

§ 75.100 [Amended]

J-174 [Revised]

From Snow Hill, MD, via Hampton, NY; INT Hampton 069° and Hyannis, MA, 237° radials; Hyannis; to the INT of Hyannis 080° and Nantucket, MA, 066° radials. Airspace below FL 240 is excluded between Snow Hill and lat. 38°45'00" N., long. 74°44'00" W. Airspace above FL 410 is excluded between Snow Hill and Hampton.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.69)

Issued in Washington, D.C., on April 18, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-9826 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 2

[Docket No. PL85-1-000]

Regulatory Treatment of Payments Made in Lieu of Take-or-Pay Obligations

Issued: April 10, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Statement of policy and interpretative rule.

SUMMARY: The Federal Energy Regulatory Commission (Commission) establishes a policy with regard to the buy-out of contractual take-or-pay obligations of natural gas pipelines, and how those costs are to be treated in future rate cases. The statement of general policy states that payments made by jurisdictional pipelines to first sellers of natural gas for revising or waiving take-or-pay obligations or similar minimum purchase obligations are not "purchased gas costs." Pipelines may, however, file to recover them in any non-Purchased Gas Adjustment rate filing under section 4(e) of the Natural Gas Act. The particulars of the recovery of these costs and their apportionment among the customers of the pipelines will be addressed on a case-by-case basis and pipeline customers will be afforded an opportunity to question the prudence of such payments. In any case, the Commission stated that such payments do not violate the maximum lawful price limitations of the Natural Gas Policy Act. As a general policy, the Commission intends that any certificate amendments or abandonment authorizations needed to effectuate such transactions will be expeditiously granted.

EFFECTIVE DATE: April 10, 1985.

FOR FURTHER INFORMATION CONTACT: Colette Bohatch, Federal Energy Regulatory Commission, Office of the General Counsel, Washington, D.C. 20426, (202) 357-8522.

Statement of Policy and Interpretive Rule

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

In the matter of regulatory treatment of payments made in lieu of take-or-pay obligations, Docket No. PL 85-1-000.

I. Introduction

On March 29, 1985, the Federal Energy Regulatory Commission (FERC) concluded public proceedings in Phases I, II, and III of our Notice of Inquiry in Docket No. RM85-1-000, commenced in December of 1984.[1] In that proceeding the Commission received over 200 detailed comments from entities representing all facets of the natural gas industry as well as from members of Congress, the Department of Energy, the Federal Trade Commission, state public utility commissions and other public entities. Those comments addressed a wide range of topics and provided a wealth of information and insight to guide the Commission.

During these three months, we have also begun to observe the actual behavior of the industry—including developments in field markets, burner tip markets and capital markets—following the partial removal of wellhead price controls on January 1, 1985, in accordance with the Congressionally mandated schedule.

We have also begun to have the initial guidance of reviewing courts of appeal on some of the initiatives set in motion over the last year and a half in anticipation of partial wellhead decontrol.[2]

The time has come to begin sorting our way through the many issues raised by the commenters in response to our Inquiry in Docket No. RM85-1-000. The task will not be easy. But we assure all members of the industry, the public and the Congress that we will endeavor to take the appropriate steps at the appropriate time, with a healthy respect for the need for caution, courage and well-informed judgment.

II. Summary

The Commission is establishing a policy concerning regulatory treatment to be accorded in the future to payments made by jurisdictional pipelines to first sellers of natural gas for the purpose of waiving or revising purchase obligations under natural gas sales contracts.

As detailed below, the Commission determines that such payments are not "purchased gas costs" for purposes of our regulations under the Natural Gas Act (NGA), in particular 18 CFR 154.38(d)(4), nor do they constitute payments made for a "first sale" of natural gas for purposes of section 504(a) of the Natural Gas Policy Act (NGPA). Rather, they are expenses related to the acquisition of natural gas supply.

Accordingly, with regard to payments made as consideration for waiving or revising an agreement for the first sale of natural gas, the Commission adopts a new § 2.76 of our regulations to provide the following:

(1) A first seller of natural gas does not violate section 504(a) of the NGPA by receiving payments as consideration for waiving or amending the take-or-pay or similar minimum payment provisions of a contract for the first sale of natural gas;

(2) A pipeline which has made such payments to first sellers may file to recover them in any non-PGA section 4(e) rate filing;

(3) Questions as to such matters as how the pipeline may recover these costs and how it should apportion them among customers will be addressed on a case by case basis in the context of individual rate case filings;

(4) The customers of pipelines that seek to recover such costs will have the full opportunity contemplated by section 4 of the NGA to raise questions as to the prudence of such payments, the apportionment of costs among customers proposed by the filing pipeline and any other reasonably related matters; and

(5) With regard to natural gas the sale of which is subject to the Commission's jurisdication under the NGA, where such payments are accompanied by a change in or a termination of the first seller's contractual obligation to provide natural gas service, the Commission will, as a general policy under sections 7(c) and 7(b) of the NGA, expeditiously grant any certificate amendments or abandonment authorizations required to effectuate such contractual or service modifications.

III. Background

Contracts for the sale of natural gas in field markets have traditionally contained provisions requiring the purchaser to take, or to pay for, if tendered by the seller and not taken, some specified quantity of natural gas.[3] Typically, the contracts provided for a specified period during which gas paid for but not taken could be "made up" by the buyer. Indeed, during the 1960's following a period during which a number of pipelines experienced take-or-pay difficulties, the Commission promulgated a rule in effect requiring a five year make-up period for jurisdictional sales.[4]

In view of the fact that such gas could be made up, the payments made pursuant to such provisions constituted in effect "*pre*payments" for the gas not taken. As such, the amounts paid are treated for ratemaking purposes as an asset, similar to prepayment of a lease. Thus, they are not "purchased gas costs" as defined in our regulations, 18 CFR 154.38(d) (n. 1), but are booked to Account 165, a rate base account.

---

[1] Interstate Transportation of Gas for Others, 50 FR 114 (January 2, 1985) (Phase I); Natural Gas Pipeline Ratemaking, Risk, and Financial Implications After Partial Wellhead Decontrol, 50 FR 3801 (January 28, 1985) (Phases II and III).

[2] *See Consolidated Edison Co. v. FERC*, No. 83-2316 (D.C. Cir., March 29, 1985) (dismissing one petition for review of blanket transportation certificate rule).

[3] 4 Williams, *Oil and Gas Law*, Section 724 (1981).

[4] Order No. 334, 32 FR 865 (January 25, 1967), (37 FPC 110 (1967)); and Order No. 334-A, 32 FR 5257 (37 FPC 587 (1967)) (*promulgating* 18 CFR 154.103 (1984)).

Under this approach, when a pipeline files a general rate change, it might include as a part of its claimed cost of service a "working capital allowance" on the appropriate Account 165 balances. When rates reflecting in part the Account 165 balances go into effect, the pipeline begins to recover from its customers the carrying charges (*i.e.*, weighted cost of debt, return on equity and associated income taxes) on those amounts. We have assumed that the prepayments were financed in the same ratios of debt and equity as were applicable to the pipelines' total capital structures.

When the prepaid gas is "made up" the pipeline credits its Account 165 in an equal amount. As the prepaid gas is delivered by the pipeline, the pipeline includes the gas purchase cost as part of its subsequent purchase gas adjustment (PGA) filing. Then, when the next general rate change is filed, the removal of the prepaid amounts from Account 165 will be reflected in the working capital portion of rate base, in effect eliminating from the pipeline's rates that portion of its claimed cost of service predicated on the former Account 165 balances.

Since the early 1980's, with the arrival of a substantial surplus of gas deliverability,[5] a number of major natural gas pipeline companies have incurred significant liability for take-or-pay prepayments. For example, according to Form 2's on file with the Commission, Account 165 balances (as of December 31, 1983) totalled approximately $1 billion.[6] According to published estimates prepared by industry trade associations, the potential liability under take-or-pay provisions is substantially greater.[7]

This state of affairs has raised a number of questions concerning such issues as: (1) Innovative arrangements for financing take-or-pay prepayments; (2) with regard to prepayments to producers which are likely to be (or are indeed) forfeited by the pipeline due to the inability to make up the prepaid gas, the implications under section 504(a) of the NGPA and under sections 4 and 7 of the NGA; and (3) ratemaking treatment for payments made to producers as consideration for revising or waiving the terms of existing gas purchase agreements.

The question of how best a pipeline can finance take-or-pay prepayments is essentially a question for pipeline management. The Commission has only been involved to the extent the pipeline has sought some innovative rate arrangement for funding the prepayments.[8]

The second question is whether prepayments to a producer for gas *not taken* but which cannot be made up by the purchaser must be added to payments made to that producer for gas *taken* by the pipeline for purposes of determining the producer's compliance with the maximum lawful prices set out in Title I of the NGPA. This forfeiting of amounts prepaid might result from a variety of causes, including e.g., the reserves having been depleted or having been drained by another seller, or the expiration of the contract prior to the end of the make-up period, or the expiration of make-up period specified in the contract. These forfeited prepayments are paid (or would be paid) *pursuant to* the contract, not as any consideration for revisions to or waivers of the contract. The present policy statement does not speak to this issue.

The final issue relates to payments made to producers, not pursuant to the terms of a gas purchase agreement, but rather as full or partial consideration for *revisions to* or waiver of the terms of a gas purchase agreement. These payments have been styled "one time non-recoupable payments," "lump sum payments" or simply take-or-pay "buy-outs." Two issues are raised:

(1) Whether such payments must be taken into account for purposes of determining a producer's compliance with the maximum lawful prices for first sales of natural gas set forth in Title I of the NGPA; and

(2) If such payments are lawful, what is the appropriate ratemaking treatment for a pipeline seeking recovery of these expenses from ratepayers.

The present policy statement addresses questions relating to such one-time non-recoupable payments only and is intended to provide guidance to producers and pipelines as they continue to seek a restructuring of existing contracts to better reflect today's market realities.

IV. Discussion

The take-or-pay provisions of gas purchase agreements have been the focus of much discussion in Phases I, II and III of our Notice of Inquiry.[9] Parties from all segments of the industry have indicated the considerable role these contract provisions continue to play in distorting market signals. A variety of views have been expressed, however, as to who should shoulder the financial consequence for some of what are now uneconomic contracts. Producers generally expressed a willingness to negotiate reasonable revisions to pipeline contracts, but noted little cooperation from pipelines. Absent such a willingness, producers insist on the sanctity of their contractual rights and assert that the Commission has no power to abrogate take-or-pay provisions. As to how the take-or-pay obligations are met, producers expressed indifference whether pipelines or their customers paid; they are willing to leave the policy decision to the Commission.[10]

Pipelines generally argued that, if the Commission does not override take-or-pay obligations, these should be paid for by the pipelines' ratepayers as a legitimate and prudent cost of business.[11]

While some distributors agreed that customers should bear the cost of all prudently incurred take-or-pay obligations,[12] Peoples Gas and Pacific Gas Lighting argued that the NGPA had already put pipelines on notice that they are responsible for their gas purchase practices; pipelines rather than customers must therefore bear take-or-pay costs.[13]

With regard to allocation of prepayment costs among customers, most distributors urged the Commission to proceed on a case-by-case basis.[14]

---

[5] Energy Information Administration, Department of Energy, *Natural Gas Monthly* (January 1985) (Table 23).

[6] Energy Information Administration, Department of Energy, *Statistics of Interstate Natural Gas Pipeline Companies* (1983) (Table 20).

[7] Interstate Natural Gas Association of America, "The Gas Contracts Problem: Results of an INGAA Survey" (May 1983); Natural Gas Supply Association, "Analysis of the Take-or-Pay Problem," Prepared by Foster Associates, Inc. (March 1984).

[8] *See e.g., State of Michigan and Michigan Public Service Commission* v. *Trunkline Gas Co., et al.*, 24 FERC ¶ 61,013 (1983) (Docket Nos. RP81-103-000); *Texas Gas Transmission Corp., et al.*, 24 FERC ¶ 61,049 (1983) (Docket No. RP82-137-000); and *Columbia Gas Transmission Corp.* v. *Tennessee Gas Pipeline Co.*, —— FERC ¶ —— (1985) (Docket Nos. RP83-8-000, *et al.*) (issued April 16, 1985)

[9] *See, supra* n.1

[10] *See* the Phases II and III comments of the Designated Producers (at 11).

[11] *See* the Phases II and III comments of Natural Gas Pipe Line Co. of America (at 37); Consolidated Gas Transmission Corp. (at 22); United Gas Pipe Line Co. (at 25-26); Transcontinental Gas Pipe Line Corp. (at 24); Western Gas Interstate (at 12); and ARKLA Energy Resources (at 13).

[12] *See* the Phases II and III comments of East Tennessee Group (at 28) (current take-or-pay responsibilities should be shared between pipeline and customer) and the Wisconsin Distributors Group (at 17-19).

[13] *See* the Phases II and III comments of Peoples Gas Light and Coke (at 39-40) and Pacific Gas Lighting Corp. (at 22).

[14] *See* the Phases II and III comments of Northern Illinois Gas Co. (at 14-15) and the American Gas Association (at 27).

End users who addressed this question mostly agreed that customers ought to be responsible for take-or-pay costs, but only firm sales customers on whose behalf such costs were incurred. Thus, transportation and interruptible customers should not bear any take-or-pay related costs.[15]

The commenters frequently did not distinguish between *pre*payments made pursuant to a contract that may have been (or may be) forfeited because of the inability to make up the prepaid gas and *payments* made as full or partial consideration to revise a contract. We find that distinction significant, however, and adopt the present policy regarding the latter type of payment *only*.

New § 2.76(a) of our statement of general policy and interpretation declares:

> A first seller of natural gas that receives payments as consideration for amending or waiving the take-or-pay or similar minimum payment provisions of a contract for the first sale of natural gas is not in violation on section 504(a) of the NGPA.

This conclusion of law flows straight from the NGPA. Section 504(a) makes it unlawful for any person "to sell natural gas at a first sale price in excess of any applicable maximum lawful price under this Act." The maximum lawful prices themselves are set forth in sections 102 to 109 of the Act. In each case the maximum lawful price is imposed on the "first sale" of natural gas only. The term "sale" is defined by section 2(20) to include any "sale, exchange, or other transfer for value." The term "first sale" is defined by section 2(21) to encompass the sales of "any volume of natural gas" to or by specified entities.

It appears plain that nowhere in the NGPA did Congress establish statutory ceilings on payments which purchasers of natural gas may make to producers for the purpose of resolving past or future liability for actual or potential breaches of contract, *not* for paying a "first sale" price for "natural gas" "delivered" during a particular month.

The fact that there are no statutory ceilings under the NGPA on such payments does not mean that such payments are exempt from regulatory review. Rather, they assume the status of countless other types of expenses for unregulated goods and services which pipelines incur in the course of their business operations.

Indeed the simplest analogy would be to an electric utility which purchases coal to generate electricity and makes all its sales subject to our jurisdiction under the Federal Power Act. As to price, coal is a wholly unregulated commodity, similar to price-decontrolled natural gas supplies at the wellhead. A jurisdictional electric utility that entered into long term contracts for the purchase of coal might find itself with more coal than it could use. It might negotiate with its coal suppliers and make payments to terminate or modify its purchase obligations. The utility could file under section 205 of the FPA to recover these payments from its jurisdictional customers. The customers would have the opportunity to review and contest the prudence of the utility's action. While there is a presumption of prudence that may attach, the ultimate burden of establishing prudence is on the filing utility.[16]

The same approach applies under section 4 of the NGA. This is now spelled out in § 2.76 (b)–(d).

Finally, we note that in some instances, subsequent Commission action under section 7 of the NGA may be required to effectuate contract renegotiations. This arises from the fact that the sale of some gas remains subject to our NGA jurisdiction. For example, if a pipeline were to agree with a producer to terminate their contract so that the producer could seek alternative markets for its gas, the producer would require abandonment authorization under section 7(b) of the NGA. Similarly, if the agreement included a modification of the contract terms, the producer might be required to seek an amendment to its certificate issued under section 7(c) of the NGA.

It would appear that, as a general matter, the public interest will be furthered by expeditiously granting the required regulatory approvals under these circumstances. This policy is set forth in § 2.76(e).

V. Conclusion

The Commission is well aware of the industry's ongoing efforts to adjust the underlying wellhead contracts to better reflect current market realities. We believe that one workable approach to this problem is the payment of one-time non-recoupable amounts in exchange for contractual revision or termination. We intend the present policy statement to provide guidance to the public as efforts continue to adapt to the partial removal of wellhead price controls, pursuant to Congressional mandate.

VI. Public Procedure and Effective Date

In accordance with section 4(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)), the Commission finds that public notice and comment on this statement of policy and interpretive rule are unnecessary. Insofar as the amendment to Part 2 of the Commission's regulations is not merely procedural in nature, it is a statement of policy and interpretive rule that articulates the Commission's policy disposition and does not have the force and effect of law. Although the Commission is mindful that application of this policy in individual cases must be supported as if the policy had not been issued, it expects that, where appropriate, this approach to disposing of the type of payments discussed above will apply to Commission proceedings.

In accordance with section 4(d)(2) of the APA (5 U.S.C. 553(d)(2)), this statement of policy and interpretive rule is effective immediately.

List of Subjects in 18 CFR Part 2

Administrative practice and procedure, Electric power, Environmental impact statements, Natural gas pipelines, Reporting and recordkeeping requirements.

In consideration of the foregoing, Part 2, Chapter I, Title 18 of the Code of Federal Regulations, is amended as set forth below.

By the Commission.

Kenneth F. Plumb,

Secretary.

1. The authority citation for Part 2 is added to read as follows:

Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Exec. Order No. 12009, 3 CFR 142 (1978); Federal Power Act, 16 U.S.C. 792–825r (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act of 1978, 15 U.S.C. 3301–3432 (1982); Public Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601–2645 (1982); and the National Environmental Policy Act, 16 U.S.C. 432–4361 (1978), unless otherwise indicated.

2. The Table of Contents of Part 2 is amended by adding a new § 2.76, to read as follows:

[15] See the Phases II and III comments of Process Gas Consumers Group and American Paper Institute.

[16] *Southern California Edison Co.*, 8 FERC ¶ 61,196 (1979), *aff'd sub nom. Cities of Anaheim, et al.*, v. *FERC*, 669 F.2d 779, 800–801 (D.C. Cir. 1981); *New England Power Co.*, 8 FERC ¶ 61,054 (1979), *aff'd sub nom. NEPCO Municipal Rate Committee* v. *FERC*, 668 F.2d 1327 (D.C. Cir. 1981), *cert. denied*, 457 U.S. 1117 (1982); *Northern States Power Co.*, Opinion No. 134, 17 FERC ¶ 61,196 (1981), *aff'd sub nom. South Dakota Public Utilities Commission* v. *FERC*, No. 82–1276 (8th Cir. Oct. 19, 1982); *Pennsylvania Power Co.*, 26 FERC ¶ 61,354 (1984); *Public Service Co. of New Hampshire*, 6 FERC ¶ 61,299 (1979); and *Minnesota Power & Light Co.*, 11 FERC ¶ 61,313 (1980).

PART 2—GENERAL POLICY AND INTERPRETATIONS

* * * * *

Statements of General Policy and Interpretations Under the Natural Gas Act

* * * * *

Sec.

2.76 Regulatory treatment of payments made in lieu of take-or-pay obligations.

* * * * *

3. Section 2.76 is added to read as follows:

§ 2.76 Regulatory treatment of payments made in lieu of take-or-pay obligations.

With respect to payments made to a first seller of natural gas as consideration for waiving or revising any agreement for the first sale of natural gas, as defined by section (2)(21) of the Natural Gas Policy Act (NGPA), the Commission sets forth the following statement of general policy and interpretation of law.

(a) *Payments in consideration.* A first seller of natural gas that receives payments as consideration for amending or waiving the take-or-pay or similar minimum payment provisions of a contract for the first sale of natural gas is not in violation of section 504(a) of the NGPA.

(b) *Recovery in rates.* A pipeline that makes any payments referred to under paragraph (a) to first sellers may file to recover such costs in any section 4(e) rate filing other than a filing to recover purchased gas costs.

(c) *Case-specific review.* A pipeline's method of recovering these costs and how it should apportion them among customers will be addressed on a case-by-case basis in the context of individual rate case filings.

(d) *Customers' rights.* When a pipeline seeks to recover payments referred to under paragraph (a) of this section, its customers will have the full opportunity contemplated by section 4 of the Natural Gas Act to raise questions as to the prudence of such payments, the apportionment of costs among customers proposed by the filing pipeline, and any other reasonably related matters.

(e) *Certificate amendments and abandonment.* With regard to natural gas the sale of which is subject to the Commission's jurisdiction under the Natural Gas Act, if any payments referred to under paragraph (a) of this section are accompanied by a change in or a termination of, the first seller's contractual obligation to provide natural gas service, the Commission will, as a general policy under sections 7(c) and (b) of the Natural Gas Act, expeditiously grant any certificate amendments or abandonment authorizations required to effectuate such contractual or service modifications.

[FR Doc. 85-9843 Filed 4-23-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 184

[Docket No. 78N-0281]

GRAS Status of Magnesium Carbonate, Magnesium Chloride, Magnesium Hydroxide, Magnesium Oxide, Magnesium Phosphate, Magnesium Stearate, and Magnesium Sulfate

Correction

In FR Doc. 85-8142, beginning on page 13557, in the issue of Friday, April 5, 1985, make the following corrections:

§ 184.1425 [Corrected]

1. On page 13559, first column, seventh line of § 184.1425(c)(1), "§ 180.3" should have read "§ 170.3".

§ 184.1426 [Corrected]

2. Also on page 13559, first column, third line of § 184.1426(b), "p. 117" should have read "p. 177".

BILLING CODE 1505-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300113A; FRL-2823-2]

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Mono and Dialkyl (C_8–C_{18}) Methylated Ammonium Chloride Compounds

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts mono- and dialkyl (C_8–C_{18}) methydated ammonium chloride compounds, where the alkyl group(s) are derived from coconut, cottonseed, soya, tallow, or hogfat fatty acids, from the requirement of a tolerance when used as inert ingredients (surfactants and related adjuvants of surfactants) in pesticide formulations. This regulation was requested by Akzo Chemie America.

EFFECTIVE DATE: Effective on April 24, 1985.

ADDRESS: Written objections may be submitted to the Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of February 13, 1985 (50 FR 6011), which announced that Akzo Chemie America, McCook, IL 60625, had requested that 40 CFR 180.1001(d) be amended by expanding the existing exemption from the requirement of a tolerance from "dialkyl (C_8–C_{18}) dimethyl ammonium chloride, (C_8–C_{18}) groups from tallow" to "mono- and dialkyl (C_8–C_{18}) methylated ammonium chloride compounds, where the alkyl group(s) (C_8–C_{18}) are derived from coconut, cottonseed, soya, tallow, or hogfat fatty acids." The existing exemption is listed for use as surfactants and related adjuvants of surfactants in pesticide formulations applied to growing crops only. The amendment would also be for use as surfactants and related adjuvants of surfactants. A separate entry is not necessary in order to reflect this change.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nonoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, these ingredients are useful and do not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee

received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption for the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

Dated: April 10, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(d) is amended by removing the entity "dialkyl (C_8–C_{18}) dimethyl ammonium chloride, (C_8–C_{18}) group from tallow," and alphabetically inserting the following entry, to read as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredients	Limits	Uses
* * * * *		
Dialkyl (C_8–C_{18}) dimethyl ammonium chloride, (C_8–C_{18}) group from tallow. [Deleted].	———	Surfactants, related adjuvants of surfactants. [Deleted]
* * * * *		
Mono and dialkyl (C_8–C_{18}) methylated ammonium chloride compounds, where the alkyl group(s) (C_8–C_{18}) are derived from coconut, cottonseed, soya, tallow, or hogfat fatty acids.	———	Surfactants, related adjuvants of surfactants.
* * * * *		

* * * * *

[FR Doc 85-9602 Filed 4-23-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300114A; FRL-2823-3]

Pesticide Programs; Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities; Sodium Benzoate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule exempts sodium benzoate from the requirement of a tolerance when used as an inert ingredient (anticaking agent, stabilizer, preservative) in pesticide formulations. This regulation was independently requested by American Cyanamid Co. (for use as an anticaking agent) and Fairfield American Corp. (for use as a stabilizer/preservative).

EFFECTIVE DATE: Effective on April 24, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: N. Bhushan Mandava, Registration Support and Emergency Response Branch, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-7700.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the **Federal Register** of February 13, 1985 (50 FR 6012), which announced that the American Cyanamid Co., Wayne, NJ 07470, and the Fairfield American Corp., Frenchtown, NJ 08825, had requested that 40 CFR 180.1001(e) be amended by establishing an exemption from the requirement of a tolerance for sodium benzoate when used as an anticaking agent (American Cyanamid Co.) or stabilizer/preservative (Fairfield American Corp.) in pesticide formulations applied to animals.

Inert ingredients are ingredients that are not active ingredients as defined in 40 CFR 162.3(c), and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting and spreading agents; and propellants in aerosol dispensers; and emulsifiers. The term "inert" is not intended to imply nontoxicity; the ingredient may or may not be chemically active.

In the proposed rule, EPA stated the basis for a determination that when used in accordance with good agricultural practices, this ingredient is useful and does not pose a hazard to humans or the environment.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The pesticide is considered useful for the purpose for which the exemption is sought. It is concluded that the exemption from the requirement of a tolerance will protect the public health and is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

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

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a (e)))

Dated: March 21, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR 180.1001(e) is amended by adding and alphabetically inserting the inert ingredient as follows:

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(e) * * *

Inert ingredients	Limits	Uses
* * * * *		
Sodium benzoate (CAS Registry No. 532-32-1).	———	Anticaking agent/ stabilizer/ preservative.
* * * * *		

[FR Doc. 85-9601 Filed 4-23-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

Tolerances and Exemptions From Tolerances for Pesticide Chemicals in or on Raw Agricultural Commodities

CFR Correction

At 45 FR 36399, May 30, 1980, § 180.1001 was amended by reinstating certain chemicals in the table in paragraph (d). The entry for "polyoxyethylated sorbitolfatty acid esters" was correctly added to the July 1, 1980, CFR edition of Title 40, Parts 150–189, but inadvertently omitted from subsequent editions of the CFR. The entry, as set forth below, will be reinstated in the July 1, 1985, CFR edition.

§ 180.1001 Exemptions from the requirement of a tolerance.

* * * * *

(d) * * *

Inert ingredient	Limits	Uses
* * * * * *		
Polyoxyethylated sorbitolfatty acid esters; the polyoxyethylated sorbitol solution containing 15% water is reacted with fatty acids limited to C_{12}, C_{14}, C_{16}, and C_{18} containing minor amounts of associated fatty acids; the poly (oxyethylene) content averages 30 moles		Surfactants, related adjuvants surfactants.
* * * * * *		

* * * * *

BILLING CODE 1505-02-M

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–20

[FPMR Temp. Reg. D–72]

Management of Buildings and Grounds

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Temporary regulation.

SUMMARY: This General Services Administration (GSA) Temporary Regulation revises the regulations regarding the delegation of authority to tenant agencies to contract for reimbursable special space alterations. The current $10,000 limitation to contract directly for special space alterations is being revised to $25,000. The regulation is also being revised so agencies may contract directly for these alterations regardless of whether GSA indefinite quantity contracts or unit price agreements are in effect. Agencies can still order from ongoing GSA contracts or agreements. These changes are intended to improve service delivery, and amend the delegated dollar limitation consistent with the $25,000 ceiling for small purchase procedures. Agencies will have more flexibility in achieving their program requirement.

DATES: *Effective Date:* April 24, 1985.

Expiration date: Two years from effective date. (April 24, 1987).

FOR FURTHER INFORMATION CONTACT: James Marsden, General Services Administration, Office of Buildings Management, (PB), Washington, DC 20405, (202) 566–1563.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this temporary regulation 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; 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.

GSA, in its efforts to improve the management of the reimbursable program, will delegate greater authority to client agencies for accomplishing alterations which are not provided by Public Building Service under the Standard Level User Charge (SLUC). The increase in authority delegated to agencies to contract for their own alterations should result in elimination of a large number of smaller reimbursable work requests and allow GSA and tenant agencies to more effectively use its resoures to provide better services. Under the delegation, agenices may accomplish, within PBS guidelines and standards, alterations valued at $25,000 or less. These alterations may be ordered from ongoing indefinite quantity contracts or unit price agreements, or contracted for directly whether or not these GSA contracts are available.

List of Subjects in 41 CFR Part 101–20

Fire prevention, Blind, Safety, Concessions, Crime, Federal buildings and facilities, Government property management, Security measures.

PART 101–20—MANAGEMENT OF BUILDINGS AND GROUNDS

1. The authority citation for Part 101–20 is as follows:

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

2. In 41 CFR Chaper 101, the following temporary regulation is added to the appendix at the end of Subchapter D to read as follows:

Federal Property Management Regulations Temporary Regulation D–72

March 28, 1985.

To: Heads of Federal agencies.

Subject: Delegation of Authority to Tenant Agencies to Contract for Reimbursable Special Space Alterations.

1. *Purpoose.* This regulation amends instructions regarding the use of the provisions in Part 101–20, Management of Buildings and Grounds.

2. *Effective date.* This regulation is effective April 24, 1985.

3. *Expiration date.* This regulation expires two years from effective date (April 24, 1987), unless sooner superseded or canceled.

4. *Background.* General Services Administration (GSA), in its efforts to improve the management of the reimbursable program, will delegate greater authority to client agencies for accomplishing alterations which are not provided by Public Building Service (PBS) under the Standard Level User Charge (SLUC). Under the delegation, agencies may accomplish, within PBS guidelines and standards, alterations valued at $25,000 or less. These alterations may be ordered from ongoing indefinite quantity contracts or unit price agreements, or contracted for directly whether or not these GSA contracts are available. The increase in authority delegated to agencies to contract for their own alterations should result in elimination of a large number of smaller reimbursable work requests and allow GSA and tenant agencies to more effectively use its resources to provide better services.

5. *Effect on other directives.* Until further notice agencies are directed to take no actions pursuant to the following provisions of Part 101–20.105 is amended by revising paragraph (a) to read as follows:

(a) Special Space alterations, except for communications/security systems, required by occupant agencies above the standard level provided by GSA and prescribed in § 101–20.102.

(1) Agencies may order special space alterations in Government owned and leased buildings from GSA indefinite quantity contracts or unit price agreements, or contract directly for special space alterations within the following parameters.

(2) Where GSA has operative indefinite quantity contracts and unit price agreements for accomplishment of space alterations in Government-owned and leased buildings, respectively, agencies may order against these contracts and agreements. Agencies wishing to use this authority shall submit names and addresses of proposed ordering officials and their alternates to the GSA buildings manager, who will submit them to the GSA contracting officer. Each agency shall be limited to one designated ordering official and one alternate in any building. The contracting officer shall designate in writing the ordering official and alternate by name and will authorize the contractor to accept orders from only the designated ordering official or alternate. The GSA contracting officer will advise the agencies' ordering officials and their alternates, in writing, of their responsibilities, authorities, and limitations under these contracts and agreements. Designated agency ordering officials may, with the prior written approval of the GSA buildings manager on each order, order special space alteration services available under these contracts and agreements. The GSA buildings manager with the assistance of the GSA contracting officer, Real Estate or Buildings Management Divisions, where applicable, shall review and approve the orders and modifications thereto based on, but not limited to, the following criteria:

(i) The work is compatible with, and will not adversely affect, building structures, fire and safety systems, mechanical/electrical systems, or historically preserved building features.

(ii) The work conforms to GSA standards for safety, space utilization, fire protection, and handicapped access.

(iii) In leased buildings, the work is acceptable to the lessor, not the responsibility of the lessor, and within the Economy Act Limitations.

(iv) Whether it is feasible for Government (force account) personnel to perform the work.

(v) Whether it is feasible to combine the work with other similar scheduled work in a building.

(vi) In Government-owned buildings, the work is not already included in a prospectus.

(vii) Only scheduled items have been ordered.

(3) No individual order or combination of orders for a special space alteration project against GSA contracts or agreements shall exceed $25,000. Requirements aggregating more than $25,000 shall not be split into several orders of less than $25,000. Agencies shall use the Optional Form 347, Order for Supplies or Service or an approved agency purchase order form to order special space alteration services under these GSA contracts and agreements. Any disputes between any agency ordering official and a contractor concerning the provisions of, or performance under, an indefinite quantity contract or unit price agreement that cannot be resolved by mutual agreement shall be referred to the GSA contracting officer for appropriate action. For all orders against GSA contracts or agreements, agency ordering officials shall furnish within 10 calendar days of preparation one copy each of the ordering document and final payment document to the buildings manager and to the GSA Contracting Officer. The final payment voucher shall be supported with the following documents:

(i) Contractor's release of claims against the Government.

(ii) Contractor's certification of payments to subcontractors and suppliers.

(iii) Certification that work has been inspected and accepted and meets the provisions of the contract, and that the contractor has complied with all provisions of the contract regarding the subject delivery order.

(4) An agency may contract directly for services up to a maximum of $25,000 per project, after obtaining written approval of the GSA buildings manager, regardless of whether GSA contracts or agreements are in effect. Agencies contracting directly must provide the GSA buildings manager with complete documentation of the scope of work and contract specifications at the time of submission for approval. GSA review and approval for agency-written contracts will be based on the same criteria applied to orders aganist GSA contracts and agreements.

(5) Agencies shall be responsible for inspecting and certifying satisfactory completion of the ordered work and for contractor compliance with the provisions of all agency-ordered work, whether against GSA contracts and agreements or agency-written contracts. Agencies shall institute procedures that are adequate to ensure separation of the ordering process from the inspection and acceptance process. Where alterations will affect the classification or utilization of space, or involve special wall finishes or other nonstandard items or facilities, Real Estate Division's approval is required. The agency's initial approval submission on all alterations under this delegation of authority must include a layout of the agency's space to assist in the evaluation. The agency must identify the amount of alterations subject to the Economy Act limitation, and, if GSA advises that the 25 percent limit has been reached, the agency must prepare a Certificate of Determination before the work will be approved. As built drawing must be submitted within 30 days of completion.

Dwight Ink,

Acting Administrator of General Services.

[FR Doc. 85–9877 Filed 4–23–85; 8:45 am]

BILLING CODE 6820–23–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Parts 2550 and 2910

[Circular No. 2563]

Mining Claim Occupancy Act and Leases; Removal of Provisions Covering the Mining Claim Occupancy Act

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: This final rulemaking removes the existing regulations covering mining claim occupancy from 43 CFR Parts 2550 and 2910. These regulations are no longer needed because the Mining Claim Occupancy Act, the Act of October 23, 1962, as amended, expired on June 30, 1971. The Act authorized the Secretary of the Interior to convey to any qualified applicant occupying an unpatented mining claim that is determined to be invalid an interest, up to and including a fee simple interest, in and to an area within the claim of either title to not more than five acres or title to the acreage actually occupied by the applicant, whichever is less. The regulations have been retained to facilitate the handling of applications pending at the time the Act expired.

EFFECTIVE DATE: May 24, 1985.

ADDRESS: Inquiries or suggestions should be sent to: Director (320), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Mark D. Etchart, (202) 343–8693.

SUPPLEMENTARY INFORMATION: The final rulemaking removes from the existing regulations provisions concerning the Mining Claim Occupancy Act, the Act of October 23, 1962, as amended (30 U.S.C. 701–709), from 43 CFR Parts 2550 and 2910. The provisions are being removed because the Mining Claim Occupancy Act expired on June 30, 1971. The regulations deleted by this final rulemaking have been retained to facilitate the handling of those mining claim occupancy applications that were pending at the time the Act expired. All pending actions have been completed and the regulations are no longer needed.

The principal author of this final rulemaking is Mark D. Etchart, Division of Lands, Bureau of Land Management, assisted by the staff of the Office of Legislation, Bureau of Land Management.

The changes made by this final rulemaking are in compliance with the

provisions of the Mining Claim Occupancy Act which expired under its own provisions on June 30, 1971. The regulatory provisions removed by this final rulemaking were retained to facilitate the processing of applications pending with the Bureau of Land Management at the time the Act expired. Now that all of those actions have been completed, the provisions are no longer needed and this administrative action removes them from the Code of Federal Regulations. Even though all applications covered by the Mining Claim Occupany Act have been processed, rights, such as life estates and leases, granted under the Act may still exist. The Bureau of Land Management does not expect any issues to arise under these existing rights requiring consideration under the regulations that are being deleted by this final rulemaking. However, if such an issue should arise, it will be adjudicated under the regulations that are being deleted by this final rulemaking since they have remained unchanged, except for recodification, since originally issued.

It is hereby determined that this rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is required.

The Department of the Interior has determined that this document is not a major rule under Executive Order 12291 and that it 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.).

There are no information collection requirements contained in this final rulemaking requiring the approval of the Office of Management and Budget under 44 U.S.C. 3507.

List of Subjects

43 CFR Part 2550

Mines, Public lands, Public lands—sales.

43 CFR Part 2910

Airports, Alaska, Mines, Public lands, Recreation areas, Waste treatment and disposal.

Under the authority of the Mining Claim Occupancy Act, as amended (30 U.S.C. 701–709), Parts 2550 and 2910, Group 2000, Subchapter B, Chapter II of Title 43 of the Code of Federal Regulations is amended as set forth below.

April 17, 1985.

J. Steven Griles,

Deputy Assistant Secretary of the Interior.

PART 2550—[REMOVED]

1. Part 2550 is removed in its entirety.

PART 2910—[AMENDED]

§§ 2914.0-3—2914.0-7 [Removed]

2. Part 2910 is amended by removing Subpart 2914 (§§ 2914.0-3—2914.0-7) in its entirety.

[FR Doc. 85-9831 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-84-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84-371; RM-4682]

TV Broadcast Stations in Holly Springs, MS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action assigns UHF television Channel 40 to Holly Springs, Mississippi, as its first commercial television assignment in response to a petition filed by North Mississippi Broadcasters.

EFFECTIVE DATE: May 24, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), table of assignments, TV broadcast stations, (Holly Springs, Mississippi); MM Docket 84-371, RM-4682.

Adopted: April 10, 1985.
Released: April 17, 1985.

By the Chief, Policy and Rules Divisions.

1. The Commission herein considers the *Notice of Proposed Rule Making*, 49 FR 17980, published April 26, 1984, which invited comments on a proposal to assign UHF television Channel 40 to Holly Springs, Mississippi. The *Notice* was issued in response to a petition filed by North Mississippi Broadcasters ("petitioner"). Supporting comments were filed by the petitioner, restating its intent to apply for the channel, if assigned.

2. Based on the petitioner's interest in operating a television station at Holly Springs, we believe that the public would benefit by the assignment of UHF television Channel 40 to Holly Springs, Mississippi, as its first television broadcast service. The channel can be assigned in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Rules.

3. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, as §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective May 24, 1985, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended as follows:

City	Channel No.
Holly Springs, Mississippi	40

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

5. For further information concerning the above, contact Montrose H. Tyree, Mass Media Bureau, (202) 634-6530.

(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.

[FR Doc. 85-9863 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-1044; RM-4820]

TV Broadcast Stations in Myrtle Beach, SC

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein assigns UHF TV Channel 32 to Myrtle Beach, South Carolina, as that community's second local service, at the request of Moore Broadcast Industries, Inc.

EFFECTIVE DATE: May 24, 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.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), table of assignments, television broadcast stations, (Myrtle Beach, South Carolina); MM Docket No. 84–1044, RM–4820.

Adopted: April 10, 1985.
Released: April 17, 1985.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 49 FR 46447, published November 26, 1984, requesting comments on the assignment of UHF TV Channel 32 to Myrtle Beach, South Carolina, at the request of Moore Broadcast Industries, Inc. ("petitioner"). The assignment could provide Myrtle Beach with its second local television service. Channel 32 can be assigned in compliance with the Commission's minimum distance separation requirements, with a site restriction of 14.8 miles southwest of Myrtle Beach to avoid a short-spacing to Station WUNJ–TV, Wilmington, North Carolina, and to unused Channel *32 at High Point, North Carolina.

2. Petitioner filed comments reiterating its intention to apply for the channel. Comments were also filed by Carolina Christian Broadcasting, Inc. ("Carolina Christian"), licensee of Station WGSE–TV, Channel 43, Myrtle Beach. Carolina Christian does not oppose the assignment but filed comments solely to clarify statements made by the petitioner as to the amount of local news broadcast by Station WGSE–TV.

3. We believe the public interest would be served by assigning Channel 32 to Myrtle Beach as its second local service. Accordingly, pursuant to the authority contained 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 ordered, that effective May 24, 1985, the Television Table of Assignments § 73.606(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Myrtle Beach, South Carolina	32, 43+

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

5. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

(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.

[FR Doc. 9858 Filed 4–23–85; 8:45 am]

BILLING CODE 6712-01-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

48 CFR Parts 702 and 750

[AIDAR Notice 85–4]

Acquisition Regulations; Miscellaneous Amendments

AGENCY: Agency for International Development, IDCA.

ACTION: Final rule.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to reflect the latest redelegations of contracting authority within AID.

EFFECTIVE DATE: June 1, 1985.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SOD/FSR, Mrs. Elizabeth Cordaro, Telephone (703) 235–9855.

SUPPLEMENTARY INFORMATION: The definitions of AID contracting activities, and head of the contracting activity; and the section dealing with approving authorities for extraordinary contractual actions, are being revised to reflect the most current redelegations of contracting authority within AID.

None of the changes being made by this AIDAR Notice will have any significant impact on AID contractors or the general public. Therefore, the changes are not considered "significant" under OFPP Policy Letter 83–2, or FAR 1.303(b) or 1.501, and public comments have not been solicited.

This AIDAR Notice is not a major rule and is exempt from Sections 3 and 4 of E.O. 12291 by OMB Bulletin No. 85–7, December 14, 1983.

As required by the Regulatory Flexibility Act, it is hereby certified that AIDAR Notice 85–4 will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 48 CFR Parts 702 and 750

Government procurement.

PART 702—DEFINITIONS OF WORDS AND TERMS

1. Section 702.170–3 is revised to read as follows:

702.170–3 Contracting activities.

The contracting activities within AID are:

(a) *The AID/Washington activities.* The contracting activities located in Washington are the Office of Contract Management, Office of Management Operations, Office of Commodity Management, Office of Foreign Disaster Assistance, and Office of International Training. Subject to the limitations stated in 702.170–10, these contracting activities are responsible for procurement related to programs and activities for their areas. The Office of Contract Management is responsible for procurements which do not fall within the responsibility of other contracting activities, or which are otherwise assigned to it.

(b) *The overseas field contracting activities.* Each AID Mission overseas is a contracting activity, responsible for procurement related to their programs and activities, subject to the limitations in 702.170–10. Contracting authority for Mission Directors is set forth in 702.170–10. Specified individuals in the fields may be redelegated contracting authority by the Procurement Executive or his/her designee.

2. Section 702.170–10 is revised to read as follows:

702.170–10 Head of the contracting activity.

The heads of the contracting activities within AID are:

(a) *AID/Washington.*

Position	Limitaton
Director, Office of Contract Management.	None.
Director, Office of Management Operations.	Use of small purchase procedures ($25,000) for services and supplies funded by operating expense money. Unlimited authority when ordering against GSA or other established U.S. Government ordering agreements.
Director, Office of Commodity Management.	Use of small purchase procedures ($25,000) for services and supplies for the excess property program. Unlimited when ordering against GSA or other established U.S. Government ordering agreements for excess property-related procurements.
Director, Office of Foreign Disaster Assistance.	Contracts for disaster relief purposes during the first 72 hours of a disaster in a total amount not to exceed $500,000 (AID Handbook 8, Chapter 5). Routine small purchase authority ($25,000).
Director, Office of International Training.	Use of small purchase procedures up to $10,000. Unlimited for procuring participant training based on published catalog prices, using M/SER/CM approved forms.

Each of these Office Directors will issue warrants to qualified individuals to actually exercise the authority.

(b) *Overseas.*

Position	Limitation
Each Mission Director.	Each Mission Director has the authority to execute contracts and amendments thereto up to $100,000 in the aggregate. For personal services contracts, the limit is $250,000. The Mission Director may issue a warrant for small purchase authority ($25,000) directly to individuals on his/her staff.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

3. Section 750.7105 is revised to read as follows:

750.7105 Approving authorities.

All authority to approve actions under this subpart has been delegated to the Procurement Executive.

This AIDAR Notice is issued under the authority of Sec. 621, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, September 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Dated: April 17, 1985.

Paul Spishak,

Acting AID Procurement Executive.

[FR Doc. 85-9701 Filed 4-23-85; 8:45 am]

BILLING CODE 6116-01-M

48 CFR Parts 702, 705, 706, 714, 715, 750, and 752

[AIDAR Notice 85-5]

Acquisition Regulation Concerning Competition in Contracting and Miscellaneous Amendments

AGENCY: Agency for International Development, IDCA.

ACTION: Interim rule and request for comment.

SUMMARY: The AID Acquisition Regulation (AIDAR) is being amended to implement The Competition in Contracting Act of 1984 (CICA) in compliance with the requirements of the Federal Acquisition Regulations (FAR).

DATES: *Effective Date:* April 1, 1985.

Comment Date: Comments must be received on or before May 24, 1985. Please cite AIDAR Notice 85-5 in all correspondence.

ADDRESS: Interested parties should submit comments to: Agency for International Development, ATTN: M/SER/CM/SD/POL, Washington, D.C. 20523.

FOR FURTHER INFORMATION CONTACT: M/SER/CM/SD/POL, Mr James M. Kelly. Telephone (703) 235-9107.

SUPPLEMENTARY INFORMATION: This AIDAR Notice amends the AIDAR to conform the regulation to the requirements of the CICA, and the FAR implementation of the CICA (FAR Circular 84-5, 50 FR 1726, January 11, 1985). This AIDAR Notice is effective for all solicitations issued on or after April 1, 1985.

Subpart 715.6, Source Selection, has been revised to conform the section and paragraph numbering system with recent OFPP suggestions and to change the contracting officer's "concurrence" to "approval" in the determinations required by the educational institutions and international research center and the collaborative assistance selection procedures.

This AIDAR Notice implements the CICA and FAR Circular 84-5 with no deviations from the requirements of either document, and without significant supplementation.

This AIDAR Notice, which is not a major rule, was submitted to OMB for E.O. 12291 review as required by OMB Bulletin No. 85-7, dated December 14, 1984.

As required by the Regulatory Flexibility Act, it is hereby certified that AIDAR Notice 85-4 will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 48 CFR 702, 705, 706, 714, 715, 750, 752, and Appendices

Government procurement.

PART 702—DEFINITIONS OF WORDS AND TERMS

702.170-14 and 702.170-15 [Redesignated as 702.170-15 and 702.170-16]

1. Subsections 702.170-14 and 702.170-15 are redesignated as 702.170-15 and 702.170-16, respectively, and a new 702.170-14 is added as follows:

702.170-14 Senior Procurement Executive.

"Senior Procurement Executive" is synonymous with the term "Procurement Executive", as defined in 702.170-13 of this subpart.

PART 705—PUBLICIZING CONTRACT ACTIONS

705.001 [Redesignated as 705.002]

2. Part 705 is amended by redesignating section 705.001 as 705.002.

3. A new Part 706 is added as follows:

PART 706—COMPETITION REQUIREMENTS

Subpart 706.1—Full and Open Competition

Sec.

706.101-70 Policy.

Subpart 706.2—Full and Open Competition After the Exclusion of Sources

706.201-70 Policy.

Subpart 706.3—Other than Full and Open Competition

706.303-1 Requirements.

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381), as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Subpart 706.1—Full and Open Competition

706.101-70 Policy.

The selection procedures in 715.613-70 and 715.613-71 of this chapter meet the requirement for full and open competition when the determinations required by 715.613-70(c) and 715.613-71(b)(1)(ii) are properly made. No other justifications or approvals are required.

Subpart 706.2—Full and Open Competition After the Exclusion of Sources

706.201-70 Policy.

Since procurements by Missions overseas are generally exempt from synopsizing in the CBD by FAR 5.201(b), the requirement for full and open competition is met for such procurements when the competitive procedures prescribed in FAR 6.102 are used for those procurements where it is not practical to synopsize in the CBD, and the contracting officer follows the optional publicizing methods authorized by both FAR 5.101(a)(2) and FAR 5.101(b), as appropriate. No other justifications or approvals are required.

Subpart 706.3—Other Than Full and Open Competition

706.303-1 Requirements.

(a)-(c) [Reserved]

(d) AID project procurements are generally not subject to the Trade Agreements Acts of 1979 (see 725.403 of this chapter). To the extent procurements are made under the authority of FAR 6.302-3(a)(2)(i) or FAR 6.302-7 with Operating Expenses (OE) Funds, the Contracting Officer shall send a copy of the justification to the Office of the United States Trade Representative, 600 17th Street, NW., Washington, D.C. 20506, ATTN: Director, International Procurement Policy.

4. Part 714 is amended by revising the part title as follows:

PART 714—SEALED BIDDING

PART 715—CONTRACTING BY NEGOTIATION

5. The authority citation for Part 715 is revised to read as follows:

Authority: Sec. 621, Pub. L. 87-195, 75 Stat. 445 (22 U.S.C. 2381) as amended; E.O. 12163, Sept. 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435.

Subpart 715.2—Negotiation Authorities [Removed]

6. Subpart 715.2 is removed.

715.507 [Removed]

7. Subpart 715.5 is amended by removing section 715.507.

8. Section 715.608, Proposal evaluation, is amended by redesignating it as subsection 715.608-70, and by amending paragraph (b)(1)(iii), as follows:

715.608-70 Proposal evaluation.

* * * * *

(b) * * *

(1) * * *

(iii) The contracting officer is responsible for reviewing the written evaluation results to determine that they are adequate and complete.

* * * * *

715.613, 715.613-70, 715.613-70-1, 715.613-70-2, 715.613-70-3, 715.613-70-4, 715.613-71, 715.613-71-1, 715.613-71-2, 715.613-71-3, 715.613-71-4, 715.613-71-5 [Removed]

9. Sections 715.613, 715.613-70, 715.613-70-1, 715.613-70-2, 715.613-70-3, 715.613-70-4, 715.613-70-71, 715.613-71-1, 715.613-71-2, 715.613-71-3, 715.613-71-4, and 715.613-71-5 are removed.

10. Sections 715.613, 715.613-70 and 715.613-71 are added to read as follows:

715.613 Alternative source selection procedures.

715.613-70 Educational institution and international research center selection procedure.

(a) *Scope of subsection.* This subsection prescribes policies and procedures for the selection of contractors to perform projects which have been determined to require the services of an educational institution or international research center (see paragraphs (b) and (c) of this subsection.

(b) *Definitions.* (1) An educational institution, as used in this subsection, is any non-profit corporation, foundation, trust, or state or local governmental entity operated primarily as an institution of higher learning offering a course of general studies leading to the granting of academic degrees. Consortia whose membership consists exclusively of educational institutions, as defined above, are considered to be educational institutions.

(2) An international research center is an organization formally recognized and listed as such by the Assistant Administrator, Bureau for Science and Technology.

(c) *Applicability.* The provisions of this subsection are applicable when it has been determined by the project office, with the approval of the contracting officer, that the required skills or institutional relationships are available only from educational institutions or international research centers. This subsection is not applicable to contracts for collaborative assistance (see 715.613-71 of this subpart), or for architect-engineer services (see AIDAR 736.6 and FAR 36.6).

(d) *Solicitation, evaluation, and selection procedures.* (1) A sufficient number of sources shall be solicited to ensure that competition is obtained to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) Following the approval of the contracting officer in the decision that the required services are available only from an educational institution or international research center (see paragraph (c) of this section), the project office shall:

(i) Prepare selection criteria for evaluation of potential contractors for use in preparing the source list, determining predominantly qualified sources, and selecting the contractor;

(ii) Prepare an initial source list of institutions considered qualified to perform the proposed project;

(iii) Provide a statement providing a description of qualifications and areas of expertise considered essential, a statement of work, estimate of personnel requirements, special requirements (logistic support, government furnished property, and so forth) for the contracting officer's use in preparing the request for technical proposal (RFTP).

(iv) Send a memorandum incorporating paragraphs (d)(2) (i) through (iii) of this section, together with the "Action" copy of the PIO/T to the contracting officer, requesting him/her to prepare and distribute the RFTP from the source list provided.

(3) Upon receipt and acceptance of the project officer's request, the contracting officer shall prepare the RFTP. The RFTP shall contain sufficient information to enable an offeror to submit a responsive and complete technical proposal; this includes a definitive statement of work, an estimate of the personnel required, and special provisions (such as logistic support, government furnished equipment, and so forth), a proposed contract format, and evaluation criteria. No cost or pricing data will be requested or required by the RFTP. The RFTP will be distributed to the sources recommended by the project office, and to others, if appropriate. The RFTP will normally allow a minimum of 60 days for preparation and submission of a proposal.

(4) Upon receipt of responses to the RFTP by the contracting officer, an evaluation committee will be established as provided for in 715.608-70(a) of this subpart.

(5) The evaluation committee will evaluate all proposals in accordance with the criteria set forth in the RFTP, and will prepare a selection memorandum which shall:

(i) State the evaluation criteria;

(ii) List all of the institutions whose proposals were reviewed;

(iii) Report on the ranking and rationale therefor for all proposals;

(iv) Indicate the institution(s) considered best qualified.

(6) The evaluation committee will submit the selection memorandum to the contracting officer for review and approval.

(7) The contracting officer will either approve the selection memorandum, or return it to the evaluation committee for reconsideration for specified reasons.

(8) If the selection memorandum is approved, the contracting officer shall obtain cost, pricing, and other necessary data from the selected institution(s) and shall conduct negotiations with said institution(s). If a satisfactory contract cannot be obtained, the contracting officer will so advise the evaluation committee. The evaluation committee may then recommend alternate sources.

715.613-71 Collaborative assistance selection procedure.

(a) *Scope of section.* This subsection prescribes policies and procedures for the selection of contractors for collaborative assistance projects.

(b) *Definition.*

(1) A collaborative assistance project is any project for which it has been determined under paragraph (d) of this section that:

(i) A continuing collaborative relationship between AID, the host country, and the contractor is required from project design through completion of the project. AID, host country, and contractor participation in a continuing review and evaluation of the project is essential for its proper execution; and

(ii) The required skills or institutional relationships have been determined by the project office, with the approval of

the contracting officer to be available only from an educational institution, international research center (as defined in 714.613-70(b) of this subpart), or cooperative development organization (which are organizations recognized and listed as such by the Assistant Administrator, Bureau for Food for Peace and Voluntary Assistance).

(2) The collaborative assistance method is fully defined and discussed in AIDAR Appendix F—Use of Collaborative Assistance Method for Aid Direct Contracts for Technical Assistance.

(c) *Applicability.* The provisions of this subsection are applicable to all contracts implementing collaborative assistance projects.

(d) *Determination.* In order to prepare a contract under the collaborative assistance method, the determinations in paragraph (b)(1) of this section must be made in accordance with the following procedures:

(1) The responsible project office makes a preliminary finding that a project should be classed as collaborative assistance in accordance with paragraphs (b)(1) (i) and (ii) of this section.

(2) Based upon this preliminary finding, the project office shall establish an evaluation panel consisting of a representative of the project office as chairman; a representative of the Bureau for Science and Technology, for projects where the services of an educational institution or international research center are deemed necessary; a representative of the Bureau for Food for Peace and Voluntary Assistance, for projects where the services of a cooperative development organization are deemed necessary; a representative of the contracting office; and any other representatives considered appropriate by the chairman.

(3) The evaluation panel will review the proposed project; based on the panel's findings, the chairman will make the formal, written determinations as to whether or not the project is collaborative assistance as required by paragraphs (b)(1) (i) and (ii) of this section.

(e) *Evaluation and selection.* (1) As sufficient number of sources will be considered to ensure that competition is obtained to the maximum practicable extent; this requirement shall be deemed satisfied when a contractor is selected under the procedures of this subsection.

(2) Following determination that a project is in fact collaborative assistance, the evaluation panel shall:

(i) Prepare evaluation and selection criteria;

(ii) Prepare an initial source list including all potential sources known to have capabilities and expertise in the areas required by the proposed project; and

(iii) Evaluate the list, using the evaluation criteria previously determined, for the purpose of making a written determination of the source (or sources) considered most capable of performing the project.

(3) The chairman of the evaluation panel will prepare a memorandum to the contracting officer setting forth:

(i) The formal determination that the project is collaborative assistance,

(ii) The evaluation criteria which have been determined, and

(iii) The recommended source list and the rationale therefor, and requesting the contracting officer to prepare a request for expressions of interest from the qualified institution (or institutions).

(4) The contracting officer will prepare a request for an expression (or expressions) of interest (REI), containing sufficient information to permit an institution to determine its interest in the project, and to discuss the project with AID representatives, if appropriate. The request for expression of interest should include a concise statement of the purpose of the project, any special conditions or qualifications considered important, a brief description of the selection procedure and evaluation criteria which will be used (if expressions of interest are being requested from more than one institution), the proposed contract format, and any other information considered appropriate. The REI will be issued to the institution or institutions recommended by the panel; it will normally allow a minimum of 60 days for submission of an expression of interest. Guidelines for preparation of expressions of interest are contained in Attachment 1 to AIDAR Appendix F.

(5) The contracting officer will transmit all expressions of interest to the evaluation panel for evaluation and selection recommendation. The panel may conduct on site evaluations at its discretion, as part of the evaluation process.

(6) The chairman of the evaluation panel will prepare a written selection recommendation with supporting justification, recommending that negotiations be conducted with the prospective contractor(s) selected by the evaluation panel. The selection recommendation shall be transmitted to the contracting officer together with the complete official file on the project which was being maintained by the evaluation panel.

(7) The contracting officer will review the selection recommendation, obtain necessary cost and other data, and proceed to negotiate with the recommended source.

Subpart 715.10—Preaward and Postaward Notifications, Protests, and Mistakes [Removed]

11. Subpart 715.10 is removed.

PART 750—EXTRAORDINARY CONTRACTUAL ACTIONS

750.7107 [Amended]

12. Paragraph (a) of section 750.7107 of this part is amended by removing paragraph (a)(3), and by redesignating paragraph (a)(4) as paragraph (a)(3).

PART 752—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

752.7020 [Amended]

13. The contract clause at section 752.7020, Organizational Conflicts of Interest, is amended by changing the clause date from "(April 1984)" to "(March 1985)"; and by removing the words ". . . formally advertised . . .", as they appear in paragraph (c) of the clause, and inserting in their place ". . . sealed bidding . . .".

Appendix A—Respective Roles of Contracting and Other Personnel in the AID Procurement Process

14. Appendix A of this chapter is amended by revising paragraph 2(c) as follows:

* * * * *

2. *Planning, Competition, Negotiation, and Award.*

(a) * * *

(b) * * *

(c) One of the paramount duties of the contracting officer is to ensure full and open competition for any planned procurement. The procedures for procurement by sealed bid, or for procurement by negotiation, or for procurement by other than full and open competition differ; the contracting officer must determine the proper method of procurement and contract type, keeping the requirements for full and open competition in mind. The technical office has a continuing responsibility to assist the contracting officer in this effort to ensure full and open competition. This responsibility should be exercised through proper planning to allow sufficient lead time, and preparation of scopes of work designed to encourage full and open competition by avoiding specifications, descriptions, or work statements which could unnecessarily restrict competition.

* * * * *

Appendix F—Use of Collaborative Assistance Method for AID-Direct Contracts for Technical Assistance

15. Paragraph 1(b) of Appendix F of this Chapter is amended to delete the words "in the AID Acquisition Regulations (Subpart 736.6)" and to substitute the words "in FAR 36.6 and AIDAR 736.6".

16. Paragraph 4(c)(4), *Monitoring, joint evaluation and replanning,* is amended to delete the word "thorougly" in the third sentence of the second subparagraph, and to substitute the word "thoroughly".

This AIDAR Notice is issued under the authority of sec. 621, Pub. L. 87–195, 75 Stat. 445, (22 U.S.C. 2381) as amended; E.O. 12163, September 29, 1979, 44 FR 56673; 3 CFR 1979 Comp., p. 435).

Dated: April 15, 1985.

Paul Spishak,

Acting AID Procurement Executive.

[FR Doc. 85–9700 Filed 4–23–85; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 107

[Docket No. HM–194; Amdt. No. 107–13]

Designation of Testing Agencies; United Nations Packagings; Correction

AGENCY: Materials Transportation Bureau (MTB), Research and Special Programs Administration, DOT.

ACTION: Final rule; correction.

SUMMARY: This document corrects an error of omission found under §107.402(b)(4) of a final rule published under Docket HM–194 (50 FR 10060), which amended the Hazardous Materials Regulations (49 CFR Part 107) by establishing requirements that designate third-party packaging testing agencies, for the purpose of certifying the conformance of United States (U.S.) export packaging designs with the United Nations (U.N.) standards. The final rule under HM–194 has an effective date of July 1, 1985.

EFFECTIVE DATE: July 1, 1985. However, compliance with the regulations as amended is authorized as of March 13, 1985.

FOR FURTHER INFORMATION CONTACT: Thomas J. Charlton, Chief, Standards Division, Office of Hazardous Materials Regulation, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590. (202–426–2075).

SUPPLEMENTARY INFORMATION: This document reestablishes § 107.402(b)(4)(iv) of Title 49 CFR, Parts 100–177, which was inadvertently omitted in Docket HM–194. Due to a typographical error, this subparagraph was not republished in the **Federal Register** under Docket HM–194 on March 13, 1985.

The final rule published under HM–194 amended 49 CFR Part 107 of the Hazardous Materials Regulations in order to establish requirements that designate third-party testing agencies to certify the conformance of U.S. export packagings with the U.N. standards for packagings. The requirements are voluntary for shippers and container manufacturers.

The Materials Transportation Bureau has determined that his document will not result in a "major rule" under the terms of Executive Order 12291 or a significant regulation under DOT's regulatory policy and procedures (44 FR 11034), nor require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Based on limited information available concerning size and nature of entities likely to be affected by this amendment, I certify that this amendment will not have a significant economic impact on a substantial number of small entities because the overall economic impact of this amendment will be minimal. A regulatory evaluation and environmental assessment of the final rule are available for review in the docket. The economic impact of this document has been found to be so minimal that further evaluation is unnecessary.

List of Subjects in 49 CFR Part 107

Hazardous materials transportation, Administrative practice and procedure.

In consideration of the forgoing, **Federal Register** document (FR Docket 85–6028), published on March 13, 1985, under Docket HM–194 is hereby amended as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. On page 10062, at the bottom of the third column, § 107.402, paragraph (b)(4) is corrected by redesignating paragraph (iii) as paragraph (iv) and adding new paragraph (iii) to read as follows:

§ 107.402 Application for designation as an approval or certification agency.

* * * * *

(b) * * *

(4) * * *

(iii) The ability to conduct or monitor and evaluate test procedures and results; and

(iv) The ability to review and evaluate the qualifications of materials and fabrication procedures.

* * * * *

(49 U.S.C. 1804, 1805, 1808; (49 CFR 1.53 Appendix A to Part 1))

Issued in Washington, D.C. on April 18, 1985.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 85–9789 Filed 4–23–85; 8:45 am]

BILLING CODE 4910–60–M

Proposed Rules

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 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

Federal Crop Insurance Corporation

7 CFR Part 402

[Docket No. 1948S]

Raisin Corp Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) proposes to revise and reissue the Raisin Corp Insurance Regulations (7 CFR Part 402), effective for the 1985 and succeeding crop years. The intended effect of this rule is to provide for: (1) Removing the Premium Adjustment Table; (2) insuring raisins from vineyards operated to produce table grapes by separate agreement; (3) clarifying the procedures used to arrive at the insured tonnage; (4) elimination of the experience table; (5) limiting the reconditioning allowance to wash and dry reconditioning; (6) shortening the length of time an insured has to give notice of loss from 7 days to 72 hours; (7) changing the end of the insurance period from October 25 to October 20; (8) adding definitions for the terms "loss ratio", "raisins", "net ton", "USDA inspection", and "table grapes"; and (9) deleting Appendix A. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended.

DATES: Written comments, data, and opinions on this proposed rule must be submitted not later than May 24, 1985, to be sure of consideration.

ADDRESS: Written comments on this proposed rule may be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, D.C., 20250, telephone (202) 447-3325.

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulations No. 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulatons is January 1, 1990.

Merritt W. Sprague, Manager, FCIC, has determined that this action: (1) Is not a major rule as defined by Executive Order No. 12291 because it will not result in: (a) An annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the Federal paperwork burden for individuals, small businesses, and other persons.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

This action is exempt from the provisions of the Regulatory Flexibility Act; therefore, no Regulatory Flexibility Analysis was prepared.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Other than minor changes in language and format, the principal changes in the raisin policy are:

1. Section 2.f.—Add a provision to not insure table grapes placed on trays in some cases.

2. Section 4.d.(2)—Change to determine the insured tonnage by delivered tonnage, plus verifiable loss of production. Tray weight will be used to establish production only if some raisins are not removed from the vineyard.

3. Section 5.—Remove the Premium Adjustment Table. Insureds with good loss experience who are now receiving a premium discount are protected since they will retain any discount under the present schedule through the 1989 crop year or until their loss experience causes them to loss the advantage, whichever is earlier. Since those insureds with goods loss ratios and premium reductions stayed in the program while those with premium increases because of poor loss ratio tended to drop out, the premium structure under the premium adjustment table made actuarial projection difficult.

Remove the provisions for transfer of insurance experience and for premium computation when insurance has not been continuous. Deletion of the Premium Adjustment Table eliminates the need for these provisions.

4. Section 7.a.—Change the insurance ending date from October 25 to October 20.

5. Section 8.—Shorten from 7 days to 72 hours the length of time the insured has to give notice of loss to better enable FCIC to adjust the loss.

6. Section 9.f.—Provide a reconditioning allowance when raisins are high moisture due to rain.

7. Section 18.—Add definitions for the terms "loss ratio", "raisins", "net ton", "USDA inspection", and table grapes."

8. In addition to the policy changes, FCIC also proposes to eliminate the codification of Appendix A. Federal Crop Insurance for raisins has been expended into almost all counties where raisins are produced. FCIC service offices will be able to advise a producer if raisin insurance is offered in a county.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Part 402

Crop insurance, Raisins.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to revise and reissue the Raisin Crop Insurance Regulations (7 CFR Part 402), effective for the 1985 and succeeding crop years, to read as follows:

PART 402—RAISIN CROP INSURANCE REGULATIONS

Subpart—Regulations for the 1985 and Succeeding Crop Years

Sec.

402.1 Availability of raisin crop insurance.
402.2 Premium rates and amounts of insurance.
402.3 OMB control numbers.
402.4 Creditors.
402.5 Good faith reliance on misrepresentation.
402.6 The contract.
402.7 The application and policy.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Subpart—Regulations for the 1985 and Succeeding Crop Years

§ 402.1 Availability of raisin crop insurance.

Insurance shall be offered under the provisions of this subpart on raisins in counties within the limits prescribed by and in accordance with the provisions of the Federal Corp Insurance Act, as amended. The counties shall be designated by the Manager of the Corporation from those approved by the Board of Directors of the Corporation.

§ 402.2 Premium rates and amounts of insurance.

(a) The Manager shall establish premium rates and amounts of insurance per ton for raisins which will be included in the actuarial table on file in applicable service offices for the county and which may be changed from year to year.

(b) At the time application for insurance is made, the applicant will elect an amount of insurance per ton from among those amounts contained in the actuarial table for the crop year.

§ 402.3 OMB control numbers.

The information collection requirements contained in these regulations (7 CFR Part 402) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Nos. 0563-0003 and 0563-0007.

§ 402.4 Creditors.

An interest of a person in an insured crop existing by virtue of a lien, mortgage, garnishment, levy, execution, bankruptcy, involuntary transfer or other similar interest shall not entitle the holder of the interest to any benefit under the contract.

§ 402.5 Good faith reliance on misrepresentation.

Notwithstanding any other provision of the raisin insurance contract, whenever:

(a) An insured under a contract of crop insurance entered into under these regulations, as a result of a misrepresentation or other erroneous action or advice by an agent or employee of the Corporation: (1) Is indebted to the Corporation for additional premiums; or (2) has suffered a loss to a crop which is not insured or for which the insured is not entitled to an indemnity because of failure to comply with the terms of the insurance contract, but which the insured believed to be insured, or believed the terms of the insurance contract to have been complied with or waived; and

(b) The Board of Directors of the Corporation, or the Manager in cases involving not more than $100,000.00, finds that: (1) An agent or employee of the Corporation did in fact make such misrepresentation or take other erroneous action or give erroneous advice; (2) said insured relief thereon in good faith; and (3) to require the payment of the additional premiums or to deny such insured's entitlement to the indemnity would not be fair and equitable, such insured shall be granted relief the same as if otherwise entitled thereto;

Requests for relief under this section must be submitted to the Corporation in writing.

§ 402.6 The contract.

The insurance contract shall become effective upon the acceptance by the Corporation of a duly executed application for insurance on a form prescribed by the Corporation. The contract shall cover the raisin crop as provided in the policy. The contract shall consist of the application, the policy, and the county actuarial table. Any changes made in the contract shall not affect its continuity from year to year. The forms referred to in the contract are available at the applicable service offices.

§ 402.7 The application and policy.

(a) Application for insurance on a form prescribed by the Corporation may be made by any person to cover such person's share in the raisin crop as landlord, owner-operator, or tenant. The application shall be submitted to the Corporation at the service office on or before the applicable closing date on file in the service office.

(b) The Corporation may discontinue the acceptance of applications in any country upon its determination that the insurance risk is excessive, and also, for the same reason, may reject any individual application. The Manager of the Corporation is authorized in any crop year to extend the closing date for submitting applications in any county, by placing the extended date on file in the applicable service offices and publishing a notice in the **Federal Register** upon the Manager's determination that no adverse selectivity will result during the period of such extension. However, if adverse conditions should develop during such period, the Corporation will immediately discontinue the acceptance of applications.

(c) In accordance with the provisions governing changes in the contract contained in policies issued under FCIC regulations for the 1985 and succeeding crop years, a contract in the form provided for in this subpart will come into effect as a continuation of a raisin contract issued under such prior regulations, without the filing of a new application.

(d) The application for the 1985 and succeeding crop years is found at Subpart D of Part 400—General Administrative Regulations (7 CFR 400.37, 400.38) and may be amended from time to time for subsequent crop years. The provisions of the Raisin Insurance Policy for the 1985 and succeeding crop years are as follows:

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

Raisin—Crop Insurance Policy

(This is a continuous contract. Refer to Section 16.)

AGREEMENT TO INSURE: We will provide the insurance described in this policy in return for the premium and your compliance with all applicable provisions.

Throughout this policy, "you" and "your" refer to the insured shown on the accepted Application and "we," "us," and "our" refer to the Federal Crop Insurance Corporation.

Terms and Conditions

1. Causes of loss.

a. The insurance provided is against the unavoidable loss of production resulting from rain, occuring within the insurance period, to raisins while in the vineyard, on trays, or in rolls for drying unless limited by the actuarial table.

b. We will not insure against any loss of production due to:

(1) The neglect, mismanagement, or wrongdoing by you, any member of your household, your tenants or employees;

(2) The failure to follow recognized good raisin management practices;

(3) The impoundment of water by any governmental, public, or private dam or reservoir project; or

(4) Any cause other than rain.

2. Tonnage and share insured.

a. The crop insured for each crop year will be raisins of the grape varieties for which an amount of insurance and premium rate are provided by the actuarial table.

b. The tonnage insured for each crop year will be the tonnage in which you have a share, as reported by you or as determined by us, whichever we elect.

c. Raisins laid on trays after September 20 will not be insured.

d. The insured share will be your share as landlord, owner-operator, or tenant in the insured raisins at the time insurance attaches.

e. We do not insure any raisins which are placed on trays after the date specified by the actuarial table.

f. We do not insure any raisins from table grapes (or any raisins that have had manual, mechanical, or chemical treatment to produce table grape sizing) unless we agree in writing to insure such raisins.

3. Report of tray count, tonnage, and share.

You must report on our form:

a. For all raisins which are not damaged, the net tons of insured raisins produced in the county in which you have a share and your share as soon as delivery records are available;

b. For insured raisins which are damaged:

(1) The name of the variety;

(2) The location of the vineyard;

(3) The number of trays upon which the raisins have been placed for drying; and

(4) Your share.

You must report separately any tonnage that is not insurable. You must report if you do not have a share in any insurable tonnage in the county. This report must be submitted annually on or before March 1. Indemnities may be determined on the basis of information you have submitted on this report. If you do not submit this report by the reporting date, we may determine by unit the insured tonnage and share or we may deny liability on any unit. Any report submitted by you may be revised only upon our approval.

4. Amount of insurance and coverage levels.

a. The amounts of insurance and coverage levels are contained in the actuarial table.

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

c. You may change the amount of insurance and coverage level on or before the closing date for submitting applications for the crop year as established by the actuarial table.

d. The amount of insurance for the unit will be determined by multiplying the insured tonnage times the amount of insurance per ton, times your share. Insured tonnage is determined by:

(1) For raisins not damaged by rain, the delivered tonnage; or

(2) For raisins damaged by rain, by adding delivered tonnage, if any, to any verifiable loss of production due to rain damage in the vineyard. Tray weight will be used to establish tons only if some raisins are not removed from the vineyard. Raisin tonnage damaged by rain which is reconditioned and fails and is not reconditionable or is delivered for distilling or other use will be reduced .12 percent for each .10 percent moisture in excess of 16 percent.

5. Annual premium.

a. The annual premium is earned and payable on the date insurance attaches. The amount is computed by multiplying the amount of insurance times the premium rate, times the insured tonnage, times your share on the date insurance attaches.

b. Interest will accrue at the rate of one and one-half percent (1½%) simple interest per calendar month, or any part thereof, on any unpaid premium balance starting on the first day of the month following the first premium billing date.

c. If you are eligible for a premium reduction in excess of 5 percent based on your insuring experience through the 1983 crop year under the terms of the experience table contained in the raisin policy in effect for the 1984 crop year, you will continue to receive the benefit of that reduction subject to the following conditions:

(1) No premium reduction will be retained after the 1989 crop year.

(2) The premium reduction will not increase because of favorable experience.

(3) The premium reduction will decrease because of unfavorable experience in accordance with the terms of the policy in effect for the 1984 crop year.

(4) Once the loss ratio exceeds .80, no further premium reduction will apply.

(5) Participation must be continuous.

6. Deductions for debt.

Any unpaid amount due us may be deducted from any indemnity payable to you or from any loan or payment due you under any Act of Congress or program administered by the United States Department of Agriculture or its Agencies.

7. Insurance period.

Insurance attaches at the time the raisins are placed on the trays for drying and ends the earlier of:

a. October 20; or

b. the date the raisins are boxed or removed from the vineyard.

8. Notice of damage or loss.

a. If you are going to claim an indemnity on any unit, we must be given notice within 72 hours from the time the rain fell on the raisins.

b. We may reject any claim for indemnity if such damage is not reported within 72 hours or if you fail to comply with any of the requirements of section 9.

9. Claim for indemnity.

a. Any claim for indemnity must be submitted to us on our form not later than March 31 after the calendar date for the end of the insurance period.

b. We will not pay any indemnity unless you:

(1) Establish the total production of raisins on the unit and that any loss of production was directly caused by rain during the insurance period;

(2) Authorize us in writing to examine and obtain any records pertaining to the production and/or marketing of the insured raisins under this contract from the raisin packer, raisin reconditioner and/or the Raisin Administrative Committee established under order of the United States Department of Agriculture; and

(3) Furnish all information we require concerning the loss.

c. The indemnity will be determined on each unit by:

(1) Multiplying the insured tonnage of raisins by the amount of insurance per ton;

(2) Subtracting therefrom the total value of all insured damaged and undamaged raisins; and

(3) Multiplying this result by your share.

d. Undamaged raisins or raisins damaged solely by uninsured causes will be valued at the 100 percent of the field price or the amount of insurance, whichever is higher.

e. Raisins damaged partially by rain and partially by uninsured causes will be valued at the highest prices obtainable, subject to an adjustment for any reduction in value due to uninsured causes.

f. Raisins damaged by rain, but which are reconditioned and meet Raisin Administrative Committee (RAC) standards for raisins, will be valued at 100 percent of the field price or the amount of insurance, whichever is higher. An allowance for reconditioning will be deducted from that value only with our prior written consent to reconditioning. The allowance for reconditioning will be made only when the raisins have been inspected by the USDA and due to rain damage while on the tray are found to contain mold, embedded sand, or excessive moisture, or micro-analysis in excess of RAC tolerances. For raisins which contain excessive moisture due to rain, the reconditioning allowance will be made only when the moisture is in excess of 18.0 percent as determined by us and with our consent the raisins are wash and dry reconditioned. The maximum allowance for reconditioning is contained in the acturial table, but the total reconditioning allowance will not exceed the value of the raisins after reconditioning. We may require you to recondition a representative sample of not more than 10 tons of raisins to determine if they meet RAC standards for marketable raisins. On the basis of determinations made after such sampling, we may require you to recondition all raisins, or we may value such raisins at 100 percent of the field price or the amount of insurance, whichever is higher. If the representative sample does not meet RAC standards for marketable raisins, the cost of reconditioning the sample will be deducted from the total valve of the raisins for the unit.

h. The value to count for any raisins produced on the unit and not removed from the vineyard will be the larger of the appraised salvage value of $35.00 per ton. You must box and deliver any raisins that can be removed from the vineyard.

i. We may acquire all of the right and title to your share of any raisins damaged by rain. In such event, the raisins will be valued at "zero" in determining the amount of loss and we will have the right of ingress or egress to the extent necessary to take possession of, care for, and remove such raisins.

j. Raisins destroyed without inspection or put to another use without consent will be valued at the amount of insurance.

k. You must not abandon any tonnage to us.

l. You may not sue us unless you have complied with all policy provisions. If a claim is denied, you may sue us in the United States District Court under the provisions of 7 U.S.C. 1508(c). You must bring suit within 12 months of the date notice of denial is received by you.

m. We have a policy for paying your indemnity within 30 days of our approval of your claim or entry of a final judgment against us. We will, in no instance, be liable for the payment of damages, attorney's fee, or other charges in connection with any claim for indemnity, whether we approve or disapprove such claim. We will, however, pay simple interest computed on the net indemnity ultimately found to be due by us or by a final judgment from and including the 61st day after the date you sign, date, and submit to us the properly completed claim for indemnity form, if the reason for our failure to timely pay is not due to your failure to provide information or other material necessary for the computation or payment of the indemnity. The interest rate will be that established by the Secretary of the Treasury under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), and published in the Federal Register semi-annually on or about January 1 and July 1. The interest rate to be paid on any indemnity will vary with the rate announced by the Secretary of the Treasury.

n. If you die, disappear, or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved after the date insurance attaches for any crop year, and indemnity will be paid to the person(s) we determine to be beneficially entitled thereto.

10. Concealment or fraud.

We may void the contract on all crops insured without affecting your liability for premiums or waiving any right, including the right to collect any amount due us if, at any time, you have concealed or misrepresented any material fact or committed any fraud relating to the contract. Such voidance will be effective as of the beginning of the crop year with respect to which such act or omission occurred.

11. Transfer of right to indemnity on insured share.

If you transfer any part of your share during the crop year, you may transfer your right to an indemnity. The transfer must be on our form and approved by us. We may collect the premium from either you or your transferee or both. The transferee will have all rights and responsibilities under the contract.

12. Assignment of indemnity.

You may assign to another party your right to an indemnity for the crop year only on our form and with our approval. The assignee will have the right to submit the loss notices and forms required by the contract.

13. Subrogation. (Recovery of loss from a third party.)

Because you may be able to recover all or a part of your loss from someone other than us, you must do all you can to preserve any such rights. If we pay you for your loss, then your right of recovery will at our option belong to us. If we recover more than we paid you plus our expenses, the excess will be paid to you.

14. Records and access to vineyard.

You must keep, for 2 years after the time of loss, records of the insured, uninsured and planted acreage in your vineyard operation. Any person designated by us will have access to such records and the vineyard for purposes related to the contract.

15. Other insurance.

If in any crop year, you obtain any other insurance on any unit against rain damage or loss, this contract will be voided for that crop year on such unit if such other insurance is obtained before insurance attaches under this contract.

16. Life of Contract: cancellation and termination.

a. This contract will be in effect for the crop year specified on the application and may not be canceled by you for such crop year. Thereafter, the contract will continue in force for each succeeding crop year unless canceled or terminated as provided in this section.

b. This contract may be canceled by either you or us for any succeeding crop year by giving written notice on or before the cancellation date preceding such crop year.

c. This contract will terminate as to any crop year if any amount due us on this or any other contract with you is not paid on or before the termination date preceding such crop year for the contract on which the amount is due. The date of payment of the amount due:

(1) If deducted from an idemnity claim will be the date you sign such claim; or

(2) If deducted from payment under another program administered by the United States Department of Agriculture will be the date such other payment was approved.

d. The cancellation and termination dates are July 31.

e. If you die or are judicially declared incompetent, or if you are an entity other than an individual and such entity is dissolved, the contract will terminate as of the date of death, judicial declaration, or dissolution. *However*, if such event occurs after insurance attaches for any crop year, the contract will continue in force through the crop year and terminate at the end thereof. Death of partner in a partnership will dissolve the partnership unless the partnership agreement provides otherwise. If two or more persons having a joint interest are insured jointly, death of one of the persons will dissolve the joint entity.

f. The contract will terminate if no premium is earned for 5 consecutive years.

17. Contract changes.

We may change any terms and provisions of the contract from year to year. If the amount of insurance you selected is no longer offered, the actuarial table will provide the amount of insurance which you will be deemed to have elected. All contract changes will be available at your service office by May 15 for the 1985 crop year and by April 30 preceding the cancellation date for succeeding crop year. Acceptance of any changes will be conclusively presumed in the absence of any notice from you to cancel the contract.

18. Meaning of terms.

For the purposes of raisin crop insurance:

a. "Actuarial table" means the forms and related material for the crop year approved by us which are available for public inspection in your service office, and which show the amounts of insurance, coverage levels, premium rates, varieties, reconditioning allowances, and related information regarding raisin insurance in the county.

b. "Contiguous land" means land which is touching at any point except that land which is separated by only a public or private right-of-way will be considered contiguous.

c. "County" means the county shown on the application and any additional land located in a local producing area bordering on the county, as shown by the actuarial table.

d. "Crop year" means the calendar year in which the raisins are placed on trays for drying.

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

f. "Loss ratio" means the ratio of indemnity(ies) to premium(s).

g. "Net ton" means a ton of raisins delivered to and paid for by the processor.

h. "Person" means an individual, partnership, association, corporation, estate, trust, or other business enterprise or legal entity, and wherever applicable, a State, a political subdivision of a State, or any agency thereof.

i. "Raisins" means grapes of specific varieties listed in the actuarial table which are laid on trays or rolls in the vineyard to dry.

j. "Raisin tonnage report" means a form prescribed by us for annually reporting all your share of and tonnage of raisins in the county.

k. "Service office" means the office servicing your contract as shown on the application for insurance or such other approved office as may be selected by you or designated by us.

l. "Table grapes" mean grapes which are grown for commercial sales as fresh grapes on acreage on which the cultural practices to produce fresh marketable grapes were carried out.

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

n. "Ton" means 2,000 pounds. Raisin tonnage may be computed on the basis of one ton of raisins insured for every four and a half tons of fresh grapes when first placed on trays for drying.

o. "Unit" means all insurable acreage of the same grape variety, located on contiguous land, on the date insurance attaches for the crop year:

(1) In which you have a 100 percent share; or

(2) Which is owned by one entity and operated by another entity on a share basis. Land rented for cash, a fixed commodity payment, or any consideration other than a share in the raisins on such land will be considered owned by the lessee. Land which would otherwise be one unit may be divided according to applicable guidelines on file in

your service office or by written agreement with us. Units as defined herein will be determined when the tonnage is reported. Errors in reporting such units may be corrected by us to conform to applicable guidelines when adjusting a loss. We may consider any tonnage and share thereof reported by or for your spouse or child or any member of your household to be your bona fide share our the bona fide share of any other person having an interest therein.

p. "USDA inspection" means the actual determination by a USDA inspector of all defects. Limited inspections are not considered inspections.

19. Descriptive headings.

The descriptive headings of the various policy terms and conditions are formulated for convenience only and are not intended to affect the construction or meaning of any of the provisions of the contract.

20. Determinations.

All determinations required by the policy will be made by us. If you disagree with our determinations, you may obtain reconsideration of or appeal those determinations in accordance with Appeal Regulations.

21. Notices.

All notices required to be given by you must be in writing and received by your service office within the designated time unless otherwise provided by the notice requirement. Notices required to be given immediately may be by telephone or in person and confirmed in writing. Time of the notice will be determined by the time of our receipt of the written notice.

Done in Washington, D.C., on February 12, 1985.

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: April 19, 1985.

Approved by:

Edward Hews,

Acting Manager.

[FR Doc. 85-9917 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-08-M

FEDERAL HOME LOAN BANK BOARD

12 CFR PART 563

[No. 85-287]

Insurance of Accounts; Distribution of ARM Information

Dated: April 17, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Proposed rule.

SUMMARY: The Board of Governors of the Federal Reserve System and the Federal Home Loan Bank Board, in conjunction with other federal agencies and interested parties, have published a booklet containing information for consumers about adjustable-rate mortgage loans. Because safe and sound lending requires borrower awareness, the Board is now proposing that this publication be distributed by all insured institutions in connection with such loans.

DATE: Comments must be received by June 25, 1985.

ADDRESS: Send comments to Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552. Comments will be available for inspection at this address.

FOR FURTHER INFORMATION CONTACT: Wendy B. Samuel, Deputy Director, Regulations and Legislation Division, Office of General Counsel, (202) 377-6445, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: Pursuant to section 407 of the National Housing Act, 12 U.S.C. 1730 (1982), the Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("Corporation" or ("FSLIC"), has authority to ensure the sound and safe operation of institutions the accounts of which are insured by the FSLIC ("insured institutions"). The popularity and widespread availability of a variety of adjustable-rate mortgages ("ARMS") are a recent development in the home finance arena. At the same time, compared to fixed-rate mortgages, these ARMs present borrowers with unfamiliar and complicated options regarding changing payments, terms and amortization. It is the Board's belief that an integral part of safe, sound and prudent lending on adjustable-rate home mortgage loans is ensuring that the borrower has a full understanding of the type of obligation being incurred in order to make a reasonable and meaningful decision concerning ability and willingness to repay. Although a responsible lender must also make an independent determination of the borrower's ability and commitment to repay the loan, the Board believes that the borrower's informed agreement is essential to a successful loan relationship. This requires, in turn, that the borrower fully understand the current and potential obligations under the loan arrangement. While the unpredictable nature of future payments on ARMs and the prospect of unforeseen changes in the borrower's circumstances always admit the possibility that a borrower will be unable at some future date to meet such obligations, the Board believes that this result is much less likely where the borrower is fully cognizant of the terms of the mortgage at its inception. Such an understanding will do much to avoid "payment shock," and to preclude the borrower's reduced commitment to repayment based on a perception of unfair and unanticipated disadvantage.

The proposed regulation would require insured institutions to disclose to certain borrowers the general nature of the ARM device, in simple terms, including references to all the significant features of this instrument. Because this information is intended to aid the consumer in making a decision about an ARM, the proposed regulation would provide that the information must be distributed as early as possible, and in any event before acceptance of an application involving payment of a fee.

The proposal would require distribution of this information only to loan applicants who are natural persons and only in connection with applications for ARMs secured by the applicant's own home or the home of an immediate family member. Disclosure would be required only where the home is the principal residence of the borrower or a member of his immediate family, and thus would not affect applications for loans secured by second homes, vacation homes, or investment properties. While distribution would be required in conjunction with applications for loans secured by both first and junior liens, it would not apply to applications for loans secured by the home where the lender is not relying primarily on the home for repayment of the loan (i.e., consumer loans). The Board specifically requests comments as to whether it has appropriately designated loan applicants who should receive this disclosure.

The Board does not anticipate that the proposed regulation would impose a significant burden on insured institutions, primarily because the information required to be disseminated is already available to lenders for distribution in the form of the booklet titled "Consumer Handbook on Adjustable Rate Mortgages". This publication was prepared in response to consumer need for information on adjustable-rate mortgages by the Federal Reserve Board and the Federal Home Loan Bank Board, in consultation with other federal agencies, trade associations and industry and consumer representatives. This booklet defines terms commonly associated with adjustable-rate mortgage loans and provides clear guidance about the various aspects of ARMs such as payment caps and negative amortization. It also gives examples of changes in the index used to determine

interest-rate or payment adjustments, and their effect on the interest rate and payments. This guide, while not the only source available to home buyers considering an ARM, does provide sufficient information to assist them in making an informed decision as to whether an ARM is appropriate for them and whether the ARM being offered is one they want can afford, and its distribution would therefore be one method of complying with the proposed requirement. The Board also specifically requests commenters to identify other materials which may provide the necessary information. In this connection, the Board notes that the proposed disclosure requirement is not intended to be a substitute for the disclosures required under 12 CFR 545.33(f) (1984) or other applicable law of regulations.

Initial Regulatory Flexibility Analysis

Pursuant to section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal basis underlying the proposed rule.* These elements are incorporated above in Supplementary Information regarding the proposal.

2. *Small entities to which proposed rule would apply.* The proposed rule would apply to all institutions the accounts of which are insured by the FSLIC.

3. *Impact to the proposed rule on small institutions.* The proposed rule would benefit borrowers from insured institutions of all sizes, and would not constitute a significant regulatory burden on lenders.

4. *Overlapping or conflicting federal rules.* While Federal rules requiring instrument-specific mortgage disclosures may be somewhat duplicative with the proposal, they are distributed at a different point in the lending process and have somewhat different purpose.

5. *Alternatives to the proposed rule.* There are no alternatives which would ensure a commensurate level of borrower awareness in the adjustable-rate mortgate lending process with a lesser effect on the affairs of insured institutions.

List of Subjects in 12 CFR Part 563

Savings and loan associations, Federal Home Loan Bank Board, Federal Savings and Loan Insurance Corporation.

Accordingly, the Federal Home Loan Bank Board hereby proposes to amend Part 563, Subchapter D, Chapter V of Title 12, Code of Federal Regulations, as set forth below:

SUBCHAPTER D—REGULATIONS OF THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

PART 563—OPERATIONS

Add a new § 563.9-9 as follows:

§ 563.9-9 Adjustable-rate mortgage loan disclosures.

(a) *Definitions.* For purposes of this action:

(1) "Adjustable-rate mortgage loan" means a mortgage loan providing for adjustments to the interest rate, payment, balance or term to maturity;

(2) "Home" means real estate comprised of a single-family dwelling or dwelling units for four or fewer families in the aggregate, including manufactured housing, condominiums, and shares of a non-profit residential cooperative-housing association;

(3) "Applicant" means a natural person;

(4) "Receipt of an application" is the time at which the applicant becomes obligated to pay a nonrefundable fee.

(b) An insured institution shall, before receipt of an application for an adjustable-rate mortgage loan secured by a home that is or is to become the principal place of residence of the applicant or of a member of the applicant's immediate family, provide to each applicant a clear and concise description of the nature of the loan being offered. This disclosure shall be made in terms readily understandable by the layman and shall include a description of all significant loan terms.

(c) The booklet titled "Consumer Handbook on Adjustable Rate Mortgages" published by the Federal Reserve Board and the Federal Home Loan Bank Board in consultation with other government agencies and private-sector interests constitutes a disclosure in compliance with the requirements of paragraph (b) of this section.

(d) *Exception.* Disclosure is not required in connection with a consumer loan as defined in § 561.38 of this subchapter even where it is secured by a home, or in connection with any other loan where the home is not the primary security for the loan.

(Sec. 17, 47 Stat. 736, as amended (12 U.S.C. 1437); sec. 202, 96 Stat. 1469; sec. 409, 94 Stat. 160; secs. 402, 403, 407, 48 Stat. 1256, 1257, 1260, as amended (12 U.S.C. 1725, 1726, 1730); 1947 Reorg. Plan No. 3, 12 FR 4981, 3 CFR 1071 (1943-48 Comp.))

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-9739 Filed 4-23-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-1]

Proposed Alterations to VOR Federal Airways; Hawaii

April 25, 1985.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke two and alter 11 Federal Airways in the state of Hawaii as necessitated by the relocation of the Honolulu, HI, very high frequency omni-range and tactical air navigation (VORTAC) facility. Complementary actions to revoke and establish new Compulsory Reporting Points associated with this notice are being proposed in a separate Airspace Docket No. 85-AWP-6.

DATE: Comments must be received on or before June 10, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWP-1, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in

developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85–AWP–1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426–8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list of future NPRM's should also request a copy of Advisory Circular No. 11–2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to §71.127 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revoke in the state of Hawaii V–9 and V–14 and alter V–11, V–12, V–13, V–15, V–16, V–2, V–20, V–21, V–22, V–4, and V–8. For the most part, these actions are necessitated by the relocation of the Honolulu, HI, VORTAC. In some cases, they also reflect the codification of routes requested by airspace users and assigned by air traffic controllers. In addition, in the interest of standardization, the base altitude of certain airways would be lowered to the standard altitude of 1,200 feet above the surface as described in § 71.5. Associated with this proposal, certain Compulsory Reporting Points are proposed to be revoked and new ones established under Airspace Docket No. 85–AWP–6. Section 71.127 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

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

ICAO Considerations

As part of this proposal relates to navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amended § 71.127 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

V–11 [Revised]

From INT Kona, HI, 323°T(312°M) and Upolu Point, HI, 211°T(200°M) radials: via Upolu Point; INT Upolu Point 349°T(338°M) and Maui, HI, 080°T(069°M) radials; to Maui.

V–12 [Revised]

From INT South Kauai, HI, 245 °T(234 °M) radial and long. 161°23'22" W., via INT South Kauai 245 °T(234 °M) and Honolulu, HI, 269 °T(258 °M) radials; Honolulu; Koko Head, HI, to INT Koko Head 050 °T(039 °M) and Upolu Point, HI, 354 °T(343 °M) radials.

V–13 [Revised]

From Koko Head, HI, via INT Koko Head 050°T(039 °M) and Molokai, HI, 015 °T(004 °M) radials to INT Molokai 015 °T(004 °M) and lat. 22°46'00" N.

V–14 [Revoked]

V–15 [Revised]

From INT South Kauai, HI, 288 °T(277 °M) radial and long. 163°37'11" W., via South Kauai; Lihue, HI; INT Lihue 121 °T(110 °M) and Honolulu, HI, 269 °T(258 °M) radials; Honolulu; Koko Head, HI; Molokai, HI; Maui, HI; INT Maui 095 °T(084 °M) and Hilo, HI, 336 °T(325 °M) radials; Hilo to INT Hilo 099 °T(088 °M) radial and long. 151°53'00" W.,

V–16 [Revised]

From INT South Kaui, HI, 271 °T(260 °M) radial and long. 162°45'28" W., via South Kauai; INT South Kauai 122 °T(110 °M) and Lanai, 289 °T(278 °M) radials; Lanai; Upolu Point, HI; INT Upolu Point 108 °T(097 °M) and Hilo, HI, 336 °T(325 °M) radials; to Hilo.

V-2 [Amended]

By removing the words "South Kauai, HI, Lihue, HI, INT Lihue 130° and Honolulu, HI, 269° radials; Honolulu;" and substituting the words "Honolulu, HI, via"

V-20 [Amended]

By removing "134°" and substituting "136°"

V-21 [Revised]

From Honolulu, HI, via INT Honolulu 182 °T(171 °M) and Lanai, Hi, 289 °T(278 °M) radials; Lanai; INT Lanai 106 °T(095 °M) and Hilo, HI, 033 °T(022 °M) radials; INT Upolu Point, HI, 093 °T(082 °M) and Hilo 078 °T(067 °M radials; to INT Hilo 078 °T(067 °M) and long. 152°14'00" W. The airspace within R-3104 is excluded.

V-22 [Revised]

From Molokai, HI, via INT Molokai 082 °T(071 °M) and Maui, HI, 331 °T(320 °M) radials; Maui; INT Maui 095 °T(084 °M) and Hilo, HI, 321 °T(310 °M) radials; Hilo; to INT Hilo 078 °T(067 °M) radial and long. 152°14'00" W.

V-4 [Revised]

From Honolulu, HI, to INT Honolulu 252 °T(241° M) radial and long. 160°48'07" W.

V-8 [Revised]

From Honolulu, HI, via INT Honolulu 182 °T(171 °M) and Molokai, HI, 265 °T(254 °M) radials; Molokai; to INT Molokai 067 °T(056 °M) and Upolu Point, HI, 010 °T(359 °M) radials.

V-9 [Revoked]

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C., on April 18, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-9829 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 71

[Airspace Docket No. 85-AWP-6]

Proposed Revocation and Establishment of Compulsory Reporting Points; Hawaii

April 25, 1985.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to revoke seven Compulsory Reporting Points and estalish seven others over the Pacific Ocean primarily west and southwest of the state of Hawaii. This proposal is complementary to a proposal issued under Airspace Docket No. 85-AWP-1 which would revoke two and alter 11 Federal Airways. Both docket actions are necessitated by the relocation of the Honolulu, HI, very high frequency omni-range and tactical air navigation (VORTAC) facility.

DATES: Comments must be received on or before June 10, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Western-Pacific Region, Attention: Manager, Air Traffic Division, Docket No. 85-AWP-6, Federal Aviation Administration, P.O. Box 92007, Worldway Postal Center, Los Angeles, CA 90009.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 85-AWP-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.215 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to: (1) Revoke the following Compulsory Reporting Points: BROMS, SILLS, MAKAI, VANDA, POTEN, DOGGY, PALMS; and (2) establish seven Compulsory Reporting Points on routes which are established Oceanic Tracks or proposed as VOR Federal Airway alterations. The new Compulsory Reporting Points are: (1) CHOKO, on R-84 at 175 nautical miles southwest of the Honolulu VORTAC; (2) KATHS, on revised V-12 at 115 nautical miles southwest of the South Kauai VORTAC; (3) NONNI, on revised V-12 at 175 nautical miles west/southwest of the Honolulu VORTAC; (4) SILVA, on revised V-16 at 180 nautical miles west of the South Kauai VORTAC; (5) PADDI, on G-47 and B-75 at 181 nautical mile southwest of the Honolulu VORTAC; (6) NIEMO on A-79 at 183 nautical miles southwest of the Honolulu VORTAC; and (7) SHILA on B-74 and B-80 at 185 nautical miles southwest of the Honolulu VORTAC. Establishment of these Compulsory Reporting Points would enable air traffic controllers to automatically and accurately identify when a transfer of responsibility has taken place between Honolulu Air Route Traffic Control Center and outlying air traffic control facilities. Section 71.215 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The FAA has determined that this proposed regulation only involves an established body of technical

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

ICAO Considerations

As part of this proposal relates to navigable air space outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Operations Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of, and Annex 11 to, the Convention on International Civil Aviation, which pertains to the establishment of air navigational facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to ensure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator is consulting with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

List of Subjects in 14 CFR Part 71

Compulsory reporting points, Aviation safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.215 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

§ 71.215 [Amended]

BROMS [Revoked]

SILLS [Revoked]

MAKAI [Revoked]

VANDA [Revoked]

POTEN [Revoked]

DOGGY [Revoked]

PALMS [Revoked]

CHOKO: [New]

Lat. 20°22'51" N., long. 160°53'09" W.

KATHS: [New]

INT South Kauai, HI, 245 °T(234 °M) radial and long. 161°23'22" W.

NONNI: [New]

INT South Kauai, HI, 245 °T(234 °M) and Honolulu, HI, 269 °T(258 °M) radial.

SILVA: [New]

INT South Kauai, HI, 271 °T(260 °M) radial and long. 162°45'28" W.

PADDI: [New]

Lat. 18°25'43" N., long. 158°54'47" W.

NIEMO: [New]

Lat. 18°53'51" N., long. 159°54'46" W.

SHILA: [New]

Lat. 19°33'33" N., long. 160°38'22" W.

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); (49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983)); and 14 CFR 11.65)

Issued in Washington, D.C. on April 18, 1985.

John W. Baier,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-9827 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 182, 184, and 186

[Docket No. 84N-0341]

Unmodified Food Starches and Acid-Modified Starches; Proposed Affirmation of GRAS Status as Direct and Indirect Human Food Ingredients

Correction

In FR Doc. 85-7624 beginning on page 12821 in the issue of Monday, April 1, 1985, make the following corrections:

1. On page 12821, in the second column, under **FOR FURTHER INFORMATION CONTACT,** in the second line, "(HHF-335)" should read "(HFF-335)".

2. On page 12822, in the first column, in the first line, insert "used in" between "are" and "foods".

BILLING CODE 1505-01-M

UNITED STATES INFORMATION AGENCY

22 CFR Part 501

Appointment of Foreign Service Personnel

AGENCY: United States Information Agency.

ACTION: Proposed rule.

SUMMARY: The United States Information Agency is amending its regulations covering the appointment of Foreign Service personnel. These amendments establish the new procedures for employment in the Foreign Service in the United States Information Agency.

DATES: Comments must be received no later than May 24, 1985.

ADDRESS: Send comments to Teresa Poyner, Personnel Management Specialist, Policies and Services Staff, Office of Personnel, 301 4th Street, SW., Washington, D.C. 20547.

FOR FURTHER INFORMATION CONTACT: Mr. Barry Ballow, Chief, Policies and Services Staff, Office of Personnel, United States Information Agency, Washington, D.C. 20547 (202) 485-2645.

SUPPLEMENTARY INFORMATION: The Foreign Service Act of 1980, enacted October 17, 1980, revised, among other provisions, the types of and requirements for Foreign Service appointment and realigned the Foreign Service salary structure. In accordance

with the new legislation which became effective February 15, 1981, 22 CFR, Chapter V, Part 501 will be amended as follows: Addition of a new section regarding the appointment of Overseas Specialists; experience requirements being substituted for minimum age for mid-level entry as an FSO Candidate; and a revision of the maximum age requirement. In accordance with Pub. L. 98-164 which deleted section 102b of the Foreign Service Act of 1980, all references to Foreign Service Information Officer have been changed to Foreign Service Officer.

List of Subjects in 22 CFR Part 501

Government employees.

E.O. 12291 Federal Regulation

USIA has determined that this is not a major rule for the purposes of E.O. 12291, Federal Regulation, because it will not result in:

(1) An annual effect on the economy of $100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based interprises to compete with foreign-based enterprises in domestic or export markets.

In addition, this rule relates solely to Agency personnel and falls under section 1(a)(3) of E.O. 12291.

Dated: April 16, 1985.

Charles Z. Wick,

Director, United States Information Agency.

Accordingly, 22 CFR, Chapter V, part 501, is proposed to be revised as follows:

PART 501—APPOINTMENT OF FOREIGN SERVICE OFFICERS (FSOs)

Sec.

501.1 Policy.
501.2 Eligibility for appointment as Foreign Service Officer
501.3 Noncompetitive Interchange Between Civil Service and Foreign Service.
501.4 Junior Level Career Candidate Program (Class 6, 5, or 4).
501.5 Mid-Level FSO Candidate Program (Class 3, 2, or 1).
501.6 Appointment of Overseas Specialists.
501.7 Appointment as Chief of Mission.
501.8 Reappointment of Foreign Service Officers and Career Overseas Specialists.
501.9 Interchange of FSOs between USIA and other Foreign Affairs Agencies.

Authority: Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.)

§ 501.1 Policy.

It is the policy of the United States Information Agency that Foreign Service Officers occupy positions in which there is a need and reasonable opportunity for interchangeability of personnel between the Agency and posts abroad, and which are concerned with: (a) The conduct, observation, or analysis of information and cultural activities, or (b) the executive management of, or administrative responsibility for, the overseas operations of the Agency's program.

§ 501.2 Eligibility for appointment as Foreign Service Officer.

Cross-Reference: The regulations governing eligibility for appointment as a Foreign Service Officer are codified in Part 11 of this title, prescribed jointly by the Department of State and the United States Information Agency.

§ 501.3 Noncompetitive Interchange Between Civil Service and Foreign Service.

(a) An agreement between the Office of Personnel Management and the Agency under the provisions of Executive Order 11219 (3 CFR 1964-65 Comp. p. 303) provides for the noncompetitive appointment of present or former Foreign Service employees as career or career conditional Civil Service employees.

(b) Under this agreement former career personnel of the Agency's Foreign Service (FSCR, FSRU, FSIO, FSS, FSO, or FP) and such present personnel desiring to transfer, are eligible, under certain conditions, for noncompetitive career or career-conditional appointment in any Federal agency that desires to appoint them. The President has authorized the Office of Personnel Management by executive order to waive the requirement for competitive examination and appointment for such Agency career Foreign Service personnel.

(c) A present or former Civil Service employee may be appointed on a competitive basis in any Foreign Service class for which the employee has qualified under the provisions of section 3947 of title 22, United States Code.

§ 501.4 Junior Level Career Candidate Program (Class 6, 5, or 4).

Cross-Reference: The regulations governing the junior level Career Candidate program are codified in Part 11 of this title, prescribed jointly by the Department of State and the United States Information Agency.

§ 501.5 Mid-level FSO Candidate Program (Class 3, 2 or 1).

(a) General. The mid-level FSO Candidate program, under the provisions of section 306 of the Foreign Service Act of 1980, supplements the junior-level Career Candidate program to meet total requirements for Foreign Service Officers at the mid-level in the Foreign Service. Foreign Service limited appointments of FSO Candidates are made to Class 3, 2 or 1 for a period not to exceed five years. Occasionally, appointments may be offered at the class 4 level. The FSO Commissioning Board will determine whether FSO Candidates have performed at a satisfactory level and demonstrated the required level of growth potential and competence, and will make a recommendation on commissioning as Foreign Service Officers. FSO Candidates who are not recommended for commissioning prior to the expiration of their limited appointment will be separated from the mid-level program.

(b) Sources of applicants. (1) The United States Information Agency draws a significant number of FSO Candidates from Agency employees who apply, and are found qualified by the Board of Examiners for the Foreign Service (BEX).

(2) The Agency also draws Candidates from outside applicants who possess skills and abilities in short supply in the Foreign Service and who have capabilities, insights, techniques, experiences, and differences of outlook which would serve to enrich the Foreign Service and enable them to perform effectively in assignments both abroad and in the United States. Minority applicants are recruited for mid-level entry under the COMRAT program. Appointment from sources outside the Agency is limited and based on intake levels established in accordance with total USIA FSO workforce and functional requirements. Such appointments are based on successful completion of the examination process, and existing assignment vacancies.

(c) Eligibility requirement. (1) *USIA employees.* On the date of application, employees must have at least three years of Federal Government service in a position of responsibility in the Agency. A position of responsibility is defined as service as an Overseas Specialist at Class 4 or above or as a Domestic Specialist at GS-11 or above within the Agency. The duties and responsibilities of the position occupied by the applicant must have been similar or closely related to those of a Foreign Service Officer in terms of knowledge, skills, abilities, and overseas experience. Agency Domestic and Overseas Specialists must be no more than 58 years of age on the date of redesignation or appointment as an FSO Candidate.

(2) *Applicants under Special Recruitment Programs.* Minority and women applicants must be no more than 58 years of age, must have approximately nine years of education or experience relevant to work performed in USIA, must be knowledgeable in the social, political and cultural history of the U.S. and be able to analyze and interpret this in relation to U.S. Government policy and American life.

(3) *Outside applicants.* On the date of appointment, applicants must be no more than 58 years of age, with nine years of relevant work experience and/or education, or proficiency in a language for which the Agency has a need, or substantial management expertise. Relevant work experience is defined as public relations work, supervisory or managerial positions in communications media, program director for a museum or university-level teacher of political science, history, English or other relevant disciplines. Appointments from these sources for the limited vacancies available are made on a competitive basis to fill specific Service needs after ensuring that the vacancies cannot be filled by Foreign Service Officers already in the Foreign Service Officer Corps.

(d) Application procedures. (1) Applicants must complete Standard Form 171, Application for Federal Employment, Form DSP–34, Supplement to Application for Federal Employment, a 1,000 word autobiography, a statement affirming willingness and capacity to serve at any post worldwide, and transcripts of all graduate and undergraduate course work and forward them to the Special Recruitment Branch, Office of Personnel (M/PDSE).

(2) The filing of an application for the Foreign Service does not in itself entitle an applicant to examination. The decision to proceed with an oral examination is made by a Qualifications Evaluation Panel after determining the applicant's eligibility for appointment and reviewing the applicant's qualifications including his/her performance, and administrative files (or equivalents), claimed language proficiency and other background or factors which may be related to the work perfomed by FSOs. An oral examination is given only in those cases where the applicant is found to possess superior qualifications, proven ability, and high potential for success in the Foreign Service.

(e) Examination process. (1) *Written examination.* A written examination will not normally be required of applicants for FSO Candidate appointments. However, if the volume of applications for a given class or classes is such as to make it infeasible to examine applicants orally within a reasonable time, such applicants may be required to take an appropriate written examination prescribed by the Board of Examiners. Those who meet or exceed the passing level set by the Board of Examiners on the written examination will be eligible for selection for the oral examination.

(2) *Oral examination.* (i) Applicants approved by the Qualifications Evaluations Panel for examination will be given an oral examination by a panel of Deputy Examiners approved by the Board of Examiners. The oral examination is designed to enable the Board of Examiners to determine whether applicants are functionally qualified for work in the Foreign Service at the mid-level, whether they would be suitable representatives abroad of the United States, whether they have the potential to advance in the Foreign Service, and whether they have the background and experience to make a contribution to the Foreign Service. The oral examination is individually scheduled throughout the year and is normally given in Washington, D.C. At the discretion of the Board of Examiners, it may be given in other American cities, or at Foreign Service posts, selected by the Board.

(ii) The panel will orally examine each applicant through questioning and discussion. There will also be a writing exercise and an in-basket test. Applicants taking the oral examination will be graded according to the standards established by the Board of Examiners. The application of anyone whose score is at or above the passing level set by the Board will be continued. The application of anyone whose score is below the passing level will be terminated. The applicant may, however, reapply in 12 months by submitting a new application.

(3) *Foreign language requirement.* All applicants who pass the oral examination will be required to take a subsequent test to measure their fluency in foreign languages, or their aptitude for learning them (MLAT) for which a score of 50 points (on a scale of zero to eighty) is necessary to qualify for further processing. No applicant will be recommended for career appointment who has not demonstrated such a proficiency or aptitude. An applicant may be selected, appointed and assigned without first having demonstrated required proficiency in a foreign language, but the appointment will be subject to the condition that the employee may not receive more than one promotion and may not be commissioned as an FSO until proficiency in one foreign language is achieved.

(4) *Medical examination.* Those applicants recommended by the Board of Examiners for an FSO candidacy, and their dependents who will reside with them overseas, are required to pass a physical examination at the Department of State Medical Division.

(5) *Security and suitability considerations.* A background investigation or appropriate security clearance update will be conducted on each applicant, and no application may be continued until a security clearance has been granted.

(6) *Class of appointment.* The Board of Examiners fixes the entry level for appointment as an FSO candidate.

(7) *Certification for appointment.* After completion of all aspects of the examination, the Board of Examiners certifies to the Agency successful candidates for appointment as FSO Candidates. Determinations of duly constituted panels of examiners and deputy examiners are final, unless modified by specific action of the Board of Examiners for the Foreign Service.

(8) *FSO Candidate Registers.* (i) After approval by the Board of Examiners, and certification as to suitability and security clearance by the Agency's Director of Security, successful applicants will have their names placed on a register for the class for which they have been found qualified. Appointments to available openings will be made from the applicants entered on the register for the class of the position to be filled. Inclusion on the register does not guarantee eventual assignment and appointment as an FSO Candidate. Applicants who have qualified but have not been appointed because of lack of openings will be dropped from the register 18 months after the date of placement on it (or the completion of an inside applicant's current overseas tour, whichever is longer). Such applicants may reapply for the program, but will be required to repeat the entire application process, including BEX testing.

(ii) Any applicant on the register who refuses an assignment offer will be removed from the Register and will not be eligible to reapply for the program for seven years.

(iii) The Board of Examiners may extend the eligibility period when such extension is in its judgement justified in the interest of the Foreign Service.

(f) Appointment as an FSO Candidate. (1) An FSO Candidate will be given a four-year Foreign Service limited appointment. Agency Career Oversees Specialists will be redesignated as FSO

Candidates for a period of four years. The appointment or redesignation may be extended for one year, but must be terminated at the end of the fifth year. The purpose of the FSO Candidacy is to permit on-the-job evaluation of an individual's suitability and capacity for effective service as a Foreign Service Officer.

(2) FSO Candidates will be assigned to Generalist positions overseas, and will compete for promotion with other Generalist officers under the Annual Generalist Selection Boards. FSO Candidates at the Class 1 level may not compete for promotion into the Senior Foreign Service prior to commissioning as an FSO.

(3) The FSO Candidacy may be terminated during the four-year period for unsatisfactory performance (22 U.S.C. 4011) or for such other cause as will promote the efficiency of the Service (22 U.S.C. 4010).

(g) Commissioning as a Foreign Service Officer. (1) Upon completion of three year's service (most of which will have been overseas), the FSO Candidate will be eligible for commissioning as a Foreign Service Officer. The FSO Commissioning Board will review all FSO Candidates appointed on or after March 1, 1980 and will recommend on tenure.

(2) The criterion used for deciding whether to recommend commissioning of FSO Candidates is the Candidate's demonstrated potential to perform effectively as a Foreign Service Officer in a normal range of generalist assignments up through the Class 1 level. No quota or numerical limit is placed on the number of affirmative decisions.

(3) If recommended for commissioning, and having satisfied the language proficiency requirements, the name of the FSO Candidate will be forwarded to the President and the Senate and, upon approval, the FSO Candidate will be commissioned as an FSO.

(4) If the FSO Commissioning Board does not recommend commissioning of the FSO Candidate during its review, it may recommend extension of the FSO Candidacy to allow for a future review. Under no circumstances will an FSO Candidacy be extended to a total of more than five years.

(5) Candidates not recommended for commissioning or who have not satisified the language proficiency requirement will be separated from the Service at the expiration of their appointment. However, FSO Candidates who were appointed from within the Agency with career status as a Domestic or Overseas Specialist may exercise reappointment rights to their previous category in lieu of separation.

§ 501.6 Appointment of Overseas Specialists.

(a) General. Members of the Agency's Foreign Service appointment as Overseas Specialists serve on rotational U.S.—overseas assignments in the following types of positions: General Administration; Publication Writers and Editors; Exhibit Managers; Printing Specialists; English Teaching Specialists; Correspondents; Engineers for the Voice of America; Regional Librarian Consultants; and Secretaries. Appointees serve a trial period of service as Specialist Candidates under Foreign Service limited appointments (or redesignation) for a period not to exceed five years. Appointments are made to F.S. classes 8 through 1. Specialist Candidates are given career appointments as Overseas Specialists based on the recommendations of Specialist Selection Boards. Specialist candidates not recommended for tenuring will be separated from the Foreign Service, or reinstated in the Civil Service.

(b) Sources of applicants. Qualified USIA domestic employees comprise a significant recruitment source for Overseas Specialist appointments. Such employees will be given priority consideration over outside applicants when applying for Overseas Specialist positions, when qualifications are otherwise equal.

(c) Eligibility requirements. All applicants must be citizens of the United States, and must be at least 21 years of age and no more than 58 years of age at the time of appointment. The 21-year age requirement may be waived by the Director, Office of Personnel (M/P or VOA/P) when she or he determines that the applicant's services are urgently needed. USIA employee applicants must also have at least three years of Federal government experience and occupy a position at the GS–11 level (or equivalent) or above (GS–10 for Electronic Technicians in the Voice of America). All applicants must be available for worldwide assignment to positions in their occupational category.

(d) Application procedures. (1) Applications for all specialties except secretarial should include a current SF–171, Application for Federal Employment; a DSP–34, Supplement to Application for Federal Employment; university transcripts, a 1,000 word autobiographical statement which should include mention of the qualifications the applicant would bring to the job and reason for desiring to work for the Agency, and a statement affirming willingness and capacity to serve at any post worldwide.

(2) *Special requirements for Foreign Service Secretaries.* Secretarial applicants must submit a current SF–171 application for Federal employment; and a 250 word essay on a commonly understood subject to demonstrate grammatical competence. The following specific requirements must be met by applicants: ability to type accurately at 60 words per minute; four years of secretarial or administrative experience (business school or college training may be substituted for up to two years of required work experience); and attainment of an acceptable score in verbal ability and spelling tests. Applicants will subsequently be given a written examinations to measure administrative aptitude.

(e) Examination process—(1) *Application review.* All applications are to be sent to the Special Recruitment Staff, Office of Personnel (M/PDSE), or to the Foreign Personnel Advisor (VOA/PF) for Voice of America positions.

(2) *Qualifications Evaluation Panel.* A Qualifications Evaluation Panel will evaluate the applicant's qualifications including his/her performance and administrative files (or equivalent), claimed language proficiency and other background or factors which may be related to the work performed by an Overseas Specialist Officer in the relevant specialty

(3) *Oral Examination*—(i) Applicants who are passed on the Qualifications Evaluation Panel to the Board of Examiners will be given an oral examination to evaluate the applicant's total qualifications for service as an Overseas Specialist in the desired functional specialty.

(ii) The Board panel examining all candidates except those of the Voice of America will consist of one USIA Overseas Specialist and two BEX Deputy Examiners. For VOA candidates, the panel will consist of the Foreign Personnel Advisor, a BEX Deputy Examiner assigned to the Voice of America, and a Deputy Examiner assigned to the Board Examiners.

(iii) The panel will examine each applicant through questioning and discussion. Hypothetical problem-solving exercises, a writing exercise and an in-basket test may also be required. The panel will also recommend the F.S. entry level for appointment. If the panel's recommendation is unfavorable, the application process will be discontinued. An unsuccessful applicant may apply again in 12 months.

(4) The same medical and security requirements applicable to FSO

Candidates pertain to Specialist Candidates.

(5) Overseas Specialist Candidate Register—If an applicant is successful in the examination, and medical and security clearances have been successfully completed, his/her name will be added to the appropriate Overseas Specialist Register for a period of 18 months, or completion of an inside candidate's current tour of duty overseas, whichever is longer, at the Foreign Service class determined in the examination process and based on previous experience. Inclusion on the register does not guarantee eventual assignment and appointment as an Overseas Specialist Candidate.

(f) Appointment as a Specialist Candidate. (1) When the Office of Personnel identifies an overseas vacancy which cannot be filled from the existing ranks of Overseas Specialists, applicants on the Overseas Specialists register will be considered for the assignment. An applicant will not be appointed unless an overseas position has been identified and a need for the individual in the Foreign Service has been certified by the Director, Office of Personnel (M/P or VOA/P). Any applicant selected from the Register who refuses an assignment offer will be dropped from the Register and precluded from reapplying for a period of seven years.

(2) Applicants will be given a Foreign Service limited appointment (or redesignation) for a period of four years at the Foreign Service Class determined in the examination process. The purpose of this untenured appointment is to allow the Agency to evaluate and assess the Specialist Candidate's abilities and future potential prior to offering career appointment as an Overseas Specialist. The limited appointment may be extended for one additional year, but must be terminated at the end of the fifth year if the Candidate does not obtain career tenure.

(3) The Candidate will receive the orientation and training necessary to serve overseas and will be assigned overseas in a position in his or her speciality. USIA Civil Service employees selected as Overseas Specialist Candidates will be appointed only if the Agency element to which they are currently assigned is willing to affirm in writing that a position at the appropriate level will be made available for the employee should the candidacy end unsuccessfully. USIA Civil Service applicants will be appointed as Overseas Specialist Candidates on or about the date of their departure for post of assignment or upon assumption of an assignment (which has been identified and will follow a period of orientation in Washington). The Agency may also assign a Candidate to a U.S.-based position for an initial assignment of up to 24 months when the Candidate will spend the majority of his/her time traveling overseas and will, expect the U.S. basing, be fully functioning as an Overseas Specialist. Specialist Candidates will compete for promotion by the Annual Overseas Specialist Selection Board with other officers in the same specialty and at the same class level. Specialist Candidates at the Class 1 level are ineligible for promotion into the Senior Foreign Service.

(4) The Specialist candidacy may be terminated at any time for unsatisfactory performance (22 U.S.C. 4011) or for such cause as will promote the efficiency of the Service (22 U.S.C. 4010).

(g) Career Appointment as an Overseas Specialist. In accordance with section 3946 of Title 22 United States Code, the decision to offer a Specialist Candidate a career appointment will be based on the recommendations made by the Annual Overseas Specialist Selection Board which reviews all employees in the Candidate's occupational category and class level.

(1) *Eligibility.* Specialist Candidates who have performed at least two years of overseas service will be eligibile for review for career status at the time of the Candidate's third Board review. Candidates serving an initial tour in the U.S. but spending the majority of time working overseas will be credited with up to one year's overseas service, but no more than half of the time based in the U.S. If a Specialist Candidate is not recommended for career status during the initial review, the Candidate may be reviewed again when the next Annual Overseas Specialist Selection Board convenes if the initial Board so recommends.

(2) *Selection Board Review.* The Selection Board(s) will review the official performance file of the eligible Specialist Candidates and in accordance with established precepts, will determine whether the Candidates should be recommended for career appointment as Overseas Specialists. Recommendations by the Board will be based on the Candidate's demonstrated aptitude and fitness for a career in the Foreign Service in their occupational specialties. No quota or numerical limit is placed on the number of positive career status decisions that can be made by Selection Boards. The Specialist candidacy will be terminated if the Candidate fails to be recommended for career status after a second Board review for tenuring. Candidates may be terminated earlier than the expiration of their limited appointment if so recommended by the Board and approved by the Director, Office of Personnel (M/P or VOA/P). Specialist Candidates recommended for career status by the Selection Board will be given Foreign Service career appointments (or redesignation) as Overseas Specialist, to take effect within one-month of the Board's recommendation.

§ 501.7 Appointment As Chief of Mission.

(a) Appointment by President. Chiefs of mission are appointed by the President, by and with the advice and consent of the Senate. They may be career members of the Foreign Service or they may be appointed from outside the Service.

(b) Recommendation Of Foreign Service Career Members. On the basis of recommendations made by the Director of USIA, the Secretary of State from time to time furnishes the President with the names of Foreign Service career members qualified for appointment as chiefs of mission. The names of these officers, together with pertinent information concerning them, are given to the President to assist him in selecting qualified candidates for appointment as chiefs of mission.

(c) Status of Foreign Service Career Members Appointed As Chiefs of Mission. Foreign Service career members who are appointed as chiefs of mission retain their career status as Foreign Service career members.

§ 501.8 Reappointment of Foreign Service Officers and Career Overseas Specialists.

The President may, by and with the advice and consent of the Senate, reappoint to the Service a former Foreign Service Officer who is separated from the Service. The Director (USIA) may reappoint to the Service a former career Overseas Specialist.

(a) Requirements for reappointment. (1) On the date of application, each applicant must be a citizen of the United States.

(2) No applicant will be considered who has previously been separated from the Foreign Service pursuant to section 608 or 610 of the Foreign Service Act of 1980 (or predecessor sections 633, 635, or 637 of the Foreign Service Act of 1946, as amended); or who resigned or retired in lieu of selection out or separation for cause.

Note.—This requirement will not apply where it has been determined by the Foreign Service Grievance Board under 3 FAM 660 or by the Director, Office of Personnel, that the separation or the resignation or retirement in

lieu of selection out or separation for cause was wrongful; where reappointment is determined by the Director, Office of Personnel, as an appropriate means to settle a grievance or complaint of a former Foreign Service career member on a mutually satisfactory basis; or where reappointment is the indicated redress in a proceeding under 3 FAM 130 "Equal Employment Opportunity."

(b) Application. Apply by letter addressed to the Director, Office of Personnel. Include the standard application forms, SF–171, Application for Federal Employment, and DSP–34, Supplement to Application for Federal Employment, and a brief resume of work and other experience since resignation from the Foreign Service. Whenever the Director, Office of Personnel, finds that the reappointment of one or more former Foreign Service Career Members may be in the best interest of the Service, all application forms, along with the available personnel files, will be referred as appropriate to the Board of Examiners for the Foreign Service which will conduct an advisory evaluation of the qualifications of each applicant.

(c) Nature of evaluation. (1) The Board of Examiners' advisory qualifications evaluation of FSO applicants: (i) Will be based on a review of all pertinent information relating to the applicant's record of employment in the Foreign Service and to subsequent experience, as well, and (ii) will take into consideration among other factors, the rank of the applicant's contemporaries in the Service in recommending the class in which the applicant will be reappointed under section 308 of the Foreign Service Act of 1980.

(2) In consultation with the Foreign Service Personnel Division (M/PF or VOA/PF) and officials from the pertinent Agency elements, the Overseas Specialist applicant's total qualifications and experience will be evaluated based on the application and an interview. On the basis of this review and the recommendations of the appropriate officials, the personnel office will determine whether the application should be continued and, if so, will recommend the appointment class.

(d) Medical Examination and Security Investigation. Qualified applicants and their dependents who will accompany them overseas will be given a physical examination. A security investigation will also be conducted. The reappointment action is subject to completion of a satisfactory security investigation and satisfactory medical examination of the application and his/her dependents.

(e) Selection for reappointment. The Director, Office of Personnel (M/P or VOA/P), taking into consideration: (1) The qualifications and experience of each applicant as outlined in the qualifications evaluation performed by the Board of Examiners for the Foreign Service or the personnel office; (2) future placement and growth potential; and (3) the needs of the Service for the applicant's skills determines which applicant, or applicants, are qualified for reappointment and the appointment class that is considered to be appropriate. An Overseas Specialist may not be reappointed until and unless an overseas assignment has been identified. The Director, Office of Personnel (M/P or VOA/P) is responsible for initiating appointment action. Any voluntary applicant who refuses an offer of reappointment will not be considered for reappointment again.

§ 501.9 Interchange of FSOs Between USIA and other Foreign Affairs Agencies.

Foreign Service Officers (FSOs) desiring tranfer from one agency to another may apply under the following provisions:

(a) Applications. Applications for interchange appointments should be sent to the Board of Examiners for the Foreign Service, Department of State, Washington, D.C. 20520.

(b) Certification and Approval. (1) When a Foreign Service Officer of another Foreign Affairs Agency wishes to transfer to the U.S. Information Agency, a certification of need is required from the Director, Office of Personnel, USIA, and approval is required by the Director of Personnel for the other Agency for the officer's release to USIA.

(2) When a USIA FSO wishes to transfer to another Foreign Affairs Agency, a certification of need is required from the Director of Personnel of the other Agency, and approval is required by the Director, Office of Personnel, USIA, for the officer's release to that Agency.

(3) A review by the Board of Examiners for the Foreign Service will certify the elgibility of candidates for exchange. BEX will notify the Office of Personnel, USIA when a Foreign Service Officer of another Agency has been approved for transfer and USIA will process the necessary employment papers.

(4) A new FSO appointment for officers transferring between another Foreign Affairs Agency and USIA is not required.

[FR Doc. 85–9708 Filed 4–23–85; 8:45 am]

BILLING CODE 8230–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Ch. I

Pavement Design Standards for Highways; Regulatory Procedures for Federal Adoption of Revisions

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice regarding rulemaking procedures.

SUMMARY: The FHWA is announcing by this notice that revisions to the guide for design of highway pavement structures being prepared by the American Association of State Highway and Transportation Officials (AASHTO) will be evaluated by the FHWA for application on Federal-aid highway projects when completed. This notice outlines the regulatory procedures that will be taken in order to effectuate Federal adoption.

FOR FURTHER INFORMATION CONTACT:

Mr. Leon M. Noel, Highway Design Divison, Office of Engineering 202/426–0327,

or

Mr. Michael J. Laska, Office of Chief Counsel, 202/426–0762, Federal Highway Administration, 400—7th Street, SW., Washington, D.C. 20590.

Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: The standards, policies, and guides that have been approved by the FHWA for application on all Federal-aid highway projects are incorporated by reference in 23 CFR Part 625. The provisions that apply to roadway design are listed in 23 CFR 625.3(a). Pavement design policy and procedures are contained in 23 CFR Part 626. Section 626.5 currently approves the procedures contained in the "AASHTO Interim Guide for Design of Pavement Structures, 1972, Chapter III Revised, 1981" (Guide) for application on Federal-aid highway projects. The AASHTO is in the process of revising those pavement procedures contained in the Guide.

Due to AASHTO's recognized expertise and representation of all State highway and transportation agencies, the FHWA has worked with the AASHTO over the years in the development of design standards.

policies, and guides pursuant to the provisions of Federal law (Title 23, U.S.C.) which direct the FHWA to consult and cooperate with the States in that regard. Revisions to standards, policies, and guides by AASHTO must be independently reviewed and adopted by the FHWA before they can be applied to Federal-aid projects.

When the new pavement guide has been formally adopted by AASHTO later this year, the FHWA will issue a notice of proposed rulemaking (NPRM) proposing to evaluate the adequacy of the revised procedures for use on Federal-aid highways. A public docket will be established in order to receive comments. The FHWA will concurrently review the revised producers. Based on this review and on an analysis of public comments received, the FHWA will issue a final rule adopting the revised guide. If at the time of issuance of the final rule, the revised guide contains materials not acceptable to the FHWA, such material would be noted and excluded, and as required, alternative criteria will be adopted for use on Federal-aid projects.

In order to encourage and promote early and full public participation in this process, the FHWA is giving notice that the revised procedures have been prepared by AASHTO and are contained in a draft document entitled: "Proposed AASHTO Guide for the Design of Pavement Structures" (Revised Guide). The Revised Guide is being developed under a National Cooperative Highway Research Program (Project #20-7/24). The AASHTO has requested that all substantive comments to the draft Revised Guide be submitted by May 15, 1985. These comments should identify, to the extent possible, any areas in which additional time will be needed for review. Additional comments and data should be submitted as soon as possible and all comments received by June 15, 1985, will be fully considered by AASHTO.

Submit written comments to Mr. Francis B. Francois, Executive Director, American Association of State Highway and Transportation Officials, 444 North Capitol Street, NW., Washington, D.C. 20001. Copies of current and proposed AASHTO publications (including the Revised Guide) are available for inspection at this same address.

Questions and comments concerning the procedures in this notice may be directed to Mr. Noel at the address provided under the heading **"FOR FURTHER INFORMATION."**

Issued On: April 22, 1985.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

[FR Doc. 85-9974 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-22-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR PART 180

[PP 5E3236/P365; PH-FRL 2825-4]

Proposed Tolerance; Herbicide Metolachlor and its Metabolites in or On Chilli Peppers

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This document proposes that a tolerance be established for the combined residues of the herbicide metolachlor and its metabolites in or on the raw agricultural commodity chilli peppers. The proposed regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR-4).

DATE: Comments, identified by the document control number [PP 5E3236/P365], must be received on or before May 9, 1985.

ADDRESS: By mail, submit written 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, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT:

By mail:

Donald Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703-557-1192).

SUPPLEMENTARY INFORMATION: The Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, has submitted pesticide petition 5E3236 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR-4 Project and the Agricultural Experiment Station of New Mexico.

This petition requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of a tolerance for combined residues of the herbicide metolachlor (2-chloro-N-(2-ethyl-6-methylphenyl)-N-(2-methoxy-1-methyl)acetamide) and its metabolites, determined as the derivatives, 2-[ethyl-6-methylphenyl)amino]-1-propanol and 4-(2-ethyl-6-methylphenyl)-2-hydroxy-5-methyl-3-morpholinone, each expressed as the parent compound in or on the raw agricultural commodity chilli peppers at 0.5 part per million (ppm).

The nature of the residues is adequately understood and an adequate analytical method, gas chromatography, is available for enforcement purposes.

Any person who has registered or submitted an application for registration of a pesticide, under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, which contains any of the ingredients listed herein, may request within 15 days after publication of this notice in the Federal Register that this rulemaking proposal be referred to an Advisory Committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act. As provided for in the Administrative Procedure Act [5 U.S.C. 553(d)(3)], the comment period time is shortened to less than 30 days because of the necessity to expeditiously provide a means for control of weeds infesting chilli peppers.

Interested persons are invited to submit written comments on the proposed regulation. Comments must bear a notation indicating the document control number, [PP 5E3236/P365]. All written comments filed in response to this petition will be available in the

Information Services Section, at the address given above from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this affect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(e), 68 Stat. 514 (21 U.S.C. 346a(e)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 17, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, it is proposed that 40 CFR 180.368 be amended by adding and alphabetically inserting the raw agricultural commodity chilli peppers, to read as follows:

§ 180.368 Metolachlor, tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Peppers, chili	0.5
* * * * *	

[FR Doc. 85–9989 Filed 4–23–85; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

45 CFR Part 1340

Child Abuse and Neglect Prevention and Treatment Program

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This rule proposed changes in the regulations that implement the Child Abuse Prevention and Treatment Act. Recent amendments to this Act (Pub. L. 98–457) made changes in several definitions regarding child abuse and neglect which may require State regulatory changes. These and other proposed requirements are the subject of this notice.

On December 10, 1984 (49 FR 48160), the Department published a notice of proposed rulemaking to implement the requirement for State child protective service agencis to establish programs and/or procedures for the protection and treatment of disabled infants with life-threatening conditions ("Baby Does"). These requirements were also a part of Pub. L. 98–457.

DATES: To ensure consideration, comments must be submitted on or before June 24, 1985.

ADDRESSES: Please address comment to: National Center on Child Abuse and Neglect, U.S. Children's Bureau, HHS, P.O. Box 1182, Washington, D.C. 20013.

It would be helpful if agencies and organizations submitted comments in duplicate. Comments will be available for public inspection in Room 3758, Donohoe Building, 400 Sixth Street, SW., Washington, D.C. 20201, Monday through Friday between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Jay Olson, (202) 245–2859.

SUPPLEMENTARY INFORMATION:

Background

The Child Abuse Prevention and Treatment Act (Pub. L. 92–247, 42 U.S.C. 5101, et seq.) was signed into law in 1974. It established in the Department the National Center on Child Abuse and Neglect. The National Center is located organizationally within the Children's Bureau of the Administration for Children, Youth and Families in the Office of Human Development Services.

Under this Act, the National Center carries out the following responsibilities:

- Makes grants to States to implement State child abuse and neglect prevention and treatment programs.
- Funds public or nonprofit private organizations to carry out research, demonstration, and service improvement programs and projects designed to prevent, identify and treat child abuse and neglect.
- Collects, analyzes, and disseminates information, e.g., compiles and disseminates training materials, prepares an annual summary of recent and on-going research on child abuse and neglect, and maintains an information clearinghouse.
- Assists States and communities in implementing child abuse and neglect programs.
- Coordinates Federal programs and activities, in part through the Advisory Board on Child Abuse and Neglect.

The Act has been extended and amended several times since its passage. Regulations for the State grant and discretionary fund programs are found at 45 CFR Part 1340; the most recent revisions were published on January 26, 1983 (48 *FR* 3698). The fifty States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands are eligible to apply for State grants. Fifty-one of the fifty-seven eligible jurisdictions meet the requirements of the Act and the regulations and currently receive State grant funds. We will refer to these jurisdictions as "States" in this preamble discussion.

The State Child Protective Service System

The protection of children from abuse and neglect has always been a State and local responsibility. Protective services are typically the responsibility of the State's designated public child protective service agency (CPS), usually located in the State's child welfare services agency. Investigations, activities and services may be provided by CPS agency staff, law-enforcement agencies, multi-disciplinary teams, and by utilizing the services available from other public and voluntary agencies in the community.

While fifty-one of the fifty-seven States have met the requirements of the Act and 45 CFR Part 1340, all States have laws pertaining to child abuse and neglect. In general, these laws define the conditions of abuse or neglect that must be reported, mandate the reporting of both known or suspected abuse and neglect, provide penalties for failure to report, and provide immunity to reporters from legal actions associated with the report.

Over the years, the range of reportable conditions has broadened. Today, most State laws specifically include sexual abuse and emotional or mental injury as well as the traditional definition of child abuse which includes physical abuse and neglect. For specific eligibility requirements under the Act and the regulations, see sections 3 and 4(b)(2) of the Act and 45 CFR 1340.2(d) and 1340.14(b).

All States mandate that physicians must report known or suspected child abuse or neglect. In addition, some States require reporting by other groups, e.g., "associated medical personnel", "any health professional", nurses, dentists, osteopaths. Interns are also required to report in most States, as are those in frequent contact with children such as teachers and other school officials, child care professionals, and social workers.

In addition to mandated reporters, generally, anyone who knows or suspects that a child is being maltreated may report. Some States have statutory authority for permissive as well as mandatory reporting, while other States have no permissive reporting because they mandate reporting by everyone. States use either a 24 hour a day, 7 days a week, toll-free, State-wide telephone number or a local number to receive such reports. *See* section 4(b)(2)(B) and 45 CFR 1340.15(C).

While the identification of maltreated children ultimately depends on the responsiveness of a concerned community, States impose a penalty for failure to report when mandated by law to do so. This may include denial, suspension or revocation of professional licenses or certificates.

All States provide immunity from civil or criminal liability for reporters acting in good faith. This means that an individual cannot be sued for a mistaken or a later unsubstantiated report if such report was made in good faith. *See* section 4(b)(2)(A).

Procedures for investigation (fact-finding) in response to a report, and service provision, also vary from State to State. Most CPS workers have specialized training, and multidisciplinary fact-finding teams typically have some expertise in social work, medicine, law and law enforcement. Staff are usually available to respond on a 24 hour basis as many State laws require that the CPS agency respond to reports at least within 24 hours. Emergency services (e.g., emergency shelter or foster care, emergency homemakers) are also frequently available. After any critical situation has been resolved, appropriate community services and support for the child and family may be utilized as needed. *See* sections 4(b)(2) (C), (D), (F) and (J) and 45 CFR 1340.14 (d), (e), (f) and (h).

This CPS agency generally regards its contact with the family as a demonstration of community concern and evidence of its desire to be of help to both parents and the child. The ultimate aim of the agency is to protect the child, preserve the home, prevent separation of the child from the family if at all possible, prevent further abuse or neglect, and alleviate or correct the factors leading to the report.

The Child Abuse Amendments of 1984 (Pub. L. 98-457) were signed into law on October 9, 1984. They contain a major new basic State grant requirement regarding medical neglect, i.e., the State's responsibility for the protection of disabled infants ("Baby Does"). To implement these provisions the Department published an NPRM and Interim Model Guidelines for Health Care Providers to Establish Infant Care Review Committees on December 10, 1984 (49 FR 48160). The remaining provisions of the 1984 Amendments plus other proposed changes are the subject of this NPRM.

Section by Section Discussion of the Proposed Regulations

With three exceptions discussed below, the language of the proposed rule is taken from the statute.

Section 3 of the Act and § 1340.2

The Amendments made three changes in the definitions in section 3:

- The previous law defined "child abuse and neglect" to include a range of activities engaged in by a "person who is responsible for the child's welfare". The reference to a person who is responsible now specifies that such a person includes an employee of a residential facility or a staff person providing out of home care.
- The definition of "sexual abuse" was revised and relocated from section 5 to section 3. For purposes of this definition, the terms "child" and "children" now means any individual who has not attained the age of eighteen.
- Regulations pertaining to a new definition of "withholding of medically indicated treatment" were published December 10, 1984 (49 FR 48160).

These changes in the definition of child abuse and neglect are significant because they define those acts or situations of child maltreatment which are and the universe of persons whose conduct is reportable to the agency designated by State law to receive and investigate known or suspected instances of child abuse and neglect. States interested in meeting or maintaining eligibility for a State grant under section 4(b) of the Act must, at minimum, define child abuse and neglect in accordance with the Act and regulations prescribed by the Secretary. States may adopt additional requirements at their option.

We have made changes in the definitions in 45 CFR 1340.2(d) to comport with the statutory language. In the definition of "child abuse and neglect" we have added language from section 3(1) of the Act to specify first, that for purposes of the definition of child abuse and neglect, the term "child" means a "child under the age of eighteen or the age specified by the child protection law of the State"; and, second, that the phrase "person responsible for the child's welfare" includes "any employee of a residential facility or any staff person providing out of home care". The first change clarifies that, for the purpose of the overall definition of child abuse and neglect, the State's definition of the age of the child will apply. The second change broadens the scope of prevention efforts and requires reports to the CPS agency of known or suspected instances of abuse or neglect by employees of residential facilities and by staff persons providing out of home care. In responding to reports of abuse in these latter instances, the CPS agency's focus on preserving the home does not apply. Rather, the agency will investigate the report and work with law enforcement personnel to protect the child, prevent further abuse, and possibly alleviate or correct the factors leading to the report.

We propose to remove paragraphs (d)(1) and (d)(2) that currently define "sexual abuse" and "sexual exploitation" and replace them with the new statutory definition of "sexual abuse" from section 3(2) of the Act in a new paragraph (d)(1).

The new definition of "sexual abuse" describes a wide range of sexual abuses of children under the age of eighteen, including acts of sexual exploitation, in terms that are the same in substance as those in the current regulations. However, in contrast to its definition of child abuse and neglect, the Act specifically defines "child" or "children" with respect to sexual abuse as "any individual who has not attained the age of eighteen". States which meet or are in the process of meeting the definitions of sexual abuse and sexual exploitation as presently defined in 45 CFR 1340.2 will need to review their State statutes to determine if any change in these statutes is needed. As stated in § 1340.14(b), if State statutes are the "same in substance" as the definitions in the proposed rule, and apply to a child or children who have not reached age eighteen, no change will be needed. A State that met the definitions in the current rule would probably meet the definitions in the proposed rule.

Finally, we have amended § 1340.2(d)(4), the definition of "a person responsible for a child's welfare", to

comport with the change in the Act to include any staff person providing out of home care. However, we believe that the term "out of home care" should be defined in the final rule. We have proposed to define "out of home care" to mean "center-based day care provided during a portion of a 24-hour day." In evaluating the impact and usefulness of this approach, we considered the following factors: The increasingly heavy case load borne by child protective service workers at the State and local level; the primary focus of the child protective service caseworker on the family—to protect the child, preserve the home, prevent separation of the child from the family if at all possible, prevent further abuse or neglect, and alleviate or correct the factors leading to the report; and the fact that reports of abuse and neglect that fall outside a State's definition can be, and in most States are, investigated by law enforcement officials. Given the fact that all reports of abuse and neglect must be investigated, the primary questions seem to be which agency(s) should be responsible for responding to reports of abuse by "staff persons" in the various categories of out of home caregivers, and more specifically, what should be the scope, focus, and role of the State child protective service agency in investigating such reports. We look forward to receiving comments on this interpretation.

We want to emphasize that while the statutory change expands the instances of child abuse and neglect that require mandated reports of abuse to the CPS agency, this change does not mean that instances of child abuse occurring outside the limits of this definition cannot be reported. On the contrary, all persons are morally if not legally obliged to report any instance of known or suspected abuse including abuse in other types of out of home care, e.g., abuse by neighbors, friends, and other family members; or abuse of both a parent and a child. In order to be eligible for a grant under section 4(b) of the Act, State CPS agencies are not required to respond to reports of abuse that fall outside this definition of child abuse and neglect. At State option they may do so, but, in general, most of these reports are referred to the State or local law enforcement agency.

Section 3 and 4(b)(3)(A) of the Act and § 1340.13

Approval of applications

We have made several changes in § 1340.13. In paragraph (a)(1) we have made technical changes to comport with the new definition of sexual abuse in section 3(2) and § 1340.2(d)(1).

As enacted, Congress made no provision in the 1984 Amendments for an implementation period to allow States time to make the statutory changes necessary to bring their State definitions of child abuse and neglect into compliance with the new requirements. Therefore, we are proposing to add a new paragraph (a)(2) to permit States until the close of the first general legislative session following the effective date of these regulations to review and amend State statutes, if necessary, to comport with the new definition of "person responsible for a child's welfare".

We have also added a new paragraph (c) based on the waiver provision in section 4(b)(3) of the Act to explain that States not currently eligible for State grants under the Act may apply for a waiver of any requirement in section 4(b)(2) of the Act except for any requirement under section 4(b)(2)(K) and new § 1340.15 of this Part (*see* Notice of Proposed Rulemaking, December 10, 1984 (49 FR 48160)) regarding protection of disabled infants (Baby Does). This waiver applies only to the six States which did not receive State grants in FY 1984, i.e., Indiana, Pennsylvania, Arizona, Oregon, Alaska, and the Trust Territory of the Pacific Islands. In enacting this waiver provision, Congress indicated that those States making a good faith effort to comply should not be penalized while the State is attempting to meet these requirements during the period of the waiver. In any case, the waiver period may not exceed two years.

Eligibility Requirements: Access to Reports—§ 1340.14

In response to reports of sexual abuse in day care centers, recommendations from State and local governments and child welfare agencies, and inquiries from State legislatures, the Department is proposing to allow States additional flexibility in the release of confidential information from the State's child abuse registry. Currently, § 1340.14(i)(1) requires that States must provide that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense. Paragraph (i)(2), however, provides that a State may, at its option, authorize disclosure to any or all of the persons and agencies specified in paragraphs (i)(2)(i) through (xi) if such authorization is permitted by State statute and operates under any limitations and procedures determined by the State.

We are proposing to allow States to disclose certain information to three additional individuals and agencies: the director (or his or her designee) of an agency designated by the State to license and/or register child day care facilities, a director (or his or her designee) of a child day care center, and the director (or his or her designee) of an agency licensed by the State to provide foster care placement and services and/or adoptive services. The purpose of these proposals is to prevent known abusers from being placed in settings where they would have first hand contact with children or from being approved as a foster parent or an adoptive parent.

The Department recognizes, however, that these proposals may not offer due process to individuals who are the subject of reports of abuse or neglect and that States considering allowing access to these additional individuals and agencies may wish to place further restrictions or safeguards on the information released. Various recommendations for addressing this matter are being explored. One recommendation suggests that States should opt only to confirm a substantiated report on the person, but not share the entire contents of the substantiated report. (A substantiated report is a report made pursuant to State child abuse and neglect reporting law where it is determined, based on an investigation, that there is reasonable cause to believe that a child has been abused or neglected.) Another option is that States should confirm a substantiated report on a person only if the person has received a copy of the substantiating report and been allowed a fair hearing process to amend, correct, or expunge the report. Another recommendation is that such confidential information be released only if the agency making the information available determines that disclosure is appropriate to prevent child abuse and neglect.

As noted earlier, we are proposing these changes in an effort to respond to public concern and prevent sexual abuse in child day care centers and other child care situations. At the same time, States have also taken various actions in response to reports of sexual abuse in these facilities. We understand that some States, for example, have enacted, or are in the process of enacting, laws and/or regulations to permit disclosure of confidential information concerning reports and records of reports to some or all of the additional individuals and agencies proposed in this NPRM. OHDS has

looked at the current rules regarding confidentiality and, for the purpose of reviewing a State's application for a FY 1985 grant under this program, will interpret § 1340.14(i)(2)(viii) as permitting a director (or his or her designee) of a child day care center access to confidential information on the basis that he or she is a person responsible for the child's welfare. OHDS will also interpret § 1340.14(i)(2)(iv) as permitting access by designated officials of State licensing/registration agencies and licensed foster care and/or adoption agencies on the grounds that they are properly constituted authorities investigating whether there is a report of known or suspected abuse on specific individuals. We believe this is a fair interpretation of existing regulations. To the extent that some persons may consider this to be a substantive change in our regulations, we would assert that this is a desirable change in view of our efforts to assist States to protect children. We believe that such a limited expansion of access to child abuse reports and records could serve to prevent some significant number of child abuse incidents in the future.

Model Child Care Standards Act

As required by section 401(c)(1) of Pub. L. 98-473, the Department has issued a Model Child Care Standards Act—A Guidance to States to Prevent Child Abuse in Day Care Facilities. This document may be of interest to and useful in the child abuse and neglect programs. Specific subject areas include information on parent involvement; employment history, criminal record, and reference checks for staff of child care facilities; and other suggestions for State action to help prevent child abuse and/or neglect.

Impact Analysis

Executive Order 12291

E.O. 12291 requires that a regulatory impact analysis be prepared for major rules—defined in the Order as any rule that has an annual effect on the national economy of $100 million or more, or certain other specified effects. For the most part, it is the statute and not these regulations which set the basic requirements. Therefore, the Department concludes that these regulations are not major rules within the meaning of the Executive Order, because they do not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Act 1980

The Regulatory Flexibility Act (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each rule with a "significant economic impact on a substantial number of small entities" an analysis must be prepared describing the rule's impact on small entities. Small entities are defined by the Act to include small businesses, small non-profit organizations, and small governmental entities. The primary impact of these regulations is on the States, which are not "small entities" within the meaning of the Act. For these reasons, the Secretary certifies that these rules will not have a significant impact on a substantial number of small entities.

Paperwork Reduction Act

Under the Paperwork Reduction Act of 1980, Pub. L. 96-511, all Departments are required to submit to the Office of Management and Budget for review and approval any reporting or recordkeeping requirement inherent in a proposed and final rule. These proposed rules do not contain information collection requirements or increase Federal paperwork burden on the public or private sector. Thus, no submission to OMB is required.

List of Subjects in 45 CFR Part 1340

Child welfare, Disabled, Family violence, Grant programs—health, Grant programs—social programs.

(Catalog of Federal Domestic Assistance Program No. 13.628, Child Abuse and Neglect Prevention and Treatment)

Dated: January 25, 1985.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

Approved: February 20, 1985.

Margaret M. Heckler,

Secretary.

For the reasons set forth in the preamble, 45 CFR Part 1340 is proposed to be amended as follows:

PART 1340—CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT

1. The authority citation for Part 1340 is revised to read as follows:

Authority: The Child Abuse Prevention and Treatment Act, Pub. L. 93-247, 88 Stat. 4; Pub. L. 95-266, 92 Stat. 205, sections 609-610; Pub. L. 97-35, 95 Stat. 488; Pub. L. 98-457, 98 Stat. 1749 (42 U.S.C. 5101).

2. 45 CFR 1340.2(d) is revised to read as follows:

§ 1340.2 Definitions.

* * * * *

(d) "Child abuse and neglect" means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child under the age of eighteen, or the age specified by the child protection law of the State, by a person including any employee of a residential facility or any staff person providing out of home care who is responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term encompasses both acts and omissions on the part of a responsible person.

(1) The term "sexual abuse" includes the following activities under circumstances which indicate that the child's health or welfare is harmed or threatened with harm: The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or having a child assist any other person to engage in, any sexually explicit conduct (or any simulation of such conduct) for the purpose of producing any visual depiction of such conduct; or the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children. With respect to the definition of sexual abuse, the term "child" or "children" means any individual who has not attained the age of eighteen.

(2)(i) "Negligent treatment or maltreatment" includes failure to provide adequate food, clothing, shelter, or medical care.

(ii) Nothing in this part should be construed as requiring or prohibiting a finding of negilgent treatment or maltreatment when a parent practicing his or her religious beliefs does not, for that reason alone, provide medical treatment for a child; provided, however, that if such a finding is prohibited, the prohibition shall not limit the administrative or judicial authority of the State to insure that medical services are provided to the child when his health requires it.

(3) "Threatened harm to a child's health or welfare" means a substantial risk of harm to the child's health or welfare.

(4) "A person responsible for a child's welfare" includes the child's parent, guardian, foster parent, an employee of a public or private residential home or facility or other person legally responsible under State law for the child's welfare in a residential setting, or any staff person providing out of home care. For purposes of this definition, out of home care means center-based day

care provided during a portion of a 24-hour day.

3. Section 1340.13(a) is revised, and (c) is added to read as follows:

§ 1340.13 Approval of applications.

(a) The Commissioner shall approve an application for an award for funds under this subpart if he or she finds that:

(1) The State is qualified and has met all requirements of the Act and § 1340.14 of this part, except for the definitional requirement of § 1340.14(a) with regard to the definition of "sexual abuse" (see § 1340.2(d)(1)) and the definitional requirement of negligent treatment as it relates to the failure to provide adequate health care (see § 1340.2(d)(2)). The State must include these two definitional requirements in its definition of child abuse and neglect no later than the close of the second general legislative session of the State legislature following February 25, 1983;

(2) The State modifies its definition of "child abuse and neglect" to provide that the phrase "person responsible for a child's welfare" includes an employee of a residential facility or a staff person providing out of home care no later than the close of the first general legislative session of the State legislature following the effective date of these regulations;

(3) The funds are to be used to improve and expand child abuse or neglect prevention or treatment programs; and

(4) The State is otherwise in compliance with these regulations.

* * * * *

(c) Except for any requirement under section 4(b)(2)(K) of the Act and § 1340.15 of this part pertaining to medical neglect, a State which, on October 9, 1984, did not meet the eligibility requirements of section 4(b)(2) of the Act and this Part and thus did not receive a State grant in FY 1984 may apply for a waiver of any requirement. In order to apply for a waiver, the Governor of the State must submit documentation of the specific measures the State has taken and will be taking to meet the as yet unmet eligibility requirement(s).

(1) State's whose legislatures meet annually may be granted a one-year waiver if OHDS finds that the State is making a good faith effort to comply with such requirement(s). This waiver is renewable for a second year if, based on additional documentation, the Secretary finds the State is making substantial progress to achieve compliance.

(2) States whose legislatures meet biennially may be granted a waiver for a non-renewable period of not more than two years if OHDS finds, based on documentation, the State is making a good faith effort to comply with any such requirement(s).

4. Section 1340.14 is amended by addition new paragraphs (i)(2) (xii) through (xiv) as follows. Paragraph (i)(1) and the introductory text of (i)(2) are shown for the convenience of the reader and remain unchanged.

§ 1340.14 Eligibility requirements.

* * * * *

(i) *Confidentiality.* (1) The State must provide by statute that all records concerning reports and reports of child abuse and neglect are confidential and that their unauthorized disclosure is a criminal offense.

(2) If a State chooses to, it may authorize by statute disclosure to any or all of the following persons and agencies, under limitations and procedures the State determines:

* * * * *

(xii) A director (or his or her designee) of an agency designated by the State to license and/or register child day care facilities;

(xiii) A director (or his or her designee) of a child day care center; and

(xiv) A director (or his or her designee) of an agency licensed by the State to provide foster care placement and services, and/or adoptive services.

* * * * *

[FR Doc. 85-9673 Filed 4-23-85; 8:45 am]

BILLING CODE 4130-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[Gen. Docket No. 83-113; FCC 85-188]

Implementation of the Arrangement With Canada for Use of the 406.1-430 MHz Band in the Border Areas, and Use of the 421-430 MHz Band by Land Mobile Users in Detroit, Cleveland, and Buffalo

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has proposed rules allocating portions of the 421-430 MHz band in Detroit, Cleveland and Buffalo to land mobile services. This action is taken to provide land mobile relief in three major cities where spectrum is congested because the proximity of the Canadian border has restricted use of both the 470-512 and the 800 MHz bands. Amateur operation would be affected on a limited basis.

DATES: Comments must be submitted on or before May 28, 1985.

Reply comments must be submitted on or before June 12, 1985.

ADDRESS: Federal Communications Commission, 1919 M Street NW, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Don Precure, (202) 653-8170, Room 7314.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 2

Frequency allocations, Radio, Treaties.

Notice of Proposed Rulemaking

In the matter of amendment of Part 2 of the Commission's Rules to Permit Land Mobile Use of the Band 421-430 MHz in Detroit, Cleveland and Buffalo; Gen. Docket No. 85-113.

Adopted: April 15, 1985.
Released: April 19, 1985.

By the Commission. Commissioner Patrick concurring in the result.

Introduction

1. In Dockets 18261 and 18262, the Commission provided spectrum relief for the land mobile services. However, due to the conflict at the time with international allocation constraints, this relief could not be granted along our borders. Negotiations were undertaken with Canada to obtain relief in at least three of our largest border cities. To this end, an Arrangement[1] between the United States and Canada was entered into by exchange of diplomatic notes on April 7, 1982 allowing both nations to operate their respective primary radio services in the band 406.1-430 MHz in the border areas. This Arrangement, coupled with the cooperation of the Executive Branch, will permit land mobile use of portions of the 421-430 MHz band in Detroit, Cleveland, and Buffalo. Allocations are proposed in this Notice to permit such use.

Background

2. Prior to the 1979 World Administrative Radio Conference (1979 WARC), the 420-450 MHz band was allocated to the Radiolocation radio service on a primary basis in Region 2, which consists of North and South America and to the Amateur service on a secondary basis. In the United States,

[1] "Arrangement Between the Department of Communications of Canada and the National Telecommunications and Information Administration and the Federal Communications Commission of the United States Concerning the Use of the 406.1 to 430 MHz Band in Canada/United States Border Areas" (the Arrangement) and is to be annexed to an Agreement "Telecommunications: Coordination and Use of Radio Frequencies Above 30 Megacycles per Second" originally entered into by the United States and Canada on October 24, 1962, and later modified with respect to the Technical Annex by an exchange of Notes on June 16 and 24, 1965.

the primary use of the band was for Government radiolocation operations, with non-Government radiolocation and amateur operations permitted on a secondary basis. However, at the 1979 WARC the 420–430 and 440–450 MHz bands were reallocated in all Regions for primary use by the Fixed and Mobile radio services. The United States, intending to continue primary use by the Radiolocation service and secondary use by the Amateur radio service, achieved two footnotes to the international allocation table.

3. Footnote 651 was modified to read:

"Different category of service: In Australia, the United States, India, Japan and the United Kingdom, the allocation of the bands 420–430 and 44–450 MHz to the radiolocation service is on a primary basis."

This footnote retains Radiolocation as a primary service in the United States for the spectrum mentioned, thereby allowing Radiolocation to continue as the principal user of this band in the United States. Canada is not included in the footnote and intends to use the spectrum for Fixed and Mobile operations, consistent with the new international allocation. This difference of usage requires a cooperative effort between Canada and the United States in the border areas in order to avoid mutual interference between the involved sevices.

4. A new international footnote, 652, was added to permit continued secondary use by Amateurs:

"Additional allocation: In Australia, the United States, Jamaica and the Philippines, the bands 420–430 MHZ and 440–450 MHz are also allocated to the amateur service on a secondary basis."

Special arrangements have also been developed for Amateur operations in this country so that there will be no interference with Fixed and Mobile operations in Canada. During the proceeding to implement domestically the results of the 1979 WARC, footnote NG135 was added to the table of allocations.

"In the 420–430 MHz band the amateur service is not allocated north of Line A. All amateur radio stations shall operate north of Line A in accordance with the Agreement between the United States and Canada."[2]

5. An Arrangement has been negotiated with Canada to permit both Candian Fixed and Mobile users and United States Radiolocation users to share the spectrum with little possibility of interference. The Arrangement, although primarily drafted to allow the United States to continue Government radiolocation operations while Canada implements land mobile operations, will also allow land mobile operation by the United States within the coordination zone north of Line A (defined in § 2.1). In particular, the Arrangement provides for United States land mobile activity in a portion of the band 421–430 MHz.

Discussion

Land Mobile Operations

6. The provisions for land mobile operations within the Arrangement present an opportunity to provide for non-Government land mobile operations in Detroit, Cleveland and Buffalo, where mobile spectrum is in short supply. This is possible because Government radiolocation transmitters are not currently located near these cities and the Government intends to minimize operations in those vicinities. Radiolocation interference, if any, would be very infrequent and transient, occurring primarily from airborne sources.

7. While the spectrum demand in Detroit, Cleveland, and Buffalo is as great as that of some major cities, land mobile channels are crowded in these cities because they have had no relief at 470–512 MHz and only recently received relief at 800 MHz. The 470–512 MHz band (UHF-TV channels 14 through 20) was to be shared between land mobile and broadcasting in our ten largest cities, according to rules developed in Docket 18261. Detroit and Cleveland, which were included because of their size, actually received no relief because nearby UHF-TV stations required protection. Buffalo received no relief because of its smaller size. No border-area cities received land mobile relief at 800 MHz in Docket 18262 because, at the time, the band was allocated internationally to the broadcasting service. No land mobile use of the band could, therefore, be permitted in the coordination zone (north of Line A) because it would interfere with primary broadcast usage in Canada. Land mobile became the primary service as a result of the 1979 WARC and, following negotiation of a sharing arrangement with Canada, portions of the 800 MHz band are now available in these cities.[3]

8. The Arrangment divides the 421–430 MHz band equally between the United States and Canada for land mobile use. Within the coordination zone, each nation generally has "unrestricted geographic use" of its half of the band and each avoids any use of the remaining half. It was agreed, however, that because the United States has more spectrum demand than Canada in the border area between 81 and 85 degrees west longitude and because Canada has more demand than the United States in the border area between 71 and 81 degrees, that within these sectors the nation having more need would have more spectrum (approximately 70% of the band rather than 50%). Detroit and Cleveland, located in the sector where the United States is favored, would receive more relief than Buffalo which is located in the sector where Canada is favored.

9. Spectrum made available for use by the United States must still be shared between Government Radiolocation and non-Government land mobile users. NTIA, in discussions with the Commission, has agreed to allow the United States portion of this band to be used for Non-Government purposes in these three cities while retaining the primary United States allocation for Radiolocation. It will do this by avoiding use of these frequencies, to the extent possible and except in emergencies, within interference range of the three cities.[4]

Amateur Operations

10. Amateur operation on these bands within the coordination zone north of Line A is already limited by Footnote NG135. While this is sufficient to protect Canadian users and the proposed land mobile users in Detroit, it is insufficient to permit land mobile operation in Cleveland and Buffalo. However, substantial additional protection is provided because the amateur allocation south of Line A is secondary. We do not propose to change the amateur allocation. Amateurs would have to avoid causing any interference to land mobile because we propose to make land mobile a primary service. If land mobile systems with 30 mile operating ranges and located within 25 miles of

[2] Non-Government footnote 135 (NG135) adopted November 8, 1983, in General Docket 80-739, the amendment of Part 2 regarding implementation of the final acts of the 1979 WARC. Subsequent to this Arrangement, the Commission issued a related Notice of Proposed Rulemaking in PR Docket 84-980 proposing deletion of the 420-430 MHz band for amateurs north of Line A.

[3] Second Report and Order, PR Docket 79-191, adopted July 22, 1982, for private services, CC Docket 79-318 for common carrier (cellular).

[4] Although the U.S. Government reserves the right to operate radiolocation stations in the 420-430 MHz band on board fixed-wing aircraft, the government will minimize use of this band on flights within interference range of land mobile operations.

the center of these cities are to be practical, they must be protected from interference by a buffer of at least 45 miles. If the secondary allocation is not sufficient, we would consider prohibiting amateur operation in the 421–430 MHz band within approximately 100 miles of the centers of Buffalo and Cleveland. We specifically seek comments on this alternative.[5]

Allocation Proposal

11. Changes are proposed to the Table of Frequency Allocations, § 2.106 of the Commission's Rules. For the frequency band 420–450 MHz, footnote US230 is added. The proposed Table of Allocations is given in the Appendix.

12. The proposed footnote change describes the area where land mobile operation is permitted by naming the counties of each area. This has been done to simplify the application process, to eliminate distance calculations, and to eliminate the need for special maps on the part of the applicant. It is also more convenient administratively to the Commission.

13. These land mobile allocations are on frequencies and in areas for which the United States generally has unrestricted use. Therefore, operations need not be coordinated with Canada with one exception. Applications for land mobile licenses in Lake and Geauga counties, Ohio, north of latitude 41 degrees 34 minutes North which use the band 422.1875–423.8000 or 427.1875.8000 MHz must be coordinated with Canada prior to licensing.

Other Matters

14. Specific service rules must be adopted before land mobile operations can begin. These would be developed through further rulemakings.

15. The proposed amendments to Part 2 of the rules as set forth in the Appendix, are issued pursuant to the authority contained in sections 4(i) and 303(c), (h), and (r) of the Communications Act of 1934, as amended.

16. Pursuant to applicable procedures set forth in § 1.415 of the Commission's Rules, interested persons may file comments on or before May 28, 1985, and reply comments on or before June 12, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision, the Commission may take into consideration information and ideas not contained in the comments, provided that such information or a writing indicating the nature and source of such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the Report and Order.

17. In accordance with the provisions set out in § 1.419 of the Commission's rules, formal participants shall file an original and 5 copies of their comments and other materials. Participants wishing each Commissioner to have a personal copy of their comments should file an original and 11 copies. Members of the general public who wish to express their interest by participating informally may do so by submitting 1 copy. All comments are given the same consideration, regardless of the number of copies submitted. All documents will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters, Room 239, 1919 M Street NW, Washington, DC. For general information on how to file comments, please contact the FCC Consumer Assistance and Small Business Division at (202) 632–7000.

18. For purposes of this non-restricted notice and comment rulemaking proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a notice of proposed rulemaking until the time a public notice is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting or until a final order disposing of the matter is adopted by the Commission, whichever is earlier. In general, an *ex parte* presentation is any written or oral communication (other than formal written comments/pleadings and formal oral arguments) between a person outside the Commission and a Commissioner or a member of the Commission's staff which addresses the merits of the proceeding. Any person who submits a written *ex parte* presentation must serve a copy of that presentation on the Commission's Secretary for inclusion in the public file. Any person who makes an oral *ex parte* presentation addressing matters not fully covered in any previously-filed written comments for the proceedings must prepare a written summary of that presentation; on the day of oral presentation, that written summary must be served on the Commission's Secretary for inclusion in the public file, with a copy to the Commission official receiving the presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number of the proceeding to which it relates. See generally, § 1.1231 of the Commission's rules, 47 CFR 1.1231. A summary of these Commission procedures governing *ex parte* presentations in informal rulemaking is available from the Commission's Consumer Assistance Office, FCC, Washington, DC 20554.

19. Pursuant to section 605 of the Regulatory Flexibility Act (Pub. L. 96–354, September 19, 1980, 94 Stat 1164; 5 U.S.C. 601 *et seq.*), the Commission certifies that the action proposed will not have a significant economic impact on a substantial number of small business entities. Immediate economic impact is confined to three cities and any perceived impact is entirely beneficial. Previous users of this spectrum, to the extent it was being used, were Government radiolocation stations and amateur radio licensees, both of which are excluded from consideration under the terms of the Regulatory Flexibility Act.

20. Accordingly, the Commission certifies that sections 603 and 604 of the Regulatory Flexibility Act do not apply to this proceeding. See U.S.C. 605(b). It is ordered that a copy of this notice shall be sent to the Chief Council for Advocacy of the Small Business Administration.

21. For further information concerning procedures to follow with respect to this rulemaking proceeding, contact Don Precure at (202) 653–8170.

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

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

Part 2 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

Section 2.106 is amended by adding footnote designator US230 at columns 4 and 5 and by adding "LAND MOBILE (90 & 22)" at column 6 in the 420–450 MHz band, and by adding the text of footnote US230 in numerical sequence to

[5] If the secondary allocation is insufficient, we could prohibit amateur operation by adding the following language to footnote NG135: "In the band 421–430 MHz the amateur service is not allocated in Wyandot, Marlow, Knox, Coshocton, Guernsey, Harrison, and Jefferson Counties, Ohio, in Brooke and Hancock Counties, West Virginia, in Beaver, Butler, Venango, Forest, Elk, Cameron, and Potter Counties, Pennsylvania, in Steuben and Schuyler Counties, New York, and in the area enclosed between these counties and line A."

the list of footnotes following the Table of Frequency Allocations.

§2.106 Table of frequency allocations.

U.S. table		FCC use designators	
Government	Non-Government	Rule part(s)	Special use frequencies
Allocation (MHz)	Allocation (MHz)		
(4)	(5)	(6)	(7)
420-450	420-450		
RADIOLOCATION	Amateur	LAND MOBILE	
664 668 US7	664 668 US7	(90 & 22)	
US87 US217 US228	US87 US217 US228		
US230 G2 G8	US230 NG135	Amateur (97)	
G105			

* * * * *

US230 Non-Government Land Mobile service is allocated on a primary basis in the bands 422.1875–425.4875 and 427.1875–429.9875 MHz in Macomb, Oakland, and Wayne Counties, Michigan, and in Lorain, Medina, Summit, Geauga, Lake, and Cuyahoga Counties, Ohio, and in the bands 423.8125–425.4875 and 428.8125–429.9875 MHz in Erie and Niagara Counties, New York. Non-government airborne operations are not permitted.

[FR Doc. 85-9851 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 84-502; RM-4766]

TV Broadcast Stations De Funiak Springs, FL

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; dismissal of petition.

SUMMARY: This action dismisses a proposal to assign UHF television Channel 62 to De Funiak Spring, Florida, in response to a petition filed by Marvin Palmquist. The rule making is dismissed due to lack of interest by the petitioner or other interested parties.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

Report and Order Proceeding Terminated

In the matter of amendment of § 73.606(b), table of assignments, TV Broadcast Stations, (De Funiak Springs, Florida); MM Dkt. 84-502, RM-4766.

Adopted: April 10, 1985.
Released: April 17, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission is the *Notice of Proposed Rule Making*, 49 FR 24404, published June 13, 1984, proposing the assignment of UHF television Channel 62 to De Funiak Springs, Florida, in response to a request from Marvin Palmquist ("petitioner").

2. The Commission did not receive comments from the petitioner (or any other interested parties), and consistent with our policy and procedures set forth in the Appendix to the *Notice*, we have dismissed the request for lack of continuing interest.

3. In view of the foregoing, it is ordered, that the petition of Marvin Palmquist, proposing the assignment of UHF television Channel 62 to De Funiak Springs, Florida, is hereby dismissed.

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

(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.

[FR Doc. 85-9860 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-110; RM-4776]

FM Broadcast Stations in Willcox, AZ

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: Action taken herein proposes the substitution of Class C FM Channel 300 for Channel 252A at Willcox, Arizona, and modification of the Class A license for Station KWCX(FM), in response to a petition filed by Rex K. Jensen. The proposed allotment could provide Willcox with a first wide-coverage Class C FM station.

DATES: Comments must be filed on or before June 10, 1985, and reply comments must be filed on or before June 25, 1985.

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

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

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Proposed Rule Making

In the matter of amendment of § 73.202(b), table of allotments, FM broadcast stations (Willcox, Arizona); MM Docket No. 85-110, RM-4776.

Adopted: April 10, 1985.
Released: April 18, 1985.

By the Chief, Policy and Rules Division.

1. The Commission herein considers a petition for rule making filed by Rex K. Jensen ("petitioner"), licensee of FM Station KWCX(FM)[1] (Channel 252A), Willcox, Arizona, which seeks to substitute Class C FM Channel 300 for 252A, and to modify his license to specify operation on the Class C channel. Petitioner indicates that he will apply for authority to build and operate a station on Channel 300 if allotted to Willcox, as proposed.

2. In justification of the request, petitioner states that, due to terrain factors in his service area, the present Class A channel in Willcox provides only marginal service, whereas a Class C channel would enable him to provide expanded coverage not only to area residents, but also a first FM service to over 2,500 persons residing in nearby communities. Additionally, petitioner claims that the Class C channel could provide essential weather information to outlying farms and ranches, as well as to travelers along Interstate 10.

3. We believe the proposal warrants consideration in view of the expressed need for a wide coverage area FM station. A staff engineering study reveals that the proposed allotment can be accomplished in conformity with the minimum distance separation requirements of § 73.207(b) of the Commission's Rules, provided the transmitter is located at least 21.2 miles east of Willcox to avoid short-spacing to co-channel Station KMLE(FM), Chandler, Arizona.[2]

[1] Petitioner is also the licensee of co-owned Station KHIL(AM), Willcox.

[2] It is noted that the proposed allotment would limit the 16 kilometer (10 mile) buffer to Station KMLE(FM). Existing Class C stations with less than a 300 meter antenna height are now permitted a 16 kilometer buffer zone. However, the buffer zone

Continued

4. Since Willcox is located within 320 kilometers (199 miles) of the common U.S.-Mexican border, the Commission must obtain concurrence of the Mexican government in the instant proposal. Moreover, petitioner should note that since his proposal is in the vicinity of the FCC's monitoring station in Douglas, Arizona, the proposed allotment herein will be contingent upon avoiding interference to that facility.

5. In view of the above, we will propose to modify the license of Station KWCX(FM), as requested by petitioner. However, in conformity with Commission precedent, as expressed in *Cheyenne, Wyoming*, 62 FCC 2d 63 (1976), should another interest in the allotment be shown, the modification could not be made unless at least one additional equivalent channel is available in the community to accommodate any other expressions of interest. See, *Modification of FM and TV Station Licenses*, 56 RR 2d 1253 (1984).

PART 73—[AMENDED]

§ 73.202 [Amended]

6. Accordingly, we consider it appropriate to elicit comments on the proposal to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Willcox, AZ	252A	300

7. 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 allotted.

8. Interested parties may file comments on or before June 10, 1985, and reply comments on or before June 25, 1985, and are advised to read the Appendix for the proper procedures. Additionally a copy of such comments should be served on the petitioner, or his counsel, as follows:

Russell C. Powell, Esq., Southmayd, Powell, Taylor and Bowen, 1764 Church Street, NW., Washington, D.C. 20036 (Counsel for Petitioner).

9. 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 Table of FM 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.

10. For further information concerning this proceeding, contact Nancy V. Joyner, 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* contracts are prohibited in Commission proceedings, such as this one, which involve channel allotments. 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 Allotments, § 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 allotment 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 alloted 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 proceedings 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

---

does not apply to petitions filed prior to March 1, 1984. See, *Memorandum Opinion and Order*, BC Docket No. 80-90, 94 FCC 2d 152 (1983); *recons.*, 97 FCC 2d 279 (1984).

Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc. 85-9659 Filed 4-23-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-111; RM-4857]

TV Broadcast Stations in Pearl City and Wailuku, HI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the assignment of VHF Television Channel 7, to Pearl City, Hawaii, and the substitution of VHF Channel 8 for Channel 7 at Wailuku, Hawaii, in response to a petition filed by Larry G. Fuss, Sr., as that community's first television assignment.

DATES: Comments must be filed on or before June 10, 1985, and reply comments on or before June 25, 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.

Proposed Rule Making and Order to Show Cause

In the matter of amendment of § 73.606(b), table to assignments, TV broadcast stations (Pearl City and Wailuku, Hawaii); MM Docket No. 85-111, RM-4857.

Adopted: April 10, 1985.
Released: April 18, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration is a petition for rule making filed by Larry G. Fuss, Sr. ("petitioner") seeking the assignment of VHF Television Channel 7 to Pearl City, Hawaii, as that community's first commercial television facility. This can be accomplished by substituting VHF TV Channel 8 for Channel 7 in Wailuku, Hawaii.

2. Pearl City (population 42,575)[1] in Honolulu County (population 762,565) is located approximately 13 kilometers (8 miles) northwest of Honolulu. The proposed assignment of Channel 7 to Pearl City requires the substitution of Channel 8 for Channel 7 in Wailuku currently occupied by Station KAII-TV licensed to Western Sun, Inc. ("Western"). We are, therefore, issuring herein an *Order to Show Cause* to Western to comment on its willingness to have its license amended to specify Channel 8 in lieu of Channel 7.

3. Petititioner has submitted information in support of the proposal and expressed an interest in applying for the channel, if assigned. Both the assignment of VHF Television Channel 7 to Pearl City and the channel substitution at Wailuku can be made in compliance with the minimum distance separation requirements of § 73.610 of the Rules. As required by Commission policy, the successful applicant for Channel 7 at Pearl City will be required to reimburse Station KAII-TV for the reasonable costs of changing channels. Petitioner has stated his willingness to do so.

PART 73—[AMENDED]

§ 73.606 [Amended]

4. In view of the foregoing and the fact that the proposed assignment could provide a first commercial television assignment to Pearl City, the Commission believes it appropriate to propose amending the Television Table of Assignments, § 73.606(b) of the Commission's Rules as follows:

City	Channel No.	
	Present	Proposed
Pearl City, HI		7.
Wailuku, HI	3, 7, *10, 12, 15, 21, *27, and *33.	3, 8, *10, 12 15, 21, *27, and *33.

5. Accordingly, it is ordered, That pursuant to § 316(a) of the Communications Act of 1934, as amended, Western Sun, shall show cause why its license should not be modified to specify operation on Channel 8 at Wailuku, Hawaii, as proposed herein instead of its present Channel 7.

6. Pursuant to § 1.87 of the Commission's Rules, Western may, not later than June 10, 1985, request that a hearing be held on the proposed modifications. If the right to request a hearing is waived, it may, not later than June 10, 1985, file a written statement showing with particularity why its license or application should not be modified as proposed in the order to show cause. In this case, the Commission may call upon Western to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license or application as provided in the *Order to show cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modifications are ultimately found to be in the public interest.

7. It is further ordered, That the Secretary shall send a copy of this *Notice of Proposed Rule Making and Order to Show Cause* by certified mail, return receipt requested to the following:

Western Sun, Inc., c/o P.O. Box 957, Des Moines, IA 50309

Station KAII-TV, c/o KHON-TV, 615 Piikoi Street, Suite 501, Honolulu, HI 96814

Marmet Professional Corp., 1822 Jefferson Place, NW., Washington, D.C. 20036 (Counsel to Western Sun, Inc.)

8. Interested parties may file comments on or before June 10, 1985, and reply comments on or before June 25, 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:

Larry G. Fuss, Sr., P.O. Box 3976, Jackson, GA 30233-0976

9. 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.

10. 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.

11. 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

[1] Population figures are extracted from the 1980 U.S. Census.

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 Communication 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 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 accompained 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. 85-9861 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

GENERAL SERVICES ADMINISTRATION

48 CFR Part 504

[GSAR Notice No. 5-90]

Contract Files

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) Chapter 5, which would expand Subpart 504.8 of the regulation to add procedures on the reassignment and transfer of contract files from one office to another and from one contracting officer to another. The intended effect is to improve the regulatory coverage and to provide uniform procedures for use by GSA contracting activities.

DATES: Comments are due in writing not later than May 24, 1985.

ADDRESS: Requests for a copy of the proposal and comments should be addressed to Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations, 18th and F Sts., NW., Room 4027, Washington, D.C. 20405.

FOR FURTHER INFORMATION CONTACT: L. Gaye Hirz-Kester, Office of GSA Acquisition Policy and Regulations, (202) 523-4763.

SUPPLEMENTARY INFORMATION:

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 (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act [5 U.S.C. 601 et. seq.]. This proposed rule has no impact outside the agency. It establishes procedures for transferring files within the agency from one office to another or from one contracting officer to another. Accordingly, no regulatory analysis has been prepared. The 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 Part 504

Government procurement.

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

Dated: April 15, 1985.

Ida M. Ustad,

Acting Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 85-9875 Filed 4-23-85; 8:45 am]

BILLING CODE 6820-61-M

48 CFR Part 516

[GSAR Notice No. 5-16]

Types of Contracts

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulations (GSAR) Chapter 5, concerning Part 516, Types of Contracts. The April 1, 1984, edition of the GSAR did not include specific instructions supplementing the Federal Acquisition Regulations with regard to

Part 16. The purposes of this change is to provide supplementary guidance on the use of economic price adjustment clauses, and to establish the approval authority for the use of various types of contracts. The intended effect is to improve the regulatory coverage and to provide uniform procedures for contracting under the regulatory system.

DATES: Comments are due in writing not later than May 24, 1985.

ADDRESS: Requests for a copy of the proposal and your comments should be addressed to Ms. Ida M. Ustad, Office of GSA Acquisition Policy and Regulations, 18th and F Sts., NW., Room 4027, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: L. Gaye Hirz-Kester, Office of GSA Acquisition Policy and Regulations, (202)523–4763.

SUPPLEMENTARY INFORMATION:

Impact

The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempt certain agency procurement regulations from Executive Order 12291. This exemption applies to this proposed rule. The General Services Administration (GSA) certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). The proposed rule has no impact outside the agency. It establishes signatory approval levels within the agency for determination and findings required to use certain types of contracts. The rule also establishes procedures for the preparation and approval of certain types of contract clauses. Accordingly, no regulatory flexibility analysis has been prepared. The 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 Part 516

Government procurement.

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

Dated: April 16, 1985.

Ida M. Ustad,

Acting Director, Office of GSA Acquisition Policy and Regulations.

[FR Doc. 85–9876 Filed 4–23–85; 8:45 am]

BILLING CODE 6820–61–M

Notices

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

[Docket No. 85-326]

Declaration of Emergency Because of Mediterranean Fruit Fly

Whereas, a serious infestation of Mediterranean fruit fly exists in parts of Florida, and

Whereas, Mediterranean fruit fly is one of the most destructive pests of numerous fruits and vegetables, especially citrus fruits, and can develop rapidly and spread easily causing severe damage to entire citrus and other fruit and vegetable growing areas;

Now, Therefore, in accordance with the provisions of the Act of September 25, 1981, 95 Stat 953 (7 U.S.C. 147b), I declare that there is an emergency which threatens the citrus and other fruit and vegetable growing industries of this country and I authorize the transfer and use of such sums as may be necessary from appropriations or other funds available to the agencies or corporations of the Department of Agriculture for the conduct of a program to detect and identify Mediterranean fruit fly infested areas, to control and prevent the dissemination of Mediterranean fruit fly to noninfested areas in the United States, and to eradicate Mediterranean fruit fly wherever it may be found.

Effective date: This declaration of emergency shall become effective April 18, 1985.

John R. Block,
Secretary of Agriculture.

[FR Doc. 85-9823 Filed 4-23-85; 8:45 am]
BILLING CODE 3410-34-M

Forms Under Review by Office of Management and Budget

April 19, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (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 provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, D.C. 20250, (202) 447-2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, ATTN: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Agricultural Stabilization and Conservation Service.

Application for Settlement of Indebtedness
ASCS 539
On occasion
Farms; 100 responses; 50 hours; not applicable under 3504(h) Robert Taylor (202) 447-3809

- Statistical Reporting Service.

List Sampling Frame Survey
On occasion
Farms; 114,000 responses; 9,500 hours; not applicable under 3504(h)
Lee Sandberg (202) 447-6820

New

- Economic Research Service.

The Formula Feed Manufacturing Survey, 1985
Once in a decade
Farms; Businesses or other for-profit; 4,800 responses; 4,800 hours; not applicable under 3504(h)
William W. Lin (202) 447-8444

Revision

- Agricultural Stabilization and Conservation Service.

Application for Disaster Credit
ASCS-574
On occasion, Annually
Farms; 90,000 responses; 15,000 hours; not applicable under 3504(h)
Bill Harshaw (202) 382-9878

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85-9886 Filed 4-23-85; 8:45 am]
BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Advisory Committee; Availability of Report on Closed Meetings

AGENCY: Department of Commerce.

ACTION: Announcing public availability of report on closed meetings of advisory committees.

SUMMARY: The Department of Commerce has prepared its report on the activities of closed or partially-closed meetings of advisory committees as required by the Federal Advisory Committee Act.

ADDRESSES: Copies of the reports have been filed and are available for public inspection at two locations:

Library of Congress, Newspaper and Current Periodicals Reading Room, Room LM133, Madison Building, 1st and Independence Avenue, SE., Washington, D.C. 204540.

Department of Commerce, Central Reference and Records Inspection Facility, Room 6628, Herbert C. Hoover Building, 14th and Constitution Avenue, NW., Washington, D.C. 20230, telephone (202) 377-4217.

SUPPLEMENTARY INFORMATION: The reports cover the closed and partially-

closed meetings held in 1984 of 31 committees and their subcommittees, the names of which are listed below:

Automated Manufacturing Equipment Technical Advisory Committee (TAC)
Computer Peripherals Components and Related Test Equipment TAC
Computer Systems TAC
—Foreign Availability Subcommittee
—Hardware Subcommittee
Electronic Instrumentation TAC
Importers and Retailers' Textile Advisory Committee
Industry Functional Advisory Committee on Customs Matter for TPM
Industry Functional Advisory Committee on Standards for TPM
Industry Policy Advisory Committee for TPM
Industry Sector Advisory Committee (ISAC) on Aerospace Equipment for TPM
—Customs Procedures Subcommittee
—Government Supports Subcommittee
—Military Trade Subcommittee
—Purchase Finance Subcommittee
—Space Equipment Subcommittee
ISAC on Capital Goods for TPM
ISAC on Consumer Goods for TPM
ISAC on Electronics and Instrumentation for TPM
ISAC on Energy for TPM
ISAC on Ferrous Ores and Metals for TPM
ISAC on Footwear, Leather, and Leather Products for TPM
ISAC on Industrial and Construction Material and Supplies for TPM
ISAC on Lumber and Wood Products for TPM
ISAC on Nonferrous Ores and Metals for TPM
—Scrap Subcommittee
ISAC on Paper and Paper Products for TPM
ISAC on Services for TPM
ISAC on Small and Minority Business for TPM
ISAC on Textiles and Apparel for TPM
ISAC on Transportation, Construction, and Agricultural Equipment for TPM
ISAC on Wholesaling and Retailing for TPM
Management-Labor Textile Advisory Committee
Marine Fisheries Advisory Committee
National Advisory Committee on Oceans and Atmosphere
President's Export Council (PEC)
—Incentives/Disincentives Subcommittee
PEC Subcommittee on Export Administration
Sea Grant Review Panel
Semiconductor TAC
Telecommunications Equipment TAC

FOR FURTHER INFORMATION CONTACT: Suzette Kern, Management Analyst, Office of the Secretary, Department of Commerce, Washington, D.C. 20230, telephone (202) 377–4217.

Dated: April 11, 1985.

Jessica Rickenbach,

Information Management Division, Office of Information Resources Management.

[FR Doc. 85–9848 Filed 4–23–85; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of the Census

Four Census Advisory Committees for the 1990 Census; the Black Population; the Hispanic Population, the Asian and Pacific Islander Populations; and the American Indian and Alaska Native Population; Establishment

In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the General Services Administration Interim Rule on Federal Advisory Committee Management, 41 CFR 101–6 as amended, and after consultation with GSA, the Secretary of Commerce has determined that the establishment of the following four Census Advisory Committees is in the public interest in connection with the performance of duties imposed on the Department by law: The Census Advisory Committee on the Black Population for the 1990 Census; the Census Advisory Committee on the Hispanic Population for the 1990 Census; the Census Advisory Committee on the Asian and Pacific Islander Populations for the 1990 Census; and the Census Advisory Committee on the American Indian and Alaska Native Populations for the 1990 Census.

The committees will provide an organized and continuing channel of communication between the aforementioned populations and the Bureau of the Census on the problems and opportunities of the 1990 Decennial Census as they relate to these populations. Major efforts to improve decennial census data are necessary since such data are widely used for such critical matters as legislative apportionment, allocation of government funds, and public and private program planning.

Having an established channel of communication will be helpful to the Census Bureau in its efforts to develop the procedures and techniques that will yield the necessary improvements. To the extent that these efforts are successful, there will be direct and substantial gain to the aforementioned populations.

The committees will draw on the knowledge and expertise of their members to provide advice during the planning of the 1990 Census of Population and Housing on such elements as improving the accuracy of the population count, recommending subject content and tabulations of special use to minority populations, expanding the dissemination of census results among present and potential users of census data in minority communities, and generally improving the usefulness of the census product.

Each of the committees will consist of nine members appointed by the Secretary of Commerce from among a broad spectrum of community leaders, such as neighborhood council members, elected public officials, executives of minority organizations, and academicians. The committees will report and be responsible to the Director, Bureau of the Census.

The committees will function solely as advisory bodies in compliance with the provisions of the Federal Advisory Committee Act. The committee charters will be filed under the Act 15 days from the date of publication of this notice.

Interested persons are invited to submit comments regarding the establishment of these committees. Such comments, as well as any inquiries, may be addressed to the Chief, Outreach Coordination Staff, Decennial Planning Division, U.S. Bureau of the Census, Washington, D.C. 20333, phone: (301) 763–4358, or the Department of Commerce's Committee Management Analyst, phone (202) 377–4217.

Dated: April 17, 1985.

Katherine M. Bulow,

Assistant Secretary for Administration.

[FR Doc. 85–9824 Filed 4–23–85; 8:45 am]

BILLING CODE 3510-07-M

Foreign-Trade Zones Board

[Docket No. 6–85]

Foreign-Trade Zone 41, Application for Subzone, Ambrosia Chocolate Company Plant, Milwaukee, WI

An application has been submitted to the Foreign-Trade Zones Board (the Board) by Foreign Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone 41, requesting special-purpose subzone status for the chocolate products manufacturing plant of Ambrosia Chocolate Company, a Division of W.R. Grace and Company, located in Milwaukee, Wisconsin, within the Milwaukee Customs port of entry. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended

(19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on March 29, 1985. The applicant is authorized to make this proposal under Chapter 110 of the Laws of Wisconsin, 1977, approved 10/13/77.

The subzone would be located at the Ambrosia plant at 1133 No. Fifth Street, Milwaukee. The 2.8-acre facility, which employs 450 persons, is used to produce a variety of industrial chocolate products for the bakery, confectionary and dairy industries. The significant differential between domestic and foreign sugar prices and its impact on the cost of chocolate has prompted the company to begin importing some chocolate products. Imported materials used in its U.S. chocolate production include cocoa beans, chocolate liquor, cocoa butter, and sweetened and unsweetened cocoa powder. Zone procedures will allow the company to use ex-quota foreign sugar in its efforts to maintain domestic production. Foreign dairy products would be used in production for export.

Zone procedures would exempt Ambrosia from duty payment and quota requirements on the foreign material used in its exports. On its domestic sales, it would permit the company to take advantage of the same duty rates and quota treatment (sugar) applicable to foreign products. The Department of Agriculture is being consulted regarding the implications of the proposal on the sugar quota program.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, D.C. 20230; Clinton P. Littlefield, District Director, U.S. Customs Service, North Central Region, 628 E. Michigan Street, Milwaukee, WI 53202; and Colonel Raymond T. Beurket, District Engineer, U.S. Army Engineer District Detroit, P.O. Box 1027, Detroit, MI 48231.

Comments concerning the proposed subzone are invited in writing from interested persons and organizations. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before May 23, 1985.

A copy of the application is available for public inspection at each of the following locations:

U.S. Dept. of Commerce District Office, Federal Bldg., 517 E. Wisconsin Avenue, Milwaukee, WI 53202

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, D.C. 20230.

Dated: April 18, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-9805 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 299]

Approval for Reorganization of Foreign-Trade Zone No. 70, Within the Detroit Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Greater Detroit Foreign-Trade Zone, Inc., Grantee of Foreign-Trade Zone No. 70, has applied to the Board for authority to reorganize its general-purpose zone by deleting the Dearborn Site, expanding the Clark Street Port Site, and adding public warehouse sites in Romulus and Detroit, Michigan, within the Detroit Customs port of entry;

Whereas, the application was accepted for filing on September 4, 1984, and notice inviting public comment was given in the **Federal Register** on September 21, 1984 (Docket No. 40–84, 49 FR 37131);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the reorganization is necessary to improve zone services in the Detroit areas; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to reorganize its zone in accordance with the application filed September 4, 1984, the Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C. this 15th day of April 1985.

William T. Archey,

Acting Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

Attest:

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-9885 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

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 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85–273. Applicant: The Children's Hospital, Denver, CO 80218. Instrument: Electron Microscope, Model EM 10 C/CA/CR. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 49 FR 41079. Instrument ordered: July 27, 1984.

Docket No. 85–027. Applicant: NIH/HHS, Atlanta, GA 30333. Instrument: Electron Microscope, Model EM 109T, with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 49 FR 47647. Instrument ordered: August 24, 1984.

Docket No. 85–032. Applicant: Arizona State University, Tempe, AZ 85287. Instrument: Electron Microscope, Model EM 430 ST with Accessories. Manufacturer: N.V. Philips Gloeilampenfabrieken, The Netherlands. Intended use: See notice at 49 FR 47647. Instrument ordered: May 11, 1984.

Docket No. 85–033. Applicant: Oklahoma State University, Stillwater, OK 74078. Instrument: Electron Microscope, Model JEM–100CXII. Manufacturer: JEOL, Ltd., Japan. Intended use: See notice at 49 FR 50419. Instrument ordered: September 6, 1984.

Docket No. 85–035. Applicant: Virginia Commonwealth University, Richmond, VA 23298–0001. Instrument: Electron Microscope, Model JEM–1200 EX with SEG–10. Manufacturer: JEOL, Ltd. Japan. Intended use: See notice at 49 FR 50419. Instrument ordered: August 8, 1984.

Docket No. 85–036. Applicant: Harrington Arthritis Research Center at

Saint Luke's Hospital, Phoenix, AZ 85006. Instrument: Electron Microscope, Model JEM-1200 EX with Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 49 FR 50419. Instrument ordered: September 13, 1984.

Docket No. 85-037. Applicant: UCLA, Los Angeles, CA 90024. Instrument: Electron Microscope, Model JEM-100CXII with Side Entry Goniometer and Accessories. Manufacturer: JEOL, Japan. Intended use: See notice at 49 FR 50419. Instrument ordered: July 6, 1984.

Docket No. 85-043. Applicant: Microelectronics Center of North Carolina, Research Triangle Park, NC 27709. Instrument: Electron Microscope, Model EM 430T with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 50 FR 986. Instrument ordered: September 18, 1984.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or of any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

(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. 85-9812 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

Iowa State University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-93R. Applicant: Iowa State University, Ames, IA 55011. Instrument: Mass Spectrometer System, Model MS50/DS55. Original notice of this resubmitted application was published in the **Federal Register** of March 19, 1984.

Comments: None received. Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2), at the time the foreign instrument was ordered (September 22, 1983).

Reasons: The foreign instrument provides: (1) A mass range of 0-2000 atomic mass units (amu) at full accelerating voltage (8000 volts), (2) a scan speed of 0.34 seconds per decade for a mass range of 500-50-500 amu, and (3) post acceleration detector of ions at 8000 volts. The National Institutes of Health advises in its memorandum dated January 23, 1985 that the capability of the foreign instrument described above is pertinent to the applicant's intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(20 provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purpose of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of a comparable instrument (Nuclide Corporation, which manufactures magnetic sector mass spectrometers), it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

(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. 85-9811 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

Northwestern University Medical School; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-324. Applicant: Northwestern University Medical School, Chicago, IL 60611. Instrument: Three Dimensional Hydraulic Drive and K-Type Micromanipulator, Model MO-103-R & MK-2-R. Manufacturer: Narishige Scientific Instruments Laboratory, Japan. Intended use: See notice at 49 FR 42775.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides: (1) Three dimensional microdrives with 2.0 micrometer scale calibrations and (2) smooth axial movements of electrodes due to hydraulic control. The National Institutes of Health advises in its memorandum dated February 6, 1985 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 85-9807 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

State University of New York; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-305. Applicant: State University of New York, New York, NY 10010. Instrument: Joyce Display & Microprocessor Grating Generator w/ special interface hardware, Model GRSYS-2. Manufacturer: Joyce Electronics, Ltd., United Kingdom. Intended Use: See notice at 49 FR 40069.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides high levels of luminance in the range of 0 to 1000 candelas per square meter and raster rotation through 360 degrees. The National Institutes of Health advises in its memorandum dated February 25, 1985 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 85-9809 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Arizona; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-315. Applicant: University of Arizona, Tucson, AZ 85721. Instrument: Rotating Anode X-ray Generator, Model GX-20 with Accessories. Manufacturer: Marconi Avionics, United Kingdom. Intended Use: See notice at 49 FR 41080.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can focus an x-ray beam with a power loading of 1200 watts to an area of 1.0 × 0.1 millimeters. The National Institutes of Health advises in its memorandum dated February 6, 1985 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 85-9810 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

University of Chicago; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-208. Applicant: University of Chicago, Argonne, IL 60439. Instrument: Streak Camera with Delay, Model C979. Manufacturer: Hamamatsu Photonics, Japan. Intended use: See notice at 49 FR 41079.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument can measure rapid fluorescence emissions with a time resolution of 10.0 pico-seconds. The National Institutes of Health advises in its memorandum dated January 23, 1985 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 85-9808 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

Virginia Polytechnic Institute and State University; Decision of Application for Duty-Free Entry of Scientific Instrument

This decision is made 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.

Docket No. 84-253R. Applicant: Virginia Polytechnic Institute and State University, Blacksburg, VA 24061. Instrument: Mass Spectrometer, Model MM7070E with 11/250 Data System. Manufacturer: VG Instruments, United Kingdom. Intended use: See Notice at 50 FR 988.

Comments: None received. Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: This application is a resubmission of Docket Number 84-253 which was denied without prejudice to

resubmission for informational deficiencies. The foreign instrument provides a mass range to 2,600 atomic mass units at an accelerating voltage of 6,000 volts. The National Institutes of Health advises in its memorandum dated January 23, 1985 that: (1) The capability of the foreign instrument described above is pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientic value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

(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. 85-9806 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Coastal Zone Management Programs; Federal Consistency Appeal by Gulf Oil Corp. From an Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice of appeal.

SUMMARY: On March 13, 1985, Gulf Oil Corporation (Gulf) appealed to the Secretary of Commerce (Secretary) from an objection by the California Coastal Commission (Commission) to Gulf's Plan of Exploration filed with the Minerals Management Service (MMS), U.S. Department of the Interior, on Outer Continental Shelf (OCS) lease OCS–P 0505 located in the Santa Maria Basin OCS area 4.2 miles west of Point Sal, Santa Barbara County, California. The appeal was filed pursuant to section 307(c)(3)(A) and (B) of the Coastal Zone Management Act of 1972, as amended (CZMA), 16 U.S.C. 1456(c)(3)(A) and (B) and implementing regulations at 15 CFR Part 930 Subpart H.

Gulf was granted an extension until April 22, 1985, to submit data and information in support of its appeal to the Secretary. Within 30 days from the publication date of this notice, interested persons may submit comments on the issues raised in this appeal to Robert J. McManus, General Counsel, National Oceanic and Atmospheric Administration (NOAA), Room 5814, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230. Copies of comments also should be sent to the following persons:

1. Ms. Cynthia A. Norris, Gulf Oil Exploration and Production Company, P.O. Box 1392, Bakersfield, CA 93302;
2. Mr. Tim Eichenberg, California Coastal Commission, 631 Howard Street, 4th Floor, San Francisco, CA 94105; and
3. Mr. William E. Grant, Minerals Management Service, Pacific OCS Region, 1340 West Sixth Street, Los Angeles, CA 90017.

Comments should address whether Gulf's proposed exploratory drilling meets the regulatory criteria, as set forth in 15 CFR 930.121 an 930.122, to be considered by the Secretary in deciding this appeal.

Access to copies of Gulf's notice of appeal and supporting data and information, and to comments submitted by Federal and State agencies, will be available to the public for review during business hours at the California Coastal Commission and the Public Information Room of the Minerals Management Service at the above addresses and at the Office of the Assistance General Counsel for Ocean Services, NOAA, Room 270, 2001 Wisconsin Avenue, NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: David P. Drake, Attorney-Advisor, Office of the Assistant General Counsel for Ocean Services (202) 254–7512.

SUPPLEMENTARY INFORMATION: Gulf proposes to drill a maximum of eight exploratory wells on Sale 73, tract 193, lease OCS–P 0505 located in Federal waters approximately 4 to 7 miles west of Point Sal, Santa Barbara County, California, and submitted a consistency certification to the Commission for one well, P–0505–A. The purpose of the exploration activities is to determine the presence of commercial accumulations of hydrocarbons underlying OCS–P 0505. The exploratory operations will be conducted from a drillship or a semi-submersible drilling vessel anchored in approximately 325 feet of water and will take between 30–60 days.

On February 14, 1985, the Commission objected to Gulf's proposal to drill one well on lease OCS–P 0505 as inconsistent with the California Coastal Management Program. The objection was based on the Commission's findings of a lack of infrastructure to ensure the safest and most efficient method of oil exploration, development and transportation, and the potential for cumulative impacts of offshore operations on coastal resources.

Gulf appealed this objection to the Secretary on the grounds that Gulf's Plan of Exploration is "consistent with the objectives of [the CZMA]" and "necessary in the interest of national security." 16 U.S.C. 1456(c)(3)(A). The Secretary may sustain Gulf's appeal on either of these two grounds. To sustain the appeal on the first ground, the regulatory criteria set forth at 15 CFR 930.121 must be met: (a) The activity furthers one or more of the competing national objectives or purposes contained in sections 302 or 303 of the CZMA; (b) when performed separately or when its cumulative effects are considered, the activity will not cause adverse effects on the natural resources of the coastal zone substantial enough to outweight its contribution to the national interest; (c) the activity will not violate any requirements of the Clean Air Act, as amended, or the Clean Water Act, as amended; and (d) there is no reasonable alternative available which would permit the activity to be conducted in a manner consistent with the state management program. To meet the second ground, the Secretary must find that a national security interest would be significantly impaired if the activity were not permitted to go forward as proposed.

If the Secretary does not find that the activity meets either of these two grounds, the Federal agency shall not approve the activity.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Administration)

Dated: April 18, 1985.

Robert J. McManus,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 85-9880 Filed 4-23-85; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for Navigation Improvements From Gulf Intracoastal Waterway to Port Bienville, MS

AGENCY: U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent to prepare a DEIS.

1. *Proposed Action:* The proposed action is to prepare a DEIS to evaluate the environmental impact of providing navigation improvements from the Gulf

Intracoastal Waterway to Port Bienville, Mississippi.

2. *Alternatives:* The following basic alternatives will be evaluated.

a. No action—This alternative will be the "without" project conditions against which impacts will be measured.

b. Two channel alignments, one through the East Pearl River and the other through Little Lake, Louisiana.

c. Two channel depths, 10 and 12 feet.

d. Various dredged material disposal concepts including upland and shallow water areas in Little Lake.

3. *Scoping Process:*

a. The scoping process as outlined by the Council on Environmental Quality in the November 29, 1978 **Federal Register**, National Environmental Policy Act—Regulations, will be utilized to involve Federal, State, and local agencies and other interested persons. Identification of significant issues to be addressed in the EIS will be determined through the scoping process. The agencies and individuals' views and concerns will be obtained through personal, telephone, and mail contacts in lieu of a formal scoping meeting.

b. Coordination with the US Fish and Wildlife Service, as required by the Fish and Wildlife Coordination Act and the Endangered Species Act, is being undertaken. Coordination required by other laws and regulations will also be conducted.

4. *DEIS Preparation:* It is estimated that the DEIS will be available to the public in September 1985.

5. Address: Questions about the proposed action and DEIS can be answered by: Dr. Susan Ivester Rees, PD-ES, US Army Engineer District, Mobile, P.O. Box 2288, Mobile, AL 36628-0001.

Dated: April 11, 1985

Roy A. Prince,

Lieutenant Colonel, CE, Deputy District Engineer.

[FR Doc. 85-9895 Filed 4-23-85; 8:45 am]

BILLING CODE 3710-GX-M

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (FEIS) for the Presque Isle Peninsula, Erie, PA, Cooperative Erosion Control Project

AGENCY: U.S. Army Engineer District, Buffalo, DOD.

ACTION: Notice of intent to prepare a draft supplement to the final Environmental Impact Statement (FEIS).

SUMMARY: 1. *Description of Action.* The proposed action would involve the construction of 58 offshore rubblemound breakwaters and placement of 500,000 cubic yards of sand to provide a beach berm. The original FEIS for the project was completed in June 1980, revised in November 1980, and filed with the U.S. Environmental Protection Agency on 13 March 1981. In September 1983, a reevaluation study was initiated to reassess the Presque Isle project and analyze additional plans in order to identify that modification of the existing beach erosion control project which will be the most efficient and practicable plan for reducing the net combined beach and Erie Harbor annual costs. The purpose of the Draft Supplement to the FEIS is to address the environmental impacts associated with the redesigned project.

2. *Alternatives.* A wide range of alternatives were addressed in the original FEIS and the Final Phase I General Design Memorandum (GDM) for the project. The alternatives presently being considered include Plan 2, consisting of gravel beaches breakwaters and beach nourishment, and various other alternatives, including the "no action" alternative.

3. *Scoping Process.* Considerable agency and public coordination has been performed during preparation of the FEIS and the Final Phase I GDM. Additional coordination will be accomplished during preparation of the Draft Supplement to the FEIS. The participation of concerned Federal, State, and local agencies, and other interested private organizations and parties is invited. Significant issues to be analyzed in the Draft Supplement include the environmental impact of gravel on a 10,000-foot section of the 5½ mile shoreline, instead of sand for beach protection, and a reduction of the number of breakwaters from 58 to 38.

4. *Scoping Meeting.* No scoping meeting is currently scheduled.

5. *Availability.* The Draft Supplement is scheduled to be available for review in June.

ADDRESS: Questions about the proposed action and Draft Supplement can be addressed to the District Commander, ATTN: Mr. William F. MacDonald, U.S. Army Engineer District, Buffalo, 1776 Niagara Street, Buffalo, New York, 14207, telephone (716) 876-5454, extension 2175, or FTS 473-2175.

Dated: April 15, 1985.

Robert R. Hardiman,

Colonel, Corps of Engineers, District Commander.

[FR Doc. 85-9893 Filed 4-23-85; 8:45 am]

BILLING CODE 3710-GP-M

Department of the Navy

Final Decision; Proposed Berthing of Naval Reserve Forces (Frigate Class Ships) at Naval Station, Treasure Island, San Francisco CA

Pursuant to the provisions of the regulations implementing the National Environmental Policy Act (NEPA) (§ 1505.2 of Title 40, Code of Federal Regulations), the Department of the Navy announces its decision to berth four ships (frigate class) at the Naval Station, Treasure Island (Alternative II) in order to provide support to elements of the Naval Reserve Forces. A pier and associated shoreside support facilities will be constructed to accommodate the additional ships, associated personnel and operational requirements. The final Environmental Impact Statement filed for this project was announced in the **Federal Register**, Vol. 49, No. 251 of Friday, December 28, 1984 (49 FR 50440).

Other Alternatives also considered included the no-project alternative (Alternative I) and a thirteen ship alternative (Alternative III), which included the four Naval Reserve Force ships of Alternative II.

The decision to adopt Alternative II is consistent with the current mission of Naval Station, Treasure Island and is environmentally preferable to the other alternatives when the physical, biological and socioeconomic factors are weighed on balance. Correspondingly, any major proposed action in addition to Alternative II would be subject to additional environmental studies and scoping which would be based, in part, on the concerns that were addressed and generated by the NEPA documents supporting this decision.

Significant adverse impacts will be avoided by the proper design, construction, operation and maintenance of facilities. Direct implementation of the plan will take place April 1985.

Dated: April 18, 1985.

William F. Roos, Jr.,

Lieutenant, JAGC, U.S. Naval Reserve, Federal Register Liaison Officer.

[FR Doc. 85-9746 Filed 4-23-85; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF EDUCATION

Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before May 24, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426–7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OBM) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: April 18, 1985.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Special Education & Rehabilitative Services

Type of Review Requested: New
Title: Comprehensive Evaluation of the Title VII, Part B Independent Living Program
Agency Form Number: B20–9P
Frequency: One-time
Affected Public: Individuals or households; Non-profit institutions
Reporting Burden: Responses: 1,301 Burden Hours: 859.5
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0.

Abstract: As mandated in Pub. L. 98–221, the collection of data from Independent Living Centers, consumers, and local community agencies will be used to evaluate the Title VII, Part B program, prepare a report to Congress describing the program and its impacts, and refine the Independent Living Program evaluation standards.

Type of Review Requested: New
Title: Services for Deaf-Blind Children and Youth
Agency Form Number: B20–10P
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 22; Burden Hours: 176
Recordkeeping Burden: Recordkeepers: 22; Burden Hours: 440.

Abstract: These forms are necessary to collect data from grantees receiving funding under section 622 of the Education of the Handicapped Act as amended by Pub. L. 98–199. The data will be submitted annually to the Department, analyzed by program staff, and the results consolidated in the Annual Report to Congress.

[FR Doc. 85–9882 Filed 4–23–85; 8:45 am]

BILLING CODE 4000–1–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA–FC–85–006; OFP Case No. 65038–9268–20–24]

OLS—Energy-University of California, Berkeley; Acceptance of Petition for Exemption and Availability of Certification

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of acceptance of petition for exemption and availability of certification by OLS-Energy—University of California, Berkeley.

SUMMARY: On March 18, 1985, OLS-Energy—University of California, Berkeley, filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at the University of California, Berkeley, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of pertroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed facility for which the petition was filed will consist of a General Electric (GE) gas turbine generator, a supplementary fired heat recovery steam generator and a stream turbine operating in combined cycle. The powerplant will produce approximately 23.5 net megawatts of electricity while providing the University of California with 125 psig saturated steam (95,000 lb/hr average) for its heating and process steam needs. The University of California, Berkeley, cogeneration facility will burn natural gas and will consume approximately 253,000,000 Btu's/hr (lower heating value) with an anticipated availability of 8,322 hr/yr (95%).

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Room 1E–190, Washington, D.C. 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period

for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before June 10, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW, Washington, D.C. 20585.

Docket No. ERA-FC-85-006 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Xavier Puslowski, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, D.C. 20585, Telephone (202) 252-4708

Steven E. Ferguson, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, D.C. 20585, Telephone (202) 252-6947

SUPPLEMENTARY INFORMATION: OLS-Energy—University of California, Berkeley, proposes to install a natural gas fired cogeneration facility at the University of California, Berkeley, California. The cogeneration facility will produce approximately 23.5 (net) megawatts of electricity and will also provide the University with steam for its heating and process steam needs (95,200 lb/hr average at 125 psig saturated). The major components of the plant will be a GE gas turbine generator, a supplementary fired waste heat recovery steam generator, a back pressure steam turbine, and associated support equipment. It is estimated by OLS-Energy—University of California, Berkeley, that the facility will save the equivalent of 235,000 barrels of oil per year. Operation is currently scheduled to begin in 1987.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration examption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), OLS-Energy—University of California, Berkeley, has certified to ERA that:

1. The oil or gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b); and

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certifications discussed above), OLS-Energy—University of California, Berkeley, has included as part of its petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis, as required under 10 CFR 503.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.;* and DOE's guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) an Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to the required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** a soon practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that OLS-Energy—University of California, Berkeley, is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C. on April 18, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-9908 Filed 4-23-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-010; OFP Case No. 67014-9274-21, 22, 23, 24, 25, 26-22]

Texas Utilities Electric Co.; Acceptance of Petition for Exemption and Availability of Certification (Morgan Creek Peaking Facility)

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition from Texas Utilities Electric Company, Morgan Creek Peaking Facility, for exemption and availability of certification.

SUMMARY: On April 2, 1985, Texas Utilities Electric Company, (TUEC), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing Morgan Creek Electric Generating Station (Morgan), operated by Texas Utilities Generating Company (TUGCO), a division of TUEC, 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).

TUEC Morgan requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion turbine installation consisting of six 109 MW (peak output at 30 °F and plant site elevation at 2,100 feet) combustion turbine-generator systems that are exepcted to have a design Btu input of 1,417 MMBtu per hour per unit. The proposed units are to be installed at the TUEC Morgan Creek facility approximately five miles Southwest of Colorado City, Mitchell County, Texas. The powerplant will be capable of burning natural gas and petroleum.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the final rules under 10 CFR 501.3 and 501.63. ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from TUEC Morgan at any time during these proceedings where circumstances or procedural requirements may so require. A review of the petition is provide in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and

Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday thru Friday, 9:00 a.m.–4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension will be published in the **Federal Register**.

DATES: Written comments are due on or before June 10, 1985. A request for public hearing must also be made within this 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-007, 1000 Independence Avenue, SW., Washington D.C. 20585.

Docket No. ERA-FC-85-010 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Phone (202) 252-4523

Steven E. Ferguson, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW., Room 6A-113, Washington, DC 20585, Phone (202) 252-6947

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 EPA. TUEC Morgan has filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed Morgan Creek, Texas facility's simple-cycle combustion turbine installation.

Under the requirements of 10 CFR 503.41(a)(2)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use a natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify to ERA that the use by the powerplant of any available alternate fuel 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 standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used by in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to the TUEC Morgan petition.

TUEC Morgan submitted a certified statement by a duly authorized officer to the effect that the proposed oil and/or gas-fired combustion turbine generators will be operated solely as a peakload powerplant.

TUEC Morgan stated in its petition that the manufacturer of the proposed combustion turbines has not yet been selected. For planning purposes the maximum rating of the individual units will be 109 MW (peak output at 30 °F and plant site elevation at 2,100 feet). Based on data from potential manufacturers, the Morgan Creek combustion turbine generating units are expected to have a design Btu input of 1,417 MMBtu per hour per unit. The combustion turbine generating units will be operated as a peakload powerplant with a maximum annual capacity factor of 17.12 percent. The utilization factor is expected to be slightly higher than the capacity factor for the units.

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant of delay of certain FUA permanent exemptions, including the permanent exemption for peakload powerplants, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly effect the quality of the human environment. TUEC Morgan has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by TUEC Morgan pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on TUEC Morgan's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that TUEC Morgan is entitled to the exemption requested. That determination will be made on the basis of the entire record of these proceedings, including any comments received in response to this document.

Issued in Washington, D.C. on April 18, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-9906 Filed 4-23-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-09; OFP Case No. 67014-9273-21, 22, 23, 24, 25-22]

Texas Utilities Electric Co.; Acceptance of Petition for Exemption and Availability of Certification (Permian Basin Peaking Facility)

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition from Texas Utilities Electric Company, Permian Basin Peaking Facility, for exemption and availability of certification.

SUMMARY: On April 2, 1985, Texas Utilities Electric Company (TUEC) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing Permian Basin Electric Generating Station (Permian), operated by Texas Utilities Generating Company (TUGCO), a division of TUEC, 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).

TUEC Permian requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion

turbine installation consisting of five 107 MW (peak output at 30 °F and plant site elevation at 2652 feet) including water treatment equipment, demineralized water injection system, water and fuel supply systems, transformers and electrical equipment. The combustion turbine generating units are expected to have a design Btu input of 1391 MMBtu per hour per unit. The proposed units are to be installed at the TUEC Permian Basin facility approximately four miles West of the intersection of U.S. Highway 80 and State Highway 18 which is in Monahans, Ward County, Texas. The powerplant will be capable of burning natural gas and petroleum.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the final rules under 10 CFR 501.3 and 501.63. ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from TUEC Permian at any time during these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Ave., SW., Room 1E–190, Washington, D.C. 20585, Monday through Friday, 9:00 a.m.–4:00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension, will be published in the **Federal Register**.

DATES: Written comments are due on or before June 10, 1985. A request for public hearing must also be made within this 45-day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA–007, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA–FC–85–09 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA–045, Washington, D.C. 20585, Phone (202) 252–4523.

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.

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. TUEC Permian filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed Permian Basin, Texas facility's simple-cycle combustion turbine installation.

Under the requirements of 10 CFR 503.31(a)(2)(ii)), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify to ERA that the use by the powerplant of any available alternative fuel 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 standard is or would be exceeded. However, since ERA has determined that there are no presently available alternative fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirements is therefore waived with respect to the TUEC Permian petition.

TUEC Permian submitted a certified statement by a duly authorized officer to the effect that the proposed oil and/or gas-fired combustion turbine generators will be operated solely as a peakload powerplant.

TUEC Permian stated in its petition that the manufacturer of its proposed combustion turbines has not yet been selected. For planning purposes the maximum rating of individual units will be 107 MW (peak output at 30 °F and plant site elevation at 2652 feet). The Permian Basin combustion turbine generating units are expected to have a design Btu input of 1391 MMBtu per hour per unit. The combustion turbine generating units will be operated as a peakload powerplant with a maximum annual capacity factor of 17.12 percent. The utilization factor is expected to be slightly higher than the capacity factor for the units.

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7976) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for peakload powerplants, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly affect the quality of the human environment. TUEC Permian has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption. DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by TUEC Permian pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on TUEC Permian's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that TUEC Permian is entitled to the exemption requested. That determination will be made on the basis of the entire record of these proceedings, including any comments received in response to this document.

Issued in Washington, D.C. on April 18, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85–9907 Filed 4–23–85; 8:45 am]

BILLING CODE 6450–01–M

[Docket No. ERA-FC-85-08; OFP Case No. 67014-9272-21, 22, 23, 24-22]

Texas Utilities Electric Co.; Acceptance of Petition for Exemption and Availability of Certification (DeCordova Peaking Facility)

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance of petition from Texas Utilities Electric Company, DeCordova Peaking Facility, for exemption and availability of certification.

SUMMARY: On April 2, 1985, Texas Utilities Electric Company (TUEC), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new proposed powerplant at its existing DeCordova Electric Generating Station (DeCordova), operated by Texas Utilities Generating Company (TUGCO), a division of TUEC 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).

TUEC DeCordova requested a permanent peakload exemption under 10 CFR 503.41 for a simple-cycle combustion turbine installation consisting of four 115 MW (peak output at 30 °F and plant site elevation at 704 feet) combustion turbine-generator systems that are expected to have a design heat input of 1,495 MMBTu per hour per unit. The proposed units are to be installed at the TUEC DeCordova facility located at approximately six miles southeast of Granbury, Hood County, Texas. The powerplant will be capable of burning natural gas and petroleum.

ERA has determined that the petition and certification for the requested exemption is complete in accordance with the final rules under 10 CFR 501.3 and 501.63. ERA hereby accepts the filing of the petition for the permanent exemption as adequate for filing. ERA retains the right to request additional relevant information from TUEC DeCordova at any time during these proceedings where circumstances or procedural requirements may so require. A review of the peition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33 of the final rule, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a cop of this Notice of Acceptance and Availability of Certification and other documents and supporting materials on this proceeding is available upon request from DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, D.C. 20585, Monday thru Friday, 9:00 a.m.-4-00 p.m.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the public comment period provided for in this notice, unless ERA extends such period. Notice of any extension, together with a statement of reasons for such extension will be published in the **Federal Register.**

DATES: Written comments are due on or before June 10, 1985. A request for public hearing must also be made within this 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing should be submitted to the Department of Energy, Economic Regulatory Administration, Office of Fuels Programs, Case Control Unit, Room GA-007, 1000 Independence Avenue, SW., Washington, D.C. 20585.

Docket No. ERA-FC-85-08 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW, Room GA-045, Washington, DC 20585, Phone (202) 252-4523

Steven E. Ferguson, Office of the General Counsel, Department of Energy, 1000 Independence Avenue, SW, Room 6A-113, Washington, DC 20585, Phone (202) 252-6947

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. TUEC DeCordova has filed a petition for a permanent peakload powerplant exemption to use petroleum or natural gas as a primary energy source in its proposed DeCordova, Texas facility's simple-cycle combustion turbine installation.

Under the requirements of 10 CFR 503.41(a)(2)(ii), if a petitioner proposes to use natural gas or to construct a powerplant to use natural gas in lieu of an alternate fuel as a primary energy source, the Administrator of the Environmental Protection Agency or the director of the appropriate state air pollution control agency must certify to ERA that the use by the powerplant of any available alternate fuel 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 standard is or would be exceeded. However, since ERA has determined that there are no presently available alternate fuels which may be used in the proposed powerplant, no such certification can be made. The certification requirement is therefore waived with respect to the TUEC DeCordova petition.

TUEC DeCordova submitted a certified statement by a duly authorized officer to the effect that the proposed oil and/or gas-fired combustion turbine generators will be operated solely as a peakload powerplant.

TUEC DeCordova stated in its petition that the manufacturer of the proposed combustion turbines has not yet been selected. For planning purposes the maximum rating of the individual units will be 115 MW. The turbine units are expected to have a design heat input of 1,495 MMBTu per hour per unit. The combustion turbine units will be operated as a peakload powerplant with a maximum annual capacity factor of 17.12 percent. The utilization factor is expected to be slightly higher than the capacity factor for the units.

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of certain FUA permanent exemptions, including the permanent exemption for peakload powerplants, is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly effect the quality of the human environment. TUEC DeCordova has certified that it will secure all applicable

permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of the General Counsel, will review the completed environmental checklist submitted by TUEC DeCordova pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on TUEC DeCordova's exemption that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

As provided in 10 CFR 501.3(b)(4), the acceptance of the petition by ERA does not constitute a determination that TUEC DeCordova is entitled to the exemption requested. That determination will be made on the basis of the entire record of these proceedings, including any comments received in response to this document.

Issued in Washington, D.C., on April 18, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-9909 Filed 4-23-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket No. ER85-428-000, et al.]

Central Maine Power Company et al.; Electric Rate and Corporate Regulation Filings

April 22, 1985.

Take notice that the following filings have been made with the Commission:

1. Central Maine Power Company

[Docket No. ER85-428-000]

Take notice that Central Maine Power Company (CMP) on April 11, 1985, tendered for filing an initial rate for transmission service to be provided to Bangor Hydro-Electric Company by CMP over its Pool Transmission Facilities system.

The rate applicable to the provision of transmission service is $7.37 per KW, per year, determined pursuant to the formula contained in Attachment 2, filed by CMP and pursuant to the formula in said rate will be updated annually as provided therein.

Copies of the filing were served upon Bangor Hydro-Electric Company and the Maine Public Utilities Commission.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

2. Kansas Gas and Electric Company

[Docket No. ER85-432-000]

Take notice that Kansas Gas and Electric Company (KG&E) on April 12, 1985, tendered for filing initial transmission service schedules and proposed changes in its FERC Electric Service Tariff Nos. 87, 89 and 128. The new Service Schedule E would initiate transmission service to the Cities of Fredonia, Iola, and Chanute, Kansas.

KG&E states that the filing is to effectuate a settlement agreement between the Company and the affected municipal customers.

KG&E requests an effective date of March 12, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the Cities of Iola, Fredonia, and Chanute, Kansas and the Utilities Division of the Kansas Corporation Commission.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Northern Indiana Public Service Company

[Docket No. ER85-429-000]

Take notice that on April 11, 1985, Northern Indiana Public Service Company (NIPSCO) tendered for filing Fourth Revised Sheet No. 3 to its FERC Electric Service Tariff—Fourth Revised Volume No. 1 which has been revised to include an additional delivery point for Wabash Valley Power Association at LaGrange County Rural Electric Membership Corporation. Northern Indiana Public Service Company also tendered for filing the following:

Exhibit A, Third Supplemental Agreement dated March 18, 1985 to the Interconnection Agreement between Northern Indiana Public Service Company and the Wabash Valley Power Association, Inc., dated April 16, 1984, covering the establishment of a new delivery point located in the Howe Substation in the SE¼ SEC. 30, T38N, R10E, in Lima Township, LaGrange County, Indiana.

Copies of this filing were served upon all customers receiving electric service under NIPSCO's FERC Electric Service Tariff—Fourth Revised Volume No. 1 and the Public Service Commission of Indiana.

NIPSCO requests an effective date of May 1, 1985, and therefore requests waiver of the Commission's notice requirements.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. American Electric Power Service Corporation

[Docket No. ER85-431-000]

Take notice that American Electric Power Service Corporation (AEP) on April 12, 1985, tendered for filing on behalf of its affiliate Indiana & Michigan Electric Company (I&ME), which is an AEP affiliated operating subsidiary, Modification No. 11 dated January 30, 1985 to the Interconnection Agreement dated February 21, 1964 between Public Service Company of Indiana, Inc. (PSI) and I&ME. The Commission has previously designated the 1964 Agreement as I&ME's Rate Schedule FERC No. 24 and PSI's Rate Schedule FERC No. 49.

Modification No. 11 provides for an increase in the transmission demand rate for Short Term Power when I&ME is the supplying party to $0.46 per kilowatt per week and to $0.092 per kilowatt per day and increases the Limited Term Power transmission demand rate, when I&ME is the supplying party, to $2.00 per kilowatt per month. PSI has increased their generation demand rate to "up to $0.88" per kilowatt per week when they are the supplying party. Modification No. 11 also revises the Limited Term Power Service Schedule, Interchange Power Service Schedule, Emergency Service Schedule, "Billing and Payments" article and "Service Conditions" article to modernize the language in this agreement and to be consistent with Service Schedules that AEP has on file with the Commission with other interconnected electric utility systems. The proposed rates and service schedules included in this Modification No. 11 are similar rates to electric utility systems interconnected with AEP affiliated operating subsidiaries as established in previous AEP filings, and therefore requests waiver of the Commission's Notice requirements.

Copies of the filing were served upon Public Service Commission of Indiana and Michigan Public Service Commission.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Southwestern Electric Power Company

[Docket No. ER85-194-001]

Take notice that on April 15, 1985, Southwestern Electric Power Company, pursuant to the Commission's February 19, 1985 suspension order in this proceeding, submitted revised Step A and Step B rates applicable to the City of Siloam Springs, Arkansas and revised cost of service statements. As directed

by the Commission, the revised rates reflect a properly calculated synchronized interest expenses deduction for tax purposes. In addition SWEPCO submitted a revised capital structure for the revised Step A rates to correct an improper distribution of Accumulated Deferred Investment Tax Credits in the Company's originally filed Step A capital structure.

Copies of the filing have been served on Siloam Springs and on the Arkansas Public Service Commission.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Southern Utilities Company

[Docket No. ER85-427-000]

Take notice that Iowa Southern Utilities Company (Iowa Southern) on April 11, 1985, tendered for filing a Rate Schedule (Schedule) between Iowa Southern and Associated Electric Cooperative, Inc. (AEC), dated March 27, 1985.

The Schedule provides for an additional point of interconnection between Iowa Southern and AEC at the Henry County, Iowa, Substation. The interconnection will allow AEC's use of Iowa Southern's 161 KV transmission system in southeastern Iowa. Iowa Southern requests an effective date of June 1, 1985.

Copies of this filing were served on each affected party.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

7. Central Vermont Public Service Corporation

[Docket No. ER85-433-000]

Take notice that Central Vermont Public Service Corporation on April 12, 1985, tendered for filing a proposed change in its FERC Electric Rate Schedule No. 108 for service to Connecticut Valley Electric Company, Inc. The amendment would require Central Vermont to pay interest on refunds owed to Connecticut Valley pursuant to Paragraph P-2 of the rate schedule which provides for billing on an estimated basis during the service year and for an additional charge or refund after the service year depending on whether estimated costs are greater or lesser than the actual costs. The amendment does not permit the application of interest when an additional charge must be paid by the Customer to the Company or otherwise affect Central Vermont's rates, charges, and terms and conditions of service.

Central Vermont proposes an effective date of May 15, 1985, and therefore requests waiver of the Commission's notice requirements.

Copies of the filing were served upon the New Hampshire Public Utilities Commission, the Vermont Public Service Board, and Connecticut Valley Electric Company, Inc.

Comment date: May 6, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Gulf States Utilities Company

[Docket No. EC85-13-000]

Take notice that on April 15, 1985, Gulf States Utilities Company ("Gulf States") filed an Application seeking an order pursuant to section 203 of the Federal Power Act authorizing the sale of a substation facility by Gulf States to the City of Livington, Texas (Livingston). Livingston is a member cooperative of the Sam Rayburn Municipal Power Agency ("SRMA"). Gulf States and SRMA are parties to an interconnection agreement presently on file with the Commission.

Comment date: May 15, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

FR Doc. 85-9919 Filed 4-23-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. OF85-331-000, et al.]

Signal Energy Systems et al.; Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, Etc.

Comment date. Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Signal Energy Systems, Inc.

[Docket No. OF 85-331-000]

April 15, 1985.

On April 2, 1985, Signal Energy Systems, Inc. of Liberty Lane, Hampton, New Hampshire 03842 (Applicant) submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commisson's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near Anjean in Greenbrier County, West Virginia. The facility will consist of a steam generator utilizing refuse coal material in a fluidized-bed combustion process. The steam will be used to drive a steam-turbine generator for the production of electricity. The primary energy source for the facility will be refuse coal material, with small amounts of fossil fuel used for start-up purposes. The net electric power production capacity of the facility will be 29.9 megawatts.

2. Honeywell Farms, Inc.

[Docket No. OF85-332-000]

April 17, 1985.

On April 5, 1985, Honeywell Farms, Inc., (Applicant) of 115-25 Styler Road, Jamaica, New York 11433 submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle cogeneration facility is located at the Applicant's address in Jamaica, New York. The facility will contain three No. 2 fuel oil fired diesel engine generator sets. Engine exhaust is used to provide heat, steam and hot water for the processing of dairy products. The primary energy source is No. 2 fuel oil. The electric power production capacity of the facility is 2400 kW. The facility has been in operation since April 1975. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

3. Babcock-Ultrapower Jonesboro

Docket No. OF85-335-000]

April 19, 1985.

On April 5, 1985, Babcock-Ultrapower Jonesboro, a joint venture c/o Ultrapower, Incorporated of 16845 Von Karman Avenue, Irvine, California 92714 (Applicant) submitted for filing an

application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near Jonesboro in Washington County, Maine. The facility will consist of a steam generator utilizing waste wood in a fluidized-bed combustion process. The steam will be used to drive a steam turbine-generator for the production of electricity. The primary energy source for the facility will be waste wood from lumber mills and in-forest lumbering operations, with small amounts of LP gas used for start-up purposes. The net electric power production capacity of the facility will be 25 megawatts.

4. Texaco Refining and Marketing, Inc.

[Docket No. QF85-342-00]

April 19, 1985.

On April 10, 1985, Texaco Refining and Marketing, Inc., (Applicant) of P.O. Box 712, North End of Houston Avenue, Port Arthur, Texas 77640, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The Port Arthur facilities are comprised of twelve (12) topping-cycle generators, and are located at Port Arthur Refinery, Port Arthur, Texas. Three of the generators are gas fired combustion turbine generators and the remaining nine are steam turbine generators. The facilities are designed to burn primarily plant produced gas and residual fuel oil in the boilers to generate steam, and natural gas is the primary fuel for the gas turbine generators. The steam will primarily be used for thermal energy in refinery processing units. The electric power production capacity will be 163.85 MW.

5. U.S. Gypsum Company—Oakfield Plant

[Docket No. QF85-344-000]

April 19, 1985.

On April 10, 1985, U.S. Gypsum Company ((Applicant) of 101 South Wacker Drive, Chicago, Illinois 60606-4385, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to §292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The topping-cycle congeneration facility will be located at U.S. Gypsum Company's Oakfield Plant in Oakfield, New York 14125. The facility will contain a combustion turbine generator, heat recovery boiler and back pressure steam turbine-generator set. The discharge steam from turbine will be used in the paper production process. The net electric capacity of the plant will be 5,874 kW. The primary energy source will be natural gas. The installation of the facility began in April 1985 with anticipated operation date of November 1985.

6. Babcock-Ultrapower West Enfield

[Docket No. QF85-334-000]

April 19, 1985.

On April 5, 1985, Babcock-Ultrapower West Enfield, a joint venture c/o Ultrapower, Incorporated of 16845 Von Karman Avenue, Irvine, California 92714 (Applicant) submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to §292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility will be located near West Enfield in Penobscot County, Maine. The facility will consist of a steam generator utilizing waste wood in a fluidized-bed combustion process. The steam will be used to drive a steam turbine-generator for the production of electricity. The primary energy source for the facility will be waste wood from lumber mills and in-forest lumbering operations, with small amounts of LP gas used for start-up purposes. The net electric power production capacity of the facility will be 25 megawatts.

7. Wichita Falls Energy Co.

[Docket No. QF85-341-000]

April 19, 1985.

On April 12, 1985, Wichita Falls Energy Company, P.O. Box 9349, Fort Worth, Texas 76107 (Applicant) submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined-cycle cogeneration facility will be located in Wichita Falls, Texas. The facility will consist of three gas turbine-generator sets each exhausting to a separate unfired heat recovery steam generator. The combined steam output will be used to drive an extraction-condensing steam turbine-generator, with extracted steam used in industrial processes. Excess steam not so used will be condensed and the water returned to the steam generators. The primary energy source will be natural gas. The electric power production capacity will be 80 megawatts. Installation is expected to begin in the latter part of 1986.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, 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 the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-9918 Filed 4-23-85; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Cases Filed; Week of March 22 through March 29, 1985

During the Week of March 22, through March 29, 1985, the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy. A submission inadvertently omitted from an earlier list has also been included.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in

these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20585.

April 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 22, 1985 through Mar. 29, 1985]

Date	Name and location of applicant	Case No.	Type of Submission
Mar. 21, 1985	Getty Oil Company, Los Angeles, California	HRZ-0238	Interlocutory order. If granted: Certain DOE employees would be recused from further participation in certain Getty Oil Company proceedings pending before the Office of Hearings and Appeals (Case Nos. HCX-0091 and HRR-0074).
Mar. 26, 1985	Budny Fuel Oil Company, Trenton, New Jersey	HEE-0135	Exception to the reporting requirements. If granted: Budny Fuel Oil Company would not be required to file Form EIA-821.
Do	Cernak Fuel, Easthampton, Massachusetts	HEE-0134	Exception to the reporting requirements. If granted: Cernak Fuel would not be required to file Form EIA-782B, "Reseller/Retailers' Monthly Petroleum Product Sales Report."
Do	Oasis Petroleum, Research Fuels, Inc. and Lucky Stores, Los Angeles, California.	HEX-0118	Supplemental order. If granted: Pursuant to the February 12, 1985 Decision and Order issued to Oasis Petroleum,, Research Fuels, Inc. and Lucky Stores (Case No. HEX-0110), the Office of Hearings and Appeals would designate those witnesses whose testimony will be presented at the evidentiary hearing.
Do	Spradling's Texaco, Petroleum Products, Budl, Idaho	HEE-0133	Exception to the reporting requirements. If granted: Spradling's Texaco Petroleum Products would not be required to file Form EIA-821.
Mar. 27, 1985	Darci L. Rock, Washington, D.C.	HFA-0282	Appeal of an information request denial. If granted: The March 19, 1985 Freedom of Information Request Denial issued by the Office of Hearings and Appeals would be rescinded and Darci L. Rock would receive access to documents concerning an exception proceeding brought by the Department of Interior (Case No. HEE-0051).
Mar. 28 1985	Great Lakes Electric Consumers Association, Washington, D.C.	HEG-0038	Petition for special redress. If granted: The Office of Hearings and Appeals would consider the use of consumer-owned utilities for the distribution of consent order funds in Subpart V second stage refund proceedings.
Do	Thos. P. Reidy, Inc., Washington, D.C.	HRD-0277 and HRH-0277	Motions for discovery and evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing would be convened in connection with the Statement of Objection submitted by Thos. P. Reidy, Inc. in response to a Proposed Remedial Order issued to the firm (Case No. HRO-0265).

REFUND APPLICATIONS RECEIVED

[Week of Mar. 22, to Mar. 29, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/22/85	Little America Refining Co./Lockhart.	RF112-3
3/22/85	Consolidated Gas Supply Corp./Agway Petroleum Corporation.	RF77-3
3/25/85	Parade Company/Peoples Gas Light and Coke Company.	RF74-2
3/25/85	Kansas Nebraska Natural Gasoline Company/Mobil Oil Corporation.	RF113-3
3/25/85	MAPCO, Inc./Enterprise Products Company.	RF108-7
3/25/85	MAPCO, Inc./Texaco Refining & Marketing, Inc.	RF108-8
3/25/85	Mesa Petorleum Co./Koch Industries.	RF120-1
3/25/85	Mesa Petroleum Co./Mobil Oil Corp.	RF120-2
3/25/85	Arapaho Pet./Warren Petroleum, Co.	RF119-1
3/25/85	Mountain Fuel Supply Co./Petrolane, Inc.	RF118-1
3/25/85	Eagle Petroleum Co./Warren Petroleum Co.	RF121-1
3/25/85 through 3/29/85	Gulf Refund Applications	RF40-2161 through RF40-2610
3/26/85	Amoco/Iowa	RQ21-189
3/26/85	Nordstrom/Iowa	RQ22-190
3/26/85	Belridge/Iowa	RQ8-191
3/26/85	Vickers/Iowa	RQ1-192
3/26/85	Amoco/Ute Indian Tribe	RQ21-193
3/26/85	MAPCO, Inc./National Cooperative Refinery Ass'n.	RF108-9
3/26/85	Kansas Nebraska Natural Gasoline/Cities Service Oil & Gas Corp.	RF113-4
3/26/85	Consolidated Gas Supply Corp./C.M. Dining, Inc.	RF77-4
3/26/85	Little America Refining Co./A.M. Marshall Company.	RF112-4
3/26/85	Seminole Refining/White Construction Company, Inc.	RF111-4

REFUND APPLICATIONS RECEIVED—Continued

[Week of Mar. 22, to Mar. 29, 1985]

Date received	Name of refund proceeding/name of refund applicant	Case No.
3/26/85	Hertz/Allogheny International	RF76-120
3/26/85	Hertz/Cameron Iron Works	RF76-121
3/26/85	Hertz/Burroughs, SDC	RF76-122
3/26/85	Hertz/Merck & Company	RF76-123
3/26/85	Hertz/ARA Services	RF76-124
3/26/85	Hertz/Kimberly Clark Corp	RF76-125
3/26/85	Hertz/Raytheon Company	RF76-118
3/26/85	Hertz/Singer/Libascope	RF76-119
3/26/85	Hertz/Fleetwood Enterprises, Inc.	RF76-117
3/27/85	Point Landing/Canal Barge Co., Inc.	RF122-1
3/27/85	Parade Co./Gulf States Oil & Refining.	RF74-3
3/28/85	Hendel's/New London Motors, Inc.	RF79-9
3/28/85	Hendel's/Bellucci Coal Company	RF79-8
3/28/85	Hendel's/Marsters Marine Service	RF79-10
3/29/85	Grimes Gasoline Co./Sun Company, Inc.	RF123-1
3/29/85	LARCO/SAV-O-MAT, INC	RF112-5
3/29/85	Hertz Corp./Kaiser Aluminum & Chemical.	RF76-126
3/29/85	Point Landing/Central Marine Service.	RF122-2
3/29/85	Point Landing/Beker Industries, Inc.	RF122-3

NOTICES OF OBJECTION RECEIVED

[Week of Mar. 22, 1985 to Mar. 29, 1985]

Date	Name and location of applicant	Case No.
3/28/85	Ozona Gas Processing Plant, Washington, D.C.	HEE-0080

[FR Doc. 85-9905 Filed 4-23-85; 8:45 am]

BILLING CODE 6450-01-M

Implementation of Special Refund Procedures

AGENCY: Office of Hearings and Appeals, Department of Energy.

ACTION: Notice of implementation of special refund procedures and solicitation of comments.

SUMMARY: The Office of Hearings and Appeals of the Department of Energy solicits comments concerning the appropriate procedures to be followed in refunding to eligible claimants a total of $2,335,279 (plus accrued interest) obtained by the DOE under the terms of consent orders entered into with VGS Corporation, Young Refining Corporation, and Macmillan Ring-Free Oil Co., Inc. The funds are being held in escrow following settlement of all claims and disputes arising from audits by the Economic Regulatory Administration.

DATE AND ADDRESS: Comments must be filed on or before May 24, 1985 and should be addressed to the Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585. All comments should conspicuously display a reference to case numbers HEF-0225, HEF-0228, and HEF-0506.

FOR FURTHER INFORMATION CONTACT: Geoffrey D. Stein, Office of Hearings

and Appeals, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–6602.

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(b) of the procedural regulations of the Department of Energy, 10 CFR 205.282(b), notice is hereby given of the issuance of the Proposed Decision and Order set out below. The Proposed Decision and Order tentatively establishes procedures to distribute to eligible claimants funds obtained by the DOE under the terms of consent orders entered into with VGS Corporation ($1,010,000), Young Refining Corporation ($75,000), and Macmillan Ring-Free Oil Co., Inc. ($1,250,279) (hereinafter cited collectively as the consent order firms). The funds were provided to the DOE in order to settle all claims which the Economic Regulatory Administration could have pursued under the DOE price and allocation regulations relating to transactions by the consent order firms involving the production, refining, and marketing of petroleum products during certain periods in which the regulations were in effect.

The Proposed Decision and Order sets forth the procedures and standards that the DOE has tentatively formulated to distribute the contents of the escrow accounts funded by the consent order firms. The DOE has tentatively decided that Applications for Refund should be accepted from firms and individuals who purchased refined petroleum products from the consent orders firms during the consent order periods. The Proposed Decision and Order provides that in order to be entitled to receive any portion of the settlement funds, a purchaser must furnish the DOE with evidence which demonstrates that the claimant was injured by the alleged unlawful prices for covered products charged by the consent order firms. This evidence includes specific documentation concerning the date, place, price, and volume of product purchases, whether the increased costs were absorbed by the claimant or passed through to other purchasers, and the extent of any injury alleged to have been suffered.

The Proposed Decision and Order also refers to the distribution in a second-stage proceeding of any funds remaining after all valid claims are paid. The DOE solicits comments on any proposals that claimants may suggest for this second-stage distribution.

Until final procedures are adopted, no claims for refunds will be accepted. Applications for Refund, therefore, should not be filed at this time. Appropriate public notice will be provided prior to the acceptance of claims.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to provide two copies of their submission. Comments should be submitted within 30 days of publication of this notice in the **Federal Register**, and should be sent to the address set forth at the beginning of this notice. All comments received in this proceeding will be available for public inspection in the Public Docket Room of the Office of Hearings and Appeals, Room 1E–234, 1000 Independence Avenue, SW., Washington, D.C., between the hours of 1:00 to 5:00 p.m., Monday through Friday, except Federal holidays.

Dated: April 17, 1985.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 17, 1985.

Proposed Decision and Order of the Department of Energy

Special Refund Procedures

Names of Cases: VGS Corporation; Young Refining Corporation; and Macmillan Ring-Free Oil Co., Inc.

Dates of Filing: October 13, 1983; October 13, 1983; and July 25, 1984.

Case Numbers: HEF–0225; HEF–0228; and HEF–0506.

The procedural regulations of the Department of Energy (DOE) permit the Economic Regulatory Administration (ERA) to request that the Office of Hearings and Appeals (OHA) formulate and implement procedures for distributing funds received as a result of enforcement proceedings involving alleged violations of DOE regulations. *See* 10 CFR Part 205, Subpart V. In accordance with these regulatory provisions, the ERA filed Petitions for the Implementation of Special Refund Procedures in connection with consent orders which it entered into with VGS Corporation (VGS), Young Refining Corporation (Young), and Macmillan Ring-Free Oil Co., Inc. (Macmillan) (hereinafter referred to collectively as the consent order firms).

I. Background

The consent order firms were "refiners" of petroleum products as that term was defined in 10 CFR 212.31. During the consent order period, the firms were engaged in the production, refining, and marketing of products covered by the federal petroleum price and allocation regulations set forth in 10 CFR Parts 211 and 212. The ERA audited the consent order firms to determine their compliance with these regulations. In the course of the audit process, each firm entered into a consent order with the DOE, whereby the firm agreed to remit funds to the DOE to resolve all issues regarding the firm's application of the regulations during the consent order period.

VGS agreed to refund $1,010,000 to resolve all issues regarding its application of the price regulations during the period December 1, 1973 to January 27, 1981.[1] Notice of this proposed consent order was published for public comment at 46 FR 35963 (1981). Claims were filed by five interested parties.[2] The proposed consent order was adopted without modification as a final order of the DOE on September 1, 1981. 46 FR 43873 (1981).

Young agreed to refund $75,000 to resolve all issues regarding its application of the price regulations during the period August 19, 1973 to April 30, 1974. Notice of this proposed consent order was published for public comment at 46 FR 10976 (1981), and one claim was filed by Hercules Incorporated of Wilmington, Delaware. The consent order was subsequently adopted without modification as a final order of the DOE.

Macmillan agreed to refund $1,550,000 to resolve all issues regarding its application of the price and allocation regulations during the period August 19, 1973 to January 27, 1981. Notice of this proposed consent order was published for public comment at 47 FR 34182 (1982). Comments were received from several interested parties; however, no claims were filed. The proposed consent order was adopted without modification as a final order of the DOE on November 4, 1982. 47 FR 50081 (1982). After the consent order was finalized, the ERA determined that $299,721 should be distributed from the Macmillan consent order fund to six end-user purchasers of "general refinery products.[3] ERA's Petition in the

[1] VGS marketed all of its petroleum products under the name Southland Oil Company.

[2] The five VGS claimants were: Miller Transporters, Inc. of Jackson, Mississippi; the Jackson, Mississippi Municipal Airport Authority; the Mississippi State Highway Department; Mrs. Jessie C. Vaughn, Jr. of Yazoo City, Mississippi; and Mr. Travis Fitts of Kosciusko, Mississippi.

[3] The "general refinery products" sold by Macmillan consisted of lube oils, residual fuel oil, naphtha, and jet fuel. The six end-user customers of these products—California-Portland, United States Defense Supply Agency, General Carbon Company, Nevada Power Company, Salt River Project, and Southern California Edison Company—will not be eligible to apply for further refunds in this proceeding based on their purchases of these general refinery products.

Macmillan proceeding covers the remaining $1,250,279.

II. Jurisdiction to Fashion Refund Procedures

The ERA filed Petitions for the Implementation of Special Refund Procedures under Subart V in connection with the funds remitted to the DOE pursuant to these three consent orders. The Subpart V process may be used in situations where the DOE is unable to readily identify the persons who may be eligible to receive refunds as a result of enforcement proceedings or to readily ascertain the amounts that such persons should receive. 10 CFR 205.280. Subpart V authorizes the OHA, upon request by an appropriate DOE enforcement official, to fashion special procedures to distribute moneys obtained as part of a settlement agreement. 10 CFR 205.281–205.282. After reviewing the record in each of the proceedings, we have determined that the implementation of Subpart V procedures is appropriate. There is a significant degree of difficulty in identifying the purchases who may have been injured by the pricing practices of the consent order firms. In each case, the alleged overcharges were associated with the price methodology of a refiner, so that any impact likely was spread throughout a broad range of customers. Furthermore, it is difficult to ascertain the proper amount of refunds to identifiable injured parties. Therefore, the provisions of Subpart V provides a very useful mechanism for refunding money to parties likely to have been injured by the alleged violations. According, the OHA has decided to exercise jurisdiction over the funds received by the DOE pursuant to these three consent orders.

III. Proposed Refund Procedures

A. Crude Oil Claims

The Macmillan consent order resolves the firm's alleged violations of both the petroleum price and allocation regulations. With regard to the allocation regulations, the consent order specifically settled alleged violations of the DOE Crude Oil Entitlements Program uncovered during the audit of Macmillan. We therefore propose to divide this consent order fund into two pools. Since the audit files indicate that 29% of Macmillan's total alleged overcharges related to alleged entitlements violations, we propose to make available a pro rata portion of the total Macmillan consent order fund—$449,500 plus accrued interest—for claims filed by participants in the Entitlements Program. *See Bayou State Oil Corporation*, 12 DOE ¶ 85,197 (1985).

We have previously considered the proper disbursement of consent order funds related to alleged crude oil entitlements violations similar to those resolved with Macmillan. *See Office of Enforcement: In the Matter of Alfred B. Alkek*, 9 DOE ¶ 82,521 (1982) (*Alkek*); *Office of Enforcement: In the Matter of Adams Resources and Energy, Inc.*, 9 DOE ¶ 82,553 (1982) (*Adams*); *A Johnson & Company, Inc.*, 12 DOE ¶ 85,102 (1984) (*Johnson*). We anticipate that we will adopt a method of granting refunds in the consolidated *Alkek*, *Adams*, and *Johnson* proceeding which is consistent with the method the OHA ultimately recommends to the District Court for distributing funds at issue in the current *Department of Energy Stripper Well Exemption Litigaiton*, No. MDL 378 (D. Kan.). *Bayou State Oil Corporation*, 12 DOE at 88,620. It is likely that the cost of Macmillan's alleged entitlements violations was spread through the Entitlements Program in a manner similar to that of the Stripper Well overcharges. We therefore propose that the Macmillan consent order funds attributable to alleged entitlements violations be distributed in the manner ultimately decided upon in the *Alkek*, *Adams*, and *Johnson* proceeding.

B. Refined Products Claims

1. Refunds to Identifiable Purchasers

The remaining $800,779 of the Macmillan consent order fund, as well as all of the VGS and Young consent order funds, relate to alleged violations of refined products pricing and allocation regulations. During the first stage in the refund process, these consent order funds should be distributed to claimants who satisfactorily demonstrate that they have been adversely affected by the consent order firms' alleged overcharges in sales of covered products. The procedures for implementing a claims process are set forth below. In addition, as in many prior special refunds cases, we will propose adoption of certain presumtions. First, we will tentatively adopt a presumtion that the alleged overcharges were dispersed equally in all sales of products made during the consent order periods. OHA has referred to this presumption in the past as a volumetric refund amount. Second, we will propose a presumption of injury with respect to small claims.

Presumtions in refund cases are specifically authorized by applicable DOE procedural regulations. Section 205.282(e) of those regulations states that:

> [i]n establishing standards and procedures for implementing refund distributions, the Office of Hearings and Appeals shall take into account the desirability of distributing the refunds in an efficient, effective and equitable manner and resolving to the maximum extent practicable all outstanding claims. In order to do so, the standards for evaluation of individual claims may be based upon appropriate presumptions.

10 CFR 205.282(e). The presumptions we propose to adopt in these cases will permit claimants to participate in the refund process without incurring disproportionate expenses, and will enable the OHA to consider refund applications in the most efficient way possible in view of the limited resources available.

A claimant will be eligible to receive a refund equal to the documented number of gallons it bought from a consent order firm during the applicable consent order period, multiplied by a volumetric percentage. This percentage is computed by dividing the amount of each consent order fund by the total number of gallons sold by each firm during the consent order period. The calculation of the volumetric percentage for the three consent order funds is presented in the following table:

Firm	Sales of covered products during consent order period (gallons)	Consent order funds for refined products claims	Volumetric refund amount
VGS	704,146,220	$1,010,000	$0.001434
Young	11,105,970	75,000	.006753
Macmillan	1,159,432,400	800,779	.000690

In addition, the interest which has accrued to the consent order funds will be applied to each paid refund on a pro rata basis. Finally, we intend to set a minimum refund amount for potential claimants. In prior refund cases, we have not granted refunds for less than $15.00 because the cost of issuing such refunds exceeds the restitutionary benefits which may be achieved. *See Office of Special Counsel*, 10 DOE ¶ 85,048 at 88,214 (1982). We will utilize the same minimum refund in the present case.

The pro rata, or volumetric, refund presumption assumes that alleged overcharges by a consent order firm were spread equally over all gallons of product marketed by that firm. In the absence of better information, this assumption is sound because the DOE price regulations generally required a regulated firm to account for increased costs on a firm-wide basis in

determining its prices. However, we also recognize that the impact on an individual purchaser may have been greater than the pro rata amount determined by the volumetric presumption. Certain purchasers may believe that they suffered disproportionate injury as a result of a firm's pricing practices during the consent order period. Any such purchaser may file a refund application for an amount greater than that calculated using the volumetric presumption, provided that the claimant documents the disproportionate impact of the alleged overcharges. *See, e.g., Sid Richardson Carbon and Gasoline Co. and Richardson Products Co./Siouxland Propane Co.*, 12 DOE ¶ 85,054 (1984) and cases cited therein at 88,164.

We propose that resellers and retailers seeking refunds totalling $5,000 or less under the volumetric presumption not be required to demonstrate further any injury resulting from the alleged overcharges. The presumption that claimants seeking smaller refunds were injured by the pricing practices settled in the consent orders is based on a number of considerations. *See, e.g., Uban Oil Co.*, 9 DOE ¶ 82,541 (1982). Firms which will be eligible for refunds were in the chains of distribution where the alleged overcharges occurred and therefore bore some impact of the alleged overcharges, at least initially. In order to support a specific claim of injury, a firm would have to compile and submit detailed factual information regarding the impact of alleged overcharges which took place many years ago. This procedure is generally time-consuming and expensive. With small claims, the cost to the firm of gathering the necessary information, and the cost to the OHA of analyzing it, may be many times the expected refund amount. Failure to allow simplified application procedures for small claims could therefore deprive injured parties of the opportunity to receive a refund. This presumption eliminates the need for a claimant to submit and the OHA to analyze detailed proof of what happened downstream of the initial impact.

Under the small-claims presumption, a claimant who is a reseller or retailer will not be required to submit any additional evidence of injury beyond purchase volumes if its refund claim is based on purchases below a certain level. Previous OHA refund decisions have expressed this threshold in terms of either purchase volumes or refund dollar amounts. In *Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984), we noted that describing the threshold in terms of a dollar amount rather than a purchase volume figure would more readily facilitate disbursements to applicants seeking relatively small refunds. *Id.* at 88,210. There cases merit the same approach. Several factors determine the value of the threshold below which a claimant is not required to submit any further evidence of injury beyond volumes purchased. One of these factors is the concern that the cost to the applicant and the government of compiling and analyzing information sufficient to show injury not exceed the amount of the refund to be gained. In these cases, where the refund amounts are fairly low and the early months of the consent order periods are many years past, $5,000 is a reasonable value for the threshold. *See Texas Oil & Gas Corp.*, 12 DOE ¶ 85,069 (1984); *Office of Special Counsel: In the Matter of Conoco, Inc.*, 11 DOE ¶ 85,226 (1984) and cases cited therein.

A reseller or retailer which claims a refund in excess of $5,000 will be required to document its injury. While there are a variety of means by which a claimant can make such a showing, a firm is generally required to show that market conditions would not permit it to pass through the increased costs associated with the alleged overcharges. In addition, a reseller or retailer of petroleum products must show that it maintained a "bank" of unrecoverd costs, in order to demonstrate that it did not subsequently recover these costs by increasing its prices. *See, e.g., Triton Oil and Gas Corporation/Cities Service Company*, 12 DOE ¶ 85,107 (1984); *Tenneco Oil Co./Mid-Continent Systems, Inc.*, 10 DOE ¶ 85,009 (1982).[4]

We find that end-users or ultimate consumers whose business is unrelated to the petroleum industry were injured by the alleged overcharges settled in the consent order. Unlike regulated firms in the petroleum industry, members of this group generally were not subject to price controls during the consent order period, and they were not required to keep records which justified selling price increases by reference to cost increases. For these reasons, an analysis of the impact of the increased cost of petroleum products on the final prices of non-petroleum goods and services would be beyond the scope of this special refund proceeding. *See Office of Enforcement, Economic Regulatory Administration: In the Matter of PVM Oil Associates, Inc.*, 10 DOE ¶ 85,072 (1983); *see also Texas Oil & Gas Corp.*, 12 DOE at 88,209 and cases cited therein. We have therefore concluded that downstream end-user purchasers of a consent order firm's petroleum products need only document their purchase volumes in order to make a sufficient showing that they were injured by the alleged overcharges.[5]

In addition, refund applications from firms regulated by a governmental agency or by the terms of a cooperative agreement will not be required to demonstrate that the firm absorbed the alleged overcharges. In the case of regulated firms, *e.g.*, public utilities, any overcharges incurred as a result of the alleged violations of the DOE regulations would routinely be passed through to their customers. Similarly, any refunds received by such firms would be reflected in the rates they are allowed to charge their customers. Refunds to agricultural cooperatives will likewise directly influence the prices charged to member customers. Consequently, these firms too need only document their purchase volumes from a consent order firm to make an adequate showing of injury. *See Office of Special Counsel*, 9 DOE ¶ 82,538. However, along with their applications these firms should provide a full, detailed explanation of the manner in which refunds would be passed through to customers and how the appropriate regulatory body or membership group will be advised of the applicant's receipt of a refund.

As in previous cases, we propose that there is a class of potential claimants who may be presumed to have suffered no injury from the alleged overcharges. Those parties are firms that made spot purchases of a consent order firm's petroleum products.[6]

[4] Resellers or retailers who claim a refund in excess of $5,000 but who cannot establish that they did not pass through the price increases will be eligible for a refund of up to the $5,000 threshold, without being required to submit further evidence of injury. Firms potentially eligible for greater refunds may choose to limit their claims to $5,000 in order to avoid having to prove their injury. *See* Office of Enforcement, 8 DOE ¶ 82,597 (1981) at 85,396.

[5] As stated, six ultimate consumers of Macmillan products have already received refunds from the Macmillan consent order fund for their purchases of general refinery products. *See* note 3 *supra*. These firms are not eligible to apply for further refunds in this proceeding based on these purchases. However, other end-users who purchased Macmillan products from resellers may be eligible to apply for refunds.

[6] We will except from this principle cooperative organizations which made spot purchases of products from a consent order firm and resold these products to their members. In the past, we have treated refund applications by cooperatives as applications made on behalf of their members, who, as ultimate customers, were not in a position to pass along increased costs. Similarly, any refund received by a cooperative would presumably be passed on to its members, in the form of either a price reduction or a distribution of surplus income. Office of Special Counsel, 9 DOE ¶ 82,538 (1982) at 85,203. *See, e.g.*, Anadarko Production Co./Cities

Continued

[T]hese customers tend to have considerable discretion in where and when to make purchases and would therefore not have made spot market purchases of Vickers motor gasoline at increased prices unless they were able to pass through the full amount of Vickers' quoted selling price at the time of purchase to their own customers.

8 DOE at 85,396–97. We believe that the same rationale applies in this case. Consequently, we propose to establish a rebuttable presumption that spot purchasers were not injured by the pricing practices resolved in the consent orders. Thus, a spot purchaser claimant will be required to submit additional evidence sufficient to establish that it was unable to recover the prices it paid to a consent order firm.

Any purchaser claiming a portion of the consent order funds should file an Application for Refund pursuant to 10 CFR 205.283. Applications should provide all relevant information necessary to establish a claim in accordance with the presumptions outlined above, including, where necessary, specific documentation concerning the date, place, price, and volume of product purchased, the retention of increased costs, and the extent of any injury alleged. Detailed precedures for filing applications will be provided in a final Decision and Order. *See Vickers.* Before disposing of any of the consent order funds, we intend to publicize widely the distribution process and to provide an opportunity for any affected party to file a claim. Purchasers of covered products who filed claims in response to the original consent order notices in the **Federal Register** will be informed of these refund procedures by mail. As a final matter, we note that refund applications filed on behalf of groups of claimants identifying themselves as adversely affected purchasers also will be considered. Such applications will be evaluated on a case-by-case basis.

C. Distribution of the Remainder of the Consent Order Fund

After all meritorious claimants have received an appropriate refund, it is possible that the consent order funds may not be exhausted. Any remaining funds should be distributed during a second stage of the refund process in furtherance of the goals set forth in the DOE's enabling legislation and implementing regulations. However, any consideration of the second-stage procedure at this point in time involves a number of uncertainties. As was noted in *Vickers:*

[Such] a step would be difficult to justify before the analysis and processing of Applications for Refund filed in the first stage of the distribution of the Consent Order funds to claimants, since the amount remaining after all meritorious claims have been paid directly affects the appropriateness of the second-stage distribution scheme.

8 DOE at 85,397. We will consider any comments received regarding second-stage alternatives and then issue a final Decision and Order establishing procedures for the first stage. In that decision, we will summarize and address briefly the comments received concerning second-stage procedures, and will solicit another round of comments on the distribution of the funds that may remain after payment of claims in the first stage. In this way, we will have adequate opportunity to consider the outstanding issues before reaching a final decision on the second stage.

It Is Therefore Ordered That: The funds remitted to the Department of Energy pursuant to the VGS Corporation, Young Refining Corporation, and Macmillan Ring-Free Oil Co., Inc. consent orders will be distributed in accordance with the foregoing Decision.

[FR. Doc. 85–9904 Filed 4–23–85; 8:45 am]
BILLING CODE 6450–01–M

Service Co., 12 DOE ¶ 85,060 (1984). Cooperative purchasers therefore will be presumed to have been injured in spot purchases of a consent order firm's products when these products were resold to members. Cooperatives in this category will be eligible to apply for refunds. These firms must explain in their refund applications the manner in which any refunds will be distributed to members. *See Office of Special Counsel,* 10 DOE ¶ 85,048 (1982); *Office of Enforcement,* 8 DOE ¶ 82,597 (1981) [hereinafter cited as *Vickers].* As we stated in *Vickers:*

ENVIRONMENTAL PROTECTION AGENCY

[OPP–180666; FRL–2822–5]

Emergency Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted 11 specific exemptions for the control of various pests to 8 States as listed below. Also given is information on a crisis exemption initiated by the Hawaii Department of Agriculture. These exemptions are subject to application and timing restrictions and reporting requirements designed to protect the environment to the maximum extent possible. Information on these restrictions is available from the contact persons in EPA listed below.

DATES: See each specific and crisis exemption for its effective dates.

FOR FURTHER INFORMATION CONTACT: See each specific and crisis exemption for the name of the contact person. The following information applies to all contact people.

By mail: Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 716, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–1192).

SUPPLEMENTARY INFORMATION: EPA has granted specific exemptions to the:

1. Arizona Commission of Agriculture and Horticulture for the use of sethoxydim on dry bulb onions to control emerged annual grasses; March 5, 1985 to May 15, 1985. (Libby Welch)

2. Arkansas State Plant Board for the use of propionic acid on high moisture cottonseed as a seed preservative; February 25, 1985 to July 31, 1985. Arkansas had initiated a crisis exemption for this use. (Libby Welch)

3. California Department of Food and Agriculture for the use of methiocarb on artichokes to control snails and slugs; February 25, 1985 to December 31, 1985. (Jim Tompkins)

4. California Department of Food and Agriculture for the use of triadimefon on tomatoes to control powdery mildew; March 18, 1985 to January 1, 1986. (Jim Tompkins)

5. Florida Department of Agriculture and Consumer Services for the use of avermectin B on 1,497 acres of ornamental flowers (chrysanthemum, gypsophila, gerbera, daisy and snapdragon) to control serpentine leafminers in Florida; February 26, 1985 to February 20, 1986. Avermection is an unregistered pesticide and in accordance with Agency policy public comment was solicited in a Notice of Receipt published in the **Federal Register** on August 8, 1984. No comments were received. Only the use on ornamental flowers for leafminer control was adequately supported for this emergency. The Agency granted this emergency exemption after determining:

a. There are no registered alternative pesticides which will provide adequate control of leafminers on ornamental flowers.

b. A significant economic loss would result if an effective pesticide was not made available. This loss could be as high as $26,876,000 and represent over half the net value of this crop. In addition, without adequate control many growers might be forced out of business

which could lead to loss of work for over a thousand individuals. Use is authorized for 962 lbs of active ingredient. (Libby Welch)

6. Louisiana Department of Agriculture for the use of methiocarb on rice to control depredating birds; March 11, 1985 to July 15, 1985. (Libby Welch)

7. Michigan Department of Agriculture for the use of metolachlor on dry bulb onions to control grassy weeds; March 25, 1985 to August 15, 1985. (Jim Tompkins)

8. Michigan Department of Agriculture for the use of sethoxydim on dry bulb onions grown on muck soils to control grassy weeds; March 25, 1985 to August 15, 1985. (Jim Tompkins)

9. Mississippi Department of Agriculture and Commerce for the use of propionic acid on high moisture cottonseed as a seed preservative; February 25, 1985 to July 31, 1985. Mississippi had initiated a crisis exemption for this use. (Libby Welch).

10. Texas Department of Agriculture for the use of propionic acid on high moisture cottonseed as a seed preservative in Texas; February 26, 1985 to July 31, 1985. Texas had initiated a crisis exemption for this use. (Libby Welch)

11. Texas Department of Agriculture for the use of methicarb on rice seed to control bird depredation; March 11, 1985 to July 15, 1985. (Jim Tompkins)

A crisis exemption was initiated by the Hawaii Department of Agriculture on January 31, 1985, for the use of oxamyl on succulent beans to control thrips. Since it was anticipated that this program would be needed for more than 15 days, Hawaii has requested a specific exemption to continue it. The need for this program is expected to last for 1 year. (Jack E. Housenger)

(Sec. 18, as amended, 92 Stat. 819 (7 U.S.C. 136))

Dated: April 8, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-9597 Filed 4-23-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50637; FRL-2823-6]

Issuance of Experimental Use Permits; ICI Americas, Inc. et al

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

10182-EUP-35. Extension. ICI Americas, Inc., Concord Pike and New Murphy Road, Wilmington, DE 19897. This experimental use permit allows the use of 53 pounds of the herbicide butyl (*R*)-2-[4-[[5-[trifluoromethyl)-2-pyridinyl]oxy]-phenoxy] propanoate on cotton and soybeans to evaluate the control of various weeds. A total of 212 acres are involved; the program is authorized only in the State of California. The experimental use permit is effective from March 31, 1985 to March 31, 1986. This permit is issued with the limitation that all treated crops are destroyed or used for research purposes only. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830)).

45639-EUP-28. Issuance. Nor-Am Chemical Company, 3509 Silverside Road, P.O. Box 7495, Wilmington, DE 19803. This experimental use permit allows the use of 192 pounds of the herbicide diethatyl-ethyl on cotton to evaluate the control of various weeds. The experimental use program is authorized only in the States of Arizona and California. The experimental use permit is effective from April 2, 1985, to April 2, 1986. A temporary tolerance for residues of the active ingredient in or on cottonseed has been established. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830)).

11273-EUP-41 Issuance. Zoecon Corporation, 975 California Avenue, Palo Alto, CA 94304. This experimental use permit allows the use of 540 pounds of the herbicide norflurazon on alfalfa to evaluate the control of various weeds. A total of 180 acres are involved; the program is authorized only in the States of Alabama, Georgia, Kentucky, Illinois, Indiana, Iowa, Minnesota, Mississippi, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Wisconsin. The experimental use permit is effective from April 2, 1985 to April 2, 1987. A temporary tolerance for residues of the active ingredient in or on alfalfa forage and hay has been established. (Richard Mountfort, PM 23, Rm. 253, CM#2, (703-557-1830)).

11273-EUP-43. Issuance. Zoecon Corporation, 975 California Avenue, Palo Alto, CA 94304. This experimental use permit allows the use of 504 pounds of the herbicide norflurazon on alfalfa to evaluate the control of various weeds. A total of 168 acres are involved; the program is authorized only in the States of Arizona, California, Idaho, Oregon, Utah, and Washington. The experimental use permit is effective from April 2, 1985 to April 2, 1987. A temporary tolerance for residues of the active ingredient in or on alfalfa forage and hay has been established. (Richard Mountfort, PM 23, Rm. CM#2, (703-557-1830)).

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: April 10, 1985.

Robert V. Brown,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-9842 Filed 4-23-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 15, 1985.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of this submission are available from the Commission by calling Doris R. Peacock, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 HEOB, Washington, D.C. 20503, (202) 395-7231.

OMB No.: 3060-0049

Title: Restricted Radiotelephone Operator Permit Application and Temporary Permit
Form No.: FCC 753
Action: Revision
Estimated Annual Burden: 200,000 Responses; 20,000 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-9871 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

[Report No. 1509]

Petitions for Reconsideration and Clarification of Actions in Rule Making Proceedings

April 16, 1985.

The following listings of petitions for reconsideration and clarification filed in Commission rulemaking proceedings is published pursuant to 47 CFR 1.429(e). Oppositions to such petitions for reconsideration and clarification must be filed within 15 days after publication of this Public Notice in the **Federal Register.** Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Market Structure. (CC Docket No. 78-72)
Filed by: William Malone & James R. Hobson, Attorneys for GTE Service Corporation and the GTE Domestic Operating Companies on 3-29-85.
Subject: Investigation of Access and Divestiture Related Tariffs. (CC Docket No. 83-1145, Phase 1)
Filed By:
Joel Yohalem, Vice President & Deputy General Counsel for Western Union Telegraph Company on 2-26-85.
Alan Y. Naftalin & Margot Smiley Humphrey, Attorneys for Alascom, Inc., on 3-21-85.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-9862 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

April 16, 1985.

The Federal Communication Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of the submission are available from Jerry Cowden, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503, (202) 395-7231.

OMB Number: 3060-0298
Title: Part 61, Tariffs
Action: Revision
Respondents: Telephone companies
Estimated Annual Burden: 3,940 Responses; 349,478 Hours

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-9855 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

Radio Advisory Committee; Meetings

May 2, 1985.

The next meeting of the Advisory Committee on Radio Broadcasting has been scheduled for 1:30 p.m., Thursday, May 2, 1985, in CEH Room 330, 1200 19th Street, NW., Washington, D.C.

The Committee will:

—Receive aural reports by the Chairmen of the Committee's Technical and Allocations Subgroups concerning proposals for the 1986 AM Expanded Band Conference and any written matter that those Subgroups may submit concerning preparations for that Conference, and consider the work of the Subgroups;
—Note the status of negotiations on revisions of international agreements;
—AM Agreement with Mexico;
—FM Agreement with Canada;
—TV Agreement with Canada; and
—Take up other business raised by participants.

The meetings of the Committee are public and are open or participation by all interested persons. The meeting scheduled for May 2, 1985 may, if the participants so decide, be recessed for resumption at such other time and place as they may designate.

For further information please consult the Committee Chairman, Louis C. Stephens, at FCC Headquarters. Tel.: (202) 632-7792.

William J. Tricarico,

Secretary Federal Communications Commission.

[FR Doc. 85-9856 Filed 4-23-85; 8:45 am]

BILLING CODE 6712-01-M

New AM and FM Stations; Banks Broadcasting Co., Inc.

In the matter of Applications of:

Banks Broadcasting Co. Inc...	MM Docket No. 85-65.
For Renewal of License of Station WWDB (FM), Philadelphia, Pennsylvania.	File No. BRH-840330ES.
For Transfer of Control of Station WWDB (FM) from Leon Goldberg, Lita Indzel Cohen and Dolly Banks Shapiro, Co-Executors of the Estate of William A. Banks, to Leon Goldberg, Lita Indzel Cohen and Dolly Banks Shapiro, Trustees Philadelphia, Pennsylvania and Independence Broadcasting Co. Inc.	File No. BTCH-840105GO (Granted).
For Renewal of License of Station WHAT (AM), Philadelphia, Pennsylvania.	File No. BR-840330VT.
For Transfer of Control of Station WHAT-AM from Leon Goldberg, Lita Indzel Cohen and Dolly Banks Shapiro, Co-Executors of the Estate of William A. Banks, to Leon Goldberg, Lita Indzel Cohen and Dolly Banks Shapiro Trustees, Philadelphia, Pennsylvania.	File No. BTC-831202EI (Granted).
For Assignment of License of Station WHAT (AM) from Independence Broadcasting Company, Inc. to Kelly Guglielmi and Reginald N. Lavong and Miller Parker d/b/a Main Line Communications.	File No. BAL-840629EM (Deferred).
Req: 1340 KHz, 0.25 kW, 1 kW-LS, U and 96.5 MHz, 17 kW (H&V), 265 meters, Channel 243B Philadelphia, Pennsylvania.	File Nos. BP-840702AT and BPH-840702IH.
For Construction Permits for New AM and FM Stations and American Minority Communications, Inc. Req: 1340 KHz, 0.25 kW, 1 kW-LS, U and 96.5 MHz, Channel 243B 17 kW (H&V), 265 meters, Philadelphia, Pennsylvania.	File Nos. BP-840702AH and BPH-840702IC.

For construction permits for New AM and FM Stations.

Memorandum Opinion and Order and Notice of Apparent Liability

Adopted: March 14, 1985.
Released: April 4, 1985.

By the Commission

1. The Commission has under consideration (i) the applications of Independence Broadcasting Company, Inc. and its wholly-owned subsidiary, Banks Broadcasting Company (hereafter collectively referred to as "Banks" or licensee) for renewal of their licenses for Stations WHAT(AM) and WWDB(FM), respectively, Philadelphia, Pennsylvania; (ii) a petition to dent the renewal applications of WHAT(AM)

and WWDB(FM) filed by the National Black Media Coalition, Tri-State Black Media Coalition and Pennsylvania State Senator T. Milton Street (hereafter collectively referred to as the "Coalition"); (iii) a petition to deny the renewal applications of WHAT(AM) and WWDB(FM) filed by the Philadelphia Lesbian and Gay Task Force (hereafter "PLGTF"); (iv) a petition to deny Banks' *pro forma* transfer of control of WHAT(AM) and WWDB(FM) filed by the Coalition;[1] (v) a petition to deny assignment of Banks' license of Station WHAT(AM) to Kelly Guglielmi filed by the Coalition;[2] (vi) Oppositions to all the above petitions filed by Banks; (vii) mutually exclusive applications filed by Reginald N. Lavong and Miller Parker d/b/a Main Line Communications (hereafter "Main Line") for construction permits for new AM and FM Stations; (vii) mutually exclusive applications filed by American Minority Communications, Inc. (hereafter "American Minority") for construction permits for new AM and FM Stations; (viii) and other related pleadings.

The Coalition's Petitions to Deny [3]

2. *Denial of Access to Public Inspection File.* The Coalition alleges that a Banks employee denied Ms. Lynette Ruffin access to the stations' public file in violation of § 73.3526 of the Commission's rules, 47 CFR 73.3526, and that this same employee forcibly removed the files from her. In opposition, Banks states that no one fitting Ms. Ruffin's description of the employee who allegedly denied her access is employed at Banks; that no station employee in a position to know about this incident has any recollection of it; and that the occurrence of the incident would be contrary to the stations' operating procedure for handling public file inspection requests. Further, Ms. Phyllis Sims, Chairperson of Tri-State Media Coalition, a petitioner in this proceeding, had no trouble gaining access to Banks' public files on several occasions subsequent to the alleged Lynette Ruffin incident.

3. In order for the Commission to take action on an allegation in a petition to deny, the allegation must, at the least, "be supported by affidavit of a person or persons with personal knowledge thereof." 47 U.S.C. 309(d)(1).[4] Although the Coalition has alleged that Ms. Ruffin was denied access to Banks' public files and stated twice that Ms. Ruffin's affidavit would be or was supplied, at no time has the Coalition actually provided either an affidavit or a signed, dated unsworn declaration from Ms. Ruffin.[5] Accordingly, further consideration of this allegation is unwarranted.[6]

4. *Failure to Maintain a Complete Public Inspection File.* The Coalition also alleges that when Ms. Phyllis Sims examined the public file on January 10 and January 27, 1984, she found that Banks had violated § 73.3526(1)(a) of the Commission's Rules by not having in its public file a notice regarding the petition to deny filed by the Coalition. In opposition, Banks states that such notice was indeed placed in the public file; that it had no knowledge that the notice was missing; and that upon discovering its absence a new notice was placed in the file.

5. The Commission's Rules state that notice of a petition to deny and related pleadings must be maintained in every licensee's public inspection file. 47 CFR 73.3526(a)(1). It is clear from the pleadings before us that Banks violated this rule. However, it is equally clear that, upon discovering the missing notice, Banks took corrective action and inserted a new notice in the public files. Moreover, the Coalition has alleged no prejudice as a result of the temporary omission of the notice. While we do not condone this violation, it is not so serious as to raise a substantial and material question of fact. *Security Broadcasting of Baton Rouge, Inc.*, 62 F.C.C. 2d 140, 144 (1977). However, Banks is admonished to maintain its public inspection file as required by the Commission's Rules.

6. *Failure ot Make Pre-filing Announcement as Required by § 73.3580(d)(1) of the Commission's Rules.* The Coalition alleges that Banks failed to air a pre-filing renewal announcement on its stations on February 1, 1984. Instead, the announcement was aired ten days late. In opposition, Banks states that it discovered on its own initiative that the announcement had not aired, and that it immediately took corrective action and broadcast the announcement every day between February 10 and February 16, 1984.

7. In our view, Banks' admitted failure to broadcast the required prefiling announcement on February 1, 1984, is a *de minimis* violation of the rules. Not only did the licensee discover the omission on its own and broadcast a pre-filing announcement on February 10, 1984, but it also broadcast the announcement as required on February 16, 1984, as well as five (5) extra times (daily between February 11 and February 15) "in an effort to ensure that they were heard by as wide an audience as possible." In view of the corrective action taken by the licensee on its own initiative, Banks' failure to broadcast one pre-filing announcement does not raise a substantial and material question of fact concerning its qualifications to be a Commission licensee. *Cf. United Broadcasting Company of Eastern Md., Inc.*, 90 F.C.C. 2d 534, 537 (1982).

8. *Misrepresentation.* The Coalition alleges that in an application for assignment of WHAT(AM) to Philadelphia Broadcasting Company,

[1] This petition seeks to block the transfer of control of WHAT(AM) and WWDB(FM) from Leon Goldberg, Lita Indzel Cohen and Dolly Banks Shapiro, co-Executors of the Estate of William A. Banks to those same listed individuals in their capacity as trustees for various beneficiaries under the William A. Banks' will. The application was occasioned by the approval of the Orphan's Court of Philadelphia County to distribute the controlling interest of the stock of Independence Broadcasting Company, Inc. to the above designated trustees. Thus, these are *pro forma* transfers necessitated by a change in the legal status of the three individuals currently exercising control, with no effect on the rights of the contesting parties. Accordingly, we shall grant these transfer applications.

[2] Because of the serious questions raised about Banks' qualifications, the assignment application will be held in abeyance pending the outcome of this proceeding. *Faith Center, Inc.*, 90 F.C.C. 2d 519 (1982).

[3] Petitions to deny and related pleadings filed by the National Black Media Coalition and by the licensee include the following: (i) Petition to deny the assignment of WHAT to Philadelphia Community Broadcasting Co. filed August 29, 1983; (ii) Petition to deny the assignment of WWDB(FM) to Love 96 Limited Partnership, Inc. filed November 10, 1983; (iii) Opposition to FM assignment petition filed December 7, 1983; (iv) Petition to deny *pro forma* transfer of control of WHAT filed January 16, 1984; (v) Opposition to WHAT transfer petition; (vi) Petition to deny *pro forma* transfer of control of WWDB(FM) filed February 17, 1984; (vii) Opposition to WWDB(FM) transfer petition; (viii) Petition to deny renewal of WHAT and WWDB(FM) filed June 4, 1984; (ix) Reply to transfer opposition and Supplement to renewal petition filed June 6, 1984; (x) Opposition to renewal petition filed July 5, 1984; (xi) Reply to renewal opposition filed August 30, 1984. In order to simplify presentation of the issues, we shall note all pertinent allegations but not set forth when and how they were raised.

[4] Effective February 10, 1983, § 1.16 was added to the Commission's Rules providing that an unsworn declaration, signed and dated, could be substituted for an affidavit. 47 CFR 1.16.

[5] In its Petition to Deny the transfer of control of Banks from Leon Goldberg, Lita Indzel Cohen and Dolly Banks, Co-Executors of the Estate of William A. Banks to the same individuals as Trustees, the Coalition included an Exhibit which purported to be the statement of Ms. Ruffin. However, that "statement" was neither signed nor dated.

[6] In this regard we note that, even if the Coalition had provided an affidavit or dated, signed declaration, this allegation would not raise a substantial and material question of fact. One or two isolated incidents of denial of access to a licensee's public file do not raise a question of a licensee's fitness to be a Commission licensee, especially where the record shows that access to the station's public file is routinely available. *West Coast Media, Inc.*, 61 F.C.C. 2d 577, 584 (1976).

Inc., (BAL–830503EY,[7]) three (or four) of fourteen purported stockholders of the assignee corporation were not in fact stockholders, and that this constituted a misrepresentation on the part of the licensee/assignor. In opposition, Banks states that at the time the assignment application was filed it had no knowledge of any question as to the purported ownership of the proposed assignee.

9. The Commission has stated that "the mere existence of an inaccuracy in an [assignment] application, without any indication that the applicant meant to deceive the Commission, does not elevate such a mistake to the level of an intentional falsehood or otherwise raise a question of fact that must be resolved in an evidentiary hearing." *Chief Washakie TV*, 46 R.R. 2d 1594, 1597 (1980). However, even assuming that the proposed *assignee* did engage in misrepresentation, we cannot attribute such misrepresentation to the *assignor* absent some showing that the licensee knew or should have known that the assignee was attempting to mislead the Commission.[8] Here, there is no such showing. Accordingly, this "misrepresentation" allegation fails to raise a substantial and material question of fact regarding Banks' qualifications to be a Commission licensee.

10. *Practice of Medicine Without a License and Other Allegations.* The Coalition also makes a number of allegations concerning a program broadcast on WWDB(FM) moderated by Dr. James Corea. The Coalition alleges that on this program Dr. Corea "issues medical instructions and prescriptions over the air," and that the station and Dr. Corea are therefore "illegally . . . engaging in the practice of medicine" in violation of statutes of the States of Pennsylvania, New Jersey and Delaware. The Coalition also states that mail addressed to Dr. Corea is not kept in the station public file in violation of § 73.1202 of the Commission's Rules, 47 CFR 73.1202.[9] Finally, the Coalition states that Dr. Corea mentions the brand names of some products and argues that if he receives consideration for such mention, such consideration is not disclosed, in violation of the Commission's sponsorship identification rule, 47 CFR 73.1212.

11. In opposition, Banks states that Dr. Corea is a registered physical therapist; that his program promotes "exercises, weight programs, diet, nutrition, and vitamins"; that Dr. Corea does not purport to be a medical doctor or give medical advice; and that in the twelve years in which he has hosted such a program not one complaint has been filed by a member of the medical profession, a medical organization or a related state agency. With regard to the correspondence which Dr. Corea receives, Banks states that it is exempt from the requirements of § 73.1202(e), since it "consists entirely of request for information about exercise, diet, and nutrition or letters falling within the rubric of fan mail," and does not relate to the operation of the station. Banks further states that the allegation regarding sponsorship identification is "totally unsubstantiated."

12. This Commission does not have the jurisdiction, expertise or resources to determine whether advice concerning diet, exercise, vitamins, etc., constitutes "illegally . . . engaging in the practice of medicine" in violation of any state statute. While the Commission could take action on the basis of an adjudication by a tribunal of competent jurisdiction that the program constituted a violation of a state statute,[10] there has been no such adjudication. Indeed, the Coalition does not dispute that no complaints by doctors, medical organizations, or appropriate state agencies have been filed, much less adverse adjudications rendered, in the twelve years that the program has been broadcast.[11] With regard to the letters addressed to Dr. Corea, there is no indication in this case that they were in any way concerned with the operation of the station, nor does the Coalition provide any specific information to dispute Banks' assertion that the letters entirely consisted of requests for information or "fan mail." Such correspondence need not be maintained in a licensee's public file. *Renewal of Broadcast Licenses*, 44 F.C.C. 2d 405, 416 (1973). Finally, Banks is correct in asserting that the Coalition's sponsorship identification allegation is "totally unsubstantiated." Accordingly, the Coalition's allegations concerning Dr. Corea's program fail to raise a substantial and material question of fact.

13. *Failure to Disclose Law Suits.* The Coalition alleges that there have been five lawsuits filed or settled against Banks, which were not reported to the Commission in violation of the Commission's Rules. In opposition, Banks states that two of the suits (*Frank Ford* v. *Banks* and *Dash* v. *Banks*) involved breach of contract and were settled out of Court and that the third (*Forman* v. *Banks*), is a libel suit which is currently pending. As such, Banks argues, these suits need not be reported to the Commission. The other two suits involved a claim of sex discrimination (*Holly Webster* v. *WHAT*) and a claim of age and race discrimination (*Kae Williams* v. *WHAT*). Banks admits that these claims, which were settled by the parties, should have been reported to the Commission but were not due to inadvertence. Banks states further that it has since filed an amendment to rectify these omissions.

14. The Commission's Rules state that "[e]ach applicant is responsible for the continuing accuracy and completeness of information furnished in a pending application * * *" 47 CFR 1.65. While the licensee is not required to inform the Commission of breach of contract or libel suits, [12] Banks is required to notify the Commission of claims dealing with discrimination. Based on Banks' own admission, it did not do so twice. However, once Banks discovered its errors, it took corrective action, and there is no indication that anyone was prejudiced as a result of the omissions. While we do not condone these violations, we find that they do not raise a hearing issue. Accordingly, we shall deny the Coalition's request to add a § 1.65 issue. *See The Western Connecticut Broadcasting Co., et al.*, 47 F.C.C. 2d 142 (Rev. Bd (1974) *Gilbert Broadcasting Corp.*, 34 R.R. 2d 1673, 1679 (Rev. Bd. 1975). However, once again, we admonish the licensee.

[7] On September 21, 1983, Banks requested withdrawal of this assignment application. On September 28, 1983, the Commission formally dismissed the application without prejudice.

[8] "It is not the Commission's function to consider sanctions against anyone other than its licensees." *Star Stations of Indiana, Inc.*, 26 R.R. 2d 1101, 1117 (1973). Conversely, the Commission cannot sanction its licensees for the misdeeds of others.

[9] In pertinent part, § 73.1202(e) requires that: "all written comments and suggestions received from the public regarding operation of the station shall be maintained in the local public inspection file. . .".

[10] *Cf. Violations by Applicants of Laws of the U.S.*, 42 F.C.C. 2d 399 (1951).

[11] The Coalition's reliance on *KFKB Broadcasting Ass'n* v. *Federal Radio Commission*, 47 F.2d 670 (D.C. Cir. 1931) is misplaced. In *KFKB*, the Commission found that Dr. J.R. Brinkley, M.D., licensee of KFKB, had operated the station solely for his personal aggrandizement and not for the public interest. Dr. Corea, on the other hand, is not the licensee of WWDB(FM), does not dictate and control the policy of the station, does not prescribe medicines and does not benefit directly from the sales of vitamins or other health paraphernalia on his program. Additionally, there has been no showing that WWDB(FM) is operated for the personal gain of Dr. Corea and in dereliction of the public interest.

[12] *See Cosmopolitan Enterprises, Inc., et al.*, 6 F.C.C. 2d 849, 851 (1967); *The Western Connecticut Broadcasting Co., et al.*, 47 F.C.C. 2d 432, 437 (Rev Bd. 1974).

15. *Lottery broadcasts.* In the initial petition to deny filed against WHAT, [13] it was alleged that for a number of years, Banks had broadcast programs containing lottery information in contravention of § 73.1211 of our rules.[14]

Accompanying the petition were transcripts for a number of programs alleged to have been broadcast over WHAT. As a result of this information, an investigation was conducted. Information obtained by the Commission's staff as a consequence of this investigation, together with teh conflicting affidavits filed by Banks and the Coalition raise serious questions as to whether Banks possesses the qualifications to remain the licensee of WHAT and WWDB(FM). Accordingly, we shall add appropriate issues to the comparative hearing and make the Coalition a party to the proceedings.

16. The information before the Commission indicates that a regular part of WHAT's Sunday programming, at least from April 1973 to June 1983, [15] included the playing of pre-recorded tapes from persons characterized as gypsies or itinerant preachers. As a general rule, these persons did not establish a permanent business address in the Philadelphia area; rather, they set up operations in a hotel for a limited period in order to meet persons enticed by their most recent broadcasts. This "religious" broadcaster, identified as Reverend, Father, Prophet, Sister or some other religious name, informed the listening audience about his or her ability to give a number of things, including a "straight blessing" or "financial blessings" to those who sent a "donation." [16] According to several station employees, these "financial blessings" included three digit number tips which were to be bet in an illegal numbers game in the Philadelphia metropolitan area.[17] [18]

17. Examples of the programming in question were supplied by both the licensee and the Coalition. The licensee's submissions included the following: [19]

Reverend Wade: "I am * * * the blessingist man on the air * * * two blessings I gave out last week * * * upset * * * Philadelphia * * * so many people was blessed off of those two blessings I gave out last week * * * two days straight * * * Meet me at 8:00 tonight at * * * West Oxford and Broad Street * * * I want to place in your hands these three hot blessings * * * bring donation of $25 for this radio ministry. * * *"[20]

Reverend Lockhart: [After giving his address in Atlanta, Georgia, and informing the audience that he could be reached by calling a toll free telephone number, Reverend Lockhart wanted listeners to send him a $12 offering in a self-addressed stamped envelope. In return, he promised to sent a "money secret."][21]

Universal Triumph (Father Abraham): "I have a special blessing to send to Philadelphia this week * * * enclose $20 * * * send a donation and Father Abraham will send you something back that will bless you by Saturday evening. * * *"[22]

Wharton Church (Prophet Samuel): "You're looking for a way out * * * there's help for you this week * * * in the City of Philadelphia * * * those that met me last Sunday are so glad they did * * * those that want to see me in private * * * I have what you need to help you and to bless you this week. I know you need * * * bills paid * * * I want you to be here because those that meet me on Monday will be blessed on Monday. Those that meet me Monday night on Tuesday God is going to do it this Tuesday just like he did last Tuesday * * * Everyone that meet me I'm going to give you one straight blessing for Tuesday. * * *"[23]

As the foregoing excerpts show, each "minister" was bragging that he had the ability to give the listener a "blessing." The modus operandi of each is almost identical to that identified in prior Commission decisions involving illegal numbers tips.[24]

18. Transcripts and tapes provided by the Coalition and identified by station employees as having been broadcast on WHAT, are even more explicit. The Committee believes the following examples are illustrative:

Sister Eva: "You have been having bad times. It is hard living on your small pay * * * I'm going to give you a sure hit. You can have a new car, you can pay all your bills * * * Our Sister Eva has the power to put you on Easy Street * * * I told you last time to make it 427 .*.*. you got it, didn't you? Well, on Tuesday * * * make it 384, use a box, and I tell you, children, you will get that new caddy. * * * "[25]

Evangelist Mae Davis: "This is Evangelist Mae Davis with the answer to your problems. Send for your one day straight special right now * * * Now last week I told you to go on Route 375. * * * Well, you there in Philadelphia, on Wednesday, 375 was the route we took and all who followed me on that highway was blessed. * * * "[26]

---

[13] August 29, 1983 petition to deny against the assignment of the license of WHAT from Independence Broadcasting Co. to Philadelphia Community Broadcasting Co.

[14] *See also*, 18 U.S.C. 1304 which also proscribes the broadcasting of lottery information.

[15] The licensee had in its files a memorandum date April 5, 1973 which summarized WHAT's Sunday programming and pointed out that two of the programs either had given or were then giving numbers. Further, although the licensee claims that a screening procedure implemented after the 1973 memorandum disclosed no further questions about the content of taped religious programs, this claim is brought into question by affidavits from two station employees. According to Mary Mason, she made repeated complaints to the licensee from before 1970 to 1983. August 29, 1984 reply, Statement of Mary Mason, p. 2. Moreover, according to Walter Stewart, programs concerning illegal numbers tips have been broadcast by WHAT since his arrival as an employee in 1967. February 17, 1984 petition, Statement of Walter Stewart, p. 4.

[16] These terms are not new to the Commission. In *WIGO, Inc.*, 85 F.C.C. 2d 196, 199 (1981), it was noted that "expressions such as "straight," "box," "letter," and "financial blessing," . . . were related to the jargon of the Atlanta numbers game." Similarly, in *Gilbert Broadcasting Corporation*, 91 F.C.C. 2d 450, 454 (1982), the Commission stated that "[m]ost of the ministers, like Wade, referred to numbers tips as "blessings" and stated that a given tip had "blessed" when it won." *See also, United Television Co., Inc.*, 55 F.C.C. 2d 416, 417–18 (1975), *recon. den.*, 59 F.C.C. 2d 663 (1976), *aff'd sub nom. United Broadcasting Co., Inc.* v. *F.C.C.*, 565 F.2d 699 (D.C. Cir. 1977), *cert. den.* 434 U.S. 1046 (1976); *Friendly Broadcasting Company*, 91 F.C.C. 2d 398, 427 (I.D. 1977), *rev'd*, 90 F.C.C. 2d 225 (1982).

[17] The lottery promoted in this case is the illegal numbers game, not the legal lottery operated by the State of Pennsylvania. This fact was verified by checking the winning numbers in the state-conducted lottery against the winning numbers the preachers and gypsies claimed to have provided to clients at an earlier time. In no instance did they match.

[18] In those instances where numbers were not given in a broadcast but listeners were promised "blessings," the Commission believes that this is merely another form of lottery promotion. In the interviews with Commission investigators, one station employee, Walter Stewart, stated that he personally attended a meeting given by Reverend Wynn, who had requested during his WHAT broadcast that listeners attend the meeting. According to Stewart, meeting participants were directed to stand in a line and produce $10.00 for the "blessing" of the week. In exchange for the money, the participant received a slip of paper with a three digit number tip.

[19] According to the licensee, the following programs were broadcast on May 29 or June 5, 1983.

[20] The licensee's records indicate that Reverend Wade purchased $14,760 of air time during the period 1979–1983.

[21] The licensee's records show that Reverend Lockhart purchased $1,200 of air time in 1981 and 1983. A Reverend Lockhart is identified as a minister in the Commission's revocation proceeding in *WIGO, Inc., supra* at 199 and 203, and is acknowledged by the licensee in its March 9, 1984 opposition as "one of the worst offenders." March 9, 1984 opposition at p. 27 n.31.

[22] The licensee's records show that Father Abraham purchased $2,675 of air time in 1982 and 1983.

[23] It is unknown at this time how much air time was purchased by Prophet Samuel.

[24] *Gilbert Broadcasting, Inc., supra* at 454; *United Television Co., Inc., supra* at 418. *WIGO, Inc.*, 85 F.C.C. 2d 214, 218 (I.D. 1979).

[25] The Commission received three transcripts of Sister Eva programs. The excerpt above is alleged to be from the program broadcast on December 25, 1982. The other two, which contain similar program matter, are alleged to have been broadcast on January 2 and 9, 1983. The licensee's accounts receivable ledger sheets show that the Sister Eva shows paid for $400 of air time in 1982 and 1983.

[26] The licensee's records show that Mae Davis paid approximately $3,900 for 49–15 minute Sunday programs broadcast between February 6, 1982 and January 1, 1983.

Holy Temple of Truth:[27] "Merry Christmas * * * This is the Sister Angelina broadcast coming to you from 1430 Spruce Street in the heart of center city here in Philadelphia * * * We want you to get your pen and paper * * * so when the information comes, you won't miss out on your blessing for this week * * * Play it like I give it to you, straight, straight. The number is * * * 513 * * * Play it. Then I want you to call Sister Angelina and let her know that you have been blessed, and then take her your tithing to let her know you appreciate her blessing. * * *"[28]

19. The foregoing excerpts, viewed in the light of prior Commission decisions involving illegal numbers games, appear to indicate that the licensee repeatedly violated the federal anti-lottery statute, 18 U.S.C. 1304, and the Commission's rule, 47 CFR 73.1211, by broadcasting programs promoting a lottery. A lottery is a game of chance containing three elements—prize, chance, and consideration.[29] The lottery involved in the instant case was the illegal numbers game in Philadelphia in which participants bet money on the order of certain numbers to be determined from the mutual prices paid at a specified race track. Listeners would either play the numbers tip given or would purchase a tip from the minister or gypsy.

20. Although the licensee need not have actual knowledge of the lottery references to be held liable for violating the lottery rule (*see WIGO, Inc., supra* at 201), there is evidence indicating that Banks knew that lottery promotion broadcasts were occurring. Affidavits from Mary Mason, WHAT's major on-air personality and program supervisor, Walter Stewart, a long-time WHAT employee, and Clarence (Chris) Turner, a former WHAT program director, asserts that each told one or more principals of the licensee and/or station management, beginning as early as 1973, that some "religious" programs contained references to numbers tips.[30] Moreover, Lita Cohen, a licensee vice-president, admits that in 1980, Mary Mason asked her to listen to a particular "minister" who was giving out information about the numbers game. March 9, 1984 opposition, affidavit of Lita Cohen, pp. 2–3. Affidavits from Mary Tindle, WHAT's traffic manager since 1979, and Steve Turner, WHAT on-air personality, support allegations that information about lottery-promotion programs was transmitted to management. In his interview with Commission investigators and in filed affidavits, Walter Stewart related that tapes from gypsies who had given numbers tips were re-made with his voice or with the voices of other black persons at the direction of the general sales manager,[31] and that tapes by gypsies were even produced at the stations.[32]

21. In our view, this information of lottery broadcasts as well as apparent licensee knowledge of the broadcasts, raises a substantial and material question of fact as to whether this licensee should receive renewal of license[33] and/or benefit from licensee status by being allowed to sell the stations.[34] Further, even if it should be determined that the licensee did not know about the content of the lottery-promotion broadcasts, we believe that a substantial and material question of fact exists as to whether the licensee exercised adquate control or supervision over its Sunday programming on WHAT.[35] According to the licensee, it responded quickly in the past when informed that illegal lottery promotions were being broadcast. Affidavits from Dolly Banks Shapiro and Edward Kazanian relate that, following Mason's 1973 memorandum, a minister was hired to listen to the religious tapes. Because he is said to have found nothing wrong with the broadcasts, he left the stations after a short time, and the licensee reverted to its nonscreening policy. As a result, according to the Coalition, the gyspy and phony minister tapes returned as a regular part of WHAT's program fare, and lottery-promotion broadcasts continued to occur.[36] After Lita Cohen was apprised in 1980 that a particular minister was broadcasting lottery information, Banks claims that a screening procedure was ordered, under the responsibility of Mary Mason.[37] However, these assertions were flatly denied by Coalition[38] and were not fully supported by the licensee's management during the Bureau's investigation.[39] In the words of Edward Kazanjian, the comptroller of the stations:

"Sunday took care of itself. We really paid no attention to it."

Thus, not until June 1983, when Banks discovered that its assignment application for WHAT was going to be challenged, did it finally stop broadcasting questionable tapes and take steps to prevent future broadcasts.[40]

22. In our view, the foregoing suggests that, at the very least, Banks, over an extended period, paid little or no attention to the programming it broadcast on WHAT on Sundays. Since it is the licensee's "primary duty and privilege to select the material to be broadcast to his audience,"[41] we believe the facts and circumstances surrounding the licensee's Sunday programming policies and practices must be fully explored in the hearing to determine whether the licensee exercised adequate control.

23. *Lowest unit charge.* The Coalition alleges that the licensee violated the Communications Act and the Commission's rules relating to lowest unit charge. It bases this allegation on the fact that the licensee refunded overcharges which occurred during the

[27] Licensee records reflect that the Holy Temple of Truth paid for 17–15 minute broadcasts beginning February 12, 1982 and ending January 23, 1983. According to a station employee, the "Holy Temple" was not a particular edifice, but simply a name employed by one person who changed the names of the "sisters" who supposedly were giving the numbers tips. The employee also states that the Holy Temple of Truth has been on the air for many years. June 4, 1984 petition to deny, Exhibit B, Statement of Walter Stewart. The Holy Temple of Trust appears as one of the programs questioned in the April 1973 memorandum to the licensee. *See supra* note 15.

[28] This particular broadcast is alleged to have occurred on December 5, 1982.

[29] The prize is the money paid for playing a winning number; the chance is that a bet placed has no assurance of winning; and the consideration is the money wagered.

[30] Ms. Mason relates that her complaints were rejected for financial reasons. She alleges that Ms. Banks and Mr. Dash, the former general sales manager, would point out that the preachers paid for their air time and that the money was needed because Ms. Mason's was the only show that earned the station money. June 6, 1984 reply, Statement of Mary Mason, p. 2.

[31] According to Stewart, this re-making of the tapes occurred in order to have a black voice pitching the gypsy's message. Stewart's claim is supported by an affidavit from Mary Mason.

[32] This allegation is also supported by an affidavit from Mary Tindle.

[33] *United Television Company, Inc., supra.*

[34] *Peoria Community Broadcasters, Inc.* 79 F.C.C. 2d 311, 327–38 (1980).

[35] *WIGO, Inc., supra* at 202; *Trustees of University of Pennsylvania,* 69 F.C.C. 2d 1394 (1978); *Cosmopolitan Broadcasting Corp.,* 59 F.C.C. 2d 558, *recon. den.,* 61 F.C.C. 2d 257 (1976), *rev'd on other grounds,* 581 F.2d 917 (D.C. Cir. 1978). *See also, Walton Broadcasting, Inc.,* 78 F.C.C. 2d 857 *recon. den.,* 83 F.C.C. 2d 440 (1980), *aff'd without opinion,* D.C. Cir. Case No. 81–1026, decided May 28, 1982.

[36] February 17, 1984 petition, Statement of Walter Stewart; August 30, 1984 reply, Statement of Mary Mason.

[37] March 9, 1984 opposition, Affidavit of Lita Cohen, p. 3.

[38] *E.g.,* June 6, 1984 reply, Statement of Mary Mason, pp. 5–7.

[39] None of the licensee's principals nor station management could explain how the screening was to work, when it was to occur, or what guidelines were to be used to ensure that illegal programs were not broadcast.

[40] Even at the point, however, Banks neglected to preserve relevant evidence. Three months' worth of 24-hour monitoring tapes were re-used during the 90-day period following the licensee's decision to stop broadcasting religious tapes in June 1983, and all but a few of the tapes themselves were returned to the program originators.

[41] *1960 Commission En Banc Programming Inquiry,* 44 F.C.C. 2303, 2311–12 (1960). *See also, WCHS-AM-TV Corp.,* 8 F.C.C. 2d 608, 609 (1967).

1982 general election, and contends that the licensee has a duty to re-compute such charges from elections prior to 1982. The Coalition alleges that the licensee unlawfully refused requests from legally qualified candidates who had advertised on WHAT to re-compute lowest unit charges applied to them, an allegedly "simple" project,[42] and it charges the licensee destroyed evidence by not retaining commercial contracts.

24. In opposition, the licensee admits that eighteen candidates did not receive the lowest unit rate with respect to charges made during the 1982 general election. The licensee states that political advertising of WHAT-AM and WWDB (FM) was the responsibility of the stations' former sales manager, Jack Dash. Mr. Dash was supervised in this function by Lita I. Cohen, Vice-President and General Counsel of Banks. In April 1982, Mr. Dash was replaced as sales manager by Eugene Vassall, who consequently was given the responsibility for determining the lowest unit rate to be charged to political candidates during the 1982 general election campaign. The 1982 general election campaign was the first election campaign for which Mr. Vassall was responsible. Mr. Vassall was not supervised in this function by Ms. Cohen as his predecessor had been. In making the necessary calculations, he took into consideration all of the commercial contracts of which he was aware. He was, however, unaware of several low-rate, long-term commercial contracts that had been entered into by the stations years before he was hired. Had these long-term commercial contracts been taken into consideration, the effect would have been to reduce the lowest unit rates applicable during certain time periods. Although Ms. Cohen had not supervised Mr. Vassall's calculations, the charges made for the 1982 general election campaign nevertheless came to her attention. It was apparent to Ms. Cohen that the rates charged were not as low as they should have been. She thereupon notified counsel for the stations of her discovery so that appropriate action might be taken. On November 24, 1982, letters of explanation and refund checks were mailed to the eighteen candidates or the campaign committees of the candidates who had been overcharged.

25. With respect to the more recent inquiries from political candidates received by the station in April and May, 1983, the licensee acknowledges that it did not re-compute applicable lowest unit rates to determine whether those candidates were due refunds. The licensee states that the commercial time records needed to verify the lowest unit charges were not then and are not now available, and it contends that, in any event, it was not required to retain the commercial contracts used for the calculations. The licensee denies that it intentionally destroyed evidence, an action inconsistent with its having discovered and refunded overcharges entirely on its own initiative.

26. Section 315(b) of the Communications Act states:

> The charges made for the use of any broadcasting station by any person who is a legally qualified candidate for any public office in connection with his campaign for nomination for election, or election, to such office shall not exceed—
>
> (1) During the 45 days preceding the date of a primary or primary runoff election and during the 60 days preceding the date of a general or special election in which such person is a candidate, the lowest unit charge of the station for the same class and amount of time for the same time period; and
>
> (2) At any other time, the charges made for comparable use of such station by other users thereof.

27. "Lowest unit charge" means that candidates for elective office must be given all discounts, based on volume, frequency or any other factor, that are offered to the station's most favored commercial advertiser for the same class and amount of time for the same periods, regardless of how few programs or spots the candidate buys. This includes discounted rates given to commercial advertisers but not published on the rate card. A low charge to a single advertiser which is in existence during the 45- or 60-day period will control the lowest unit rate. A station may have had a contract with one single advertiser over a period of many years at a rate less than that charged to other advertisers who purchased time after the station's rates had been increased. Though only one long-time advertiser is paying the special rate, the rate becomes the station's lowest, and that charge must be made to a political candidate for the same class and amount of time.

28. Section 73.1940(d) of the Commission's rules requires broadcasting stations to keep and permit public inspection of a complete record (political file) of all requests for broadcast time made by or on behalf of candidates for public office, together with an appropriate notation showing the disposition of such requests and the charges, if the request is granted. These records must be kept for two years. However, the rules do not impose a similar reporting obligation on licensees with respect to commercial advertising contracts.

29. It is undisputed that WHAT–AM and WWDB–FM's sales manager, Eugene Vassall, inadvertently failed to take into consideration several low-rate, long-term commercial contracts when he was determining the stations' lowest unit rate for the 1982 general election campaign. It is also acknowledged that this oversight resulted in overcharges to eighteen political candidates during the campaign period. Thus, it appears that both the Communications Act and our rules were violated. However, before any complaints were made, the licensee, on its own initiative, discovered the overcharges and took prompt action to remedy the error by sending letters of explanation and refund checks to the overcharged candidates.

30. The violations, although substantial, were limited to one election and appear to have been the consequence of the new sales manager being unfamiliar with contracts executed by the previous sales manager. While such a scenario does not relieve the licensee of responsibility under this Act and our rules, there is no indication that the violations "are reflective of a continuing or extended pattern of violations to which this Commission might have to address its concern." *Campbell County Broadcasting Corporation*, 79 F.C.C. 2d 553, 559–60 (1980). Accordingly, although we admonish the licensee for its failure to comply fully with "an essential aspect of Congressionally mandated law regarding licensee political broadcast practices", *id.*, we find that no substantial and material question of fact is raised by the licensee's violations.

31. With respect to the Coalition's allegations regarding Banks' failure to re-compute lowest unit charges for other elections, we find that no violations of the Act or our rules occured. Section 73.1940(d) of the rules requires that licensees keep a complete record of political files of all requests for broadcast time made by or on behalf of candidates for public office, together with a notation of the disposition of

[42] The Coalition submits correspondence from four persons who allegedly bought commercial time subject to the lowest unit charge rules. Essentially, each asks the licensee to examine its files in order to re-compute the lowest unit charge applicable to each during one or more prior election campaigns. In the alternative, the Coalition claims that, since the licensee was able to re-compute lowest unit charges for the 1982 general election by reference to long-term contracts, it could have used those contracts for re-calculation of lowest unit rates charged in other elections. The correspondence reflects that the licensee refused the requests because it had not retained the commercial contracts containing information needed to re-compute the charge.

these requests. This section does not impose a corresponding obligation on licensees to maintain a record of all commercial contracts. Therefore, the licensee did not violate Commission rules or policy by stating that these commercial contracts were not available and consequently, it did not have to make a determination about overcharges to the four candidates in earlier campaigns. Since the Coalition has not furnished information to support its alleged lowest-unit charge violations during campaigns prior to the 1982 general election, we find that no further inquiry is warranted.

32 *EEO.* The Coalition alleges that Banks has discriminated against blacks in employment at the stations and does not have an EEO program as required by § 73.2080(b) of our rules. In support of its allegation concerning discrimination, the Coalition has supplied affidavits from twenty of its present or former black employees, each of whom claims to be a victim of discrimination.[43] In addition, the Coalition charges that reliance on the combined employment figures of WHAT and WWDB (FM) is misplaced since blacks are allegedly restricted to the less powerful, less successful AM station.[44] With respect to the stations' EEO program, the Coalition charges that the licensee does not seek out blacks for employment at WWDB(FM); that the stations' list of recruitment sources is a sham; and that Banks did not consider a black for the position of general manager

33. In our view, the information presently before us does not warrant the addition of an issue relative to Banks' employment practices. The labor force of the Philadelphia Metropolitan Statistical Area includes 44.2% women and 19.2 minorities (15.7% blacks). The stations' 1982–84 Annual Employment Reports reveal the following full-time employment profiles at WHAT/WWDB(FM):

	1982		1983		1984	
	Number	Percent	Number	Percent	Number	Percent
Overall:						
Total	53		57		60	
Women	14	26.4	16	28.1	21	35.0
Minorities [45]	16	30.2	19	33.3	21	35.0
Upper-four Jobs:						
Total	40		44		46	
Women	7	17.5	9	20.5	11	23.9
Minorities	12	30.0	14	31.8	16	34.8

[45] All of the stations' minority employees are black.

These figures reflect a steady rise in the percentages of females employed so that by 1984, Banks' figures for women are within the Commission's processing guidelines.[46] In addition, the figures show that employment of blacks has steadily increased to the point where they are now represented at the stations at more than 200% of their presence in the local labor force. Consistent with this information are the stations' hiring figures for the twelve months preceding the filing of the stations' renewal applications. Of Banks' twenty-four hires, ten were women and four were minorities. Moreover, the stations have promoted a black female air personality at WHAT from part-time to full-time a black male air personality at WWDB(FM) from part-time to full-time, and a white female from newsperson to news director.

34. The Coalition has alleged that the licensee has discriminated against black employees, both present and former, in terms of pay, receipt of employee benefits and working conditions. In addition, it has charged the licensee with harassing its black employees because of their opposition to alleged discriminatory practices. Banks, on the other hand, denies that it discriminates against its black employees and asserts that differences in compensation either do not exist or are based on factors other than race. However, all of these issues are presently before the Pennsylvania Human Relations Commission (PHRC) and the EEOC. *See supra* note 43. Based on the information before us, that does not clearly establish that differences between black and white employees are based on prohibited factors or that blacks are restricted to positions on the AM station (*See infra*, para. 35), we believe it prudent to await the final outcome of the class action complaint before determining what action, if any, is appropriate *Nondiscrimination in Employment Practices (Broadcast)*, 60 F.C.C. 2d 226, 244–47 (1976).[47]

35. With respect to the Coalition's allegation that blacks have been excluded from the FM staff,[48] we note first that, at the time the renewal application was filed, two of fifteen full-time employees and one of eight part-time employees who worked exclusively for the FM station were black. In addition, blacks are employed in positions in sales, office and maintenance positions which serve both stations. Finally, the licensee's records reflect that over a nine-year period, from March 1975 to January 1984, the FM station's on-air staff has included twelve blacks out of the approximately 110 persons who have worked either as a talk show host/commentator or as a newsperson. Based on this record and the absence of a discrimination finding with respect to the filling of positions at the FM station, we believe a substantial and material question of fact does not exist that blacks are excluded from employment at the FM station.

36. Finally, we find that addition of a hearing issue relative to the licensee's EEO program is not warranted. As the foregoing discussion makes clear, the stations have hired and employed blacks in excess of their presence in the local labor force and have employed them in positions with significant responsibility. It is therefore evident that substantial numbers of blacks have learned about and applied for positions at the stations irrespective of whether Banks regularly contacted its listed recruitment sources on a regular, formal basis. Given this record, the Coalition's allegations concerning the absence of formal recruitment and its speculations regarding the filling of the general

[43] On May 2, 1984, the Commission was informed that 17 present or former employees filed a complaint with the Pennsylvania Human Relations Commission. The complaint appears to be based entirely on the allegations of employment discrimination made by the Coalition in its February 17, 1984 pleading with us. On May 10, 1984, Banks informed us that the noted complaint had also been filed with the EEOC. Thereafter, Banks notified us that other former and current employees have joined the complaints.

[44] In this regard, the Coalition argues that Banks is a "recidivist" because it has maintained "segregated staffs" despite a Commission inquiry into Banks' employment practices in 1975. *See Independence Broadcasting Company, Inc.*, 53 F.C.C. 2d 1161 (1975); renewal granted, FCC 75–1384, Dec. 24, 1975. As our discussion makes clear, *infra*, we find no merit to this charge.

[46] *See EEO Processing Guidelines*, FCC 80–61, 46 R.R. 2d 1693 (1980).

[47] On March 6, 1984, the Coalition submitted a supplement to its petitions in which it alleges that the licensee made misrepresentations of fact before the PHRC. However, no such finding has been made by the PHRC. Accordingly, we decline to specify an issue at this time. *See Mutual Radio of Chicago, Inc.*, FCC 84–203, 55 R.R. 2d 1577, 1581–2 (1984); *Cf. Washington Radio, Inc.*, 86 F.C.C. 2d 1200, 1202 n.5 (1982).

[48] WWDB(FM) has had a news/talk format since 1975. The personal referenced in the Coalition's allegations act as talk show hosts or commentators, news persons, or talk show assistants who screen the telephone calls of the talk show hosts. In addition, the FM station has its own traffic manager.

manager's position warrant no further inquiry.

PLGTF's Petition to Deny

37. *Programming.* In its petition to deny the renewal applications of WHAT(AM) and WWDB(FM), PLGT alleges that in 1981 Mary Mason and Bob Grant, talk show hosts on WHAT(AM) and WWDB(FM) respectively, "used insulting and degrading language" in referring to homosexuals, and that Mary Mason used a derogatory word to refer to blacks; that WHAT(AM) has refused to broadcast public affairs programming with homosexual community representatives; and that WHAT(AM) has refused to broadcast any public service announcements concerning homosexuals and, "with one alleged exception, "WWDB(FM) has also failed to broadcast such PSA's. In opposition, Banks states that it has made a good faith effort to determine and meet the needs and interests of its listening audience for both WHAT(AM) and WWDB(FM); that WHAT "airs at least 20 hours of call-in, talk-show programming per week, during which a wide variety of topics of interest to the station's audience are covered"; and that WWDB(FM) has aired several programs dealing with issues of specific interest to homosexuals, including three two-hour programs on the disease A.I.D.S., and discussions on the following subjects: "Gay Pride Week," lesbian mothers and child custody, and discovery that one's spouse is gay.

38. In order to raise a substantial and material question of fact concerning a licensee's past programming, a petition must provide specific allegations of fact sufficient to show that a licensee's *overall* programming could not reasonably have met the problems, needs and interests of its service area. *RadiOhio Inc.*, 38 F.C.C. 2d 721, 728 (1973), *aff'd sub nom. Columbus Broadcasting Coalition* v. *F.C.C.*, 505 F.2d 320 (D.C. Cir. 1974). PLGTF does not allege that either station failed to meet the problems, needs and interests of its service area, nor does it make any effort to show that the programming cited in the licensee's opposition could not reasonably have met such problems, needs and interests. Instead, PLGTF argues that the stations broadcast no (or an insufficient number of) public service announcements concerning homosexuals, and that they broadcast no (or an insufficient amount of) public affairs programming concerning or involving homosexuals.[49] However, a broadcast licensee "is under no obligation to carry all PSA's submitted for broadcast since it is not a common carrier for the announcements of any organization or individuals." *KSD/KSD-TV, Inc.*, 61 F.C.C. 2d 504, 511 (1976). *See also, Columbia Broadcasting System, Inc.* v. *Democratic National Committee*, 412 U.S. 94 (1973). Therefore, even if the licensee absolutely refused to broadcast PLGTF's PSA's, such refusal would not raise a substantial and material question of fact as to whether the stations' *overall* programming served the problems, needs and interests of their service area. With regard to public affairs programming concerning or involving homosexuals, a licensee "is not required to program to meet all community problems, but may determine in good faith which community problems merit treatment by the station." *Patrick Henry*, 59 F.C.C. 2d 1204, 1212 (1976). Thus, the fact that Banks did not present as much programming as PLGTF wants on issues of interest to homosexuals does not raise a substantial and material question of fact as to whether their *overall* programming could reasonably have met the problems, needs, and interests of their service area. *RadiOhio, Inc., supra.* Finally, in accordance with *Deregulation of Radio*, 84 F.C.C. 2d 968 (1981), where an allegation is made that a station's programming has failed to serve a significant segment of the community, the station could "respond by pointing not only to its own programming . . ., but also to other radio services in the community. . . ." *Id.* at 991. In the instant case, it is unnecessary for Banks to point to other broadcast services in the Philadelphia area, inasmuch as PLGTF's own petition lists eleven broadcast outlets in the Philadelphia area which have broadcast programming of interest to homosexuals. PLGTF Petition, at p. 2. Accordingly, PLGTF's programming allegations fail to raise a substantial and material question of fact regarding Banks' qualifications.

39. PLGTF alleges that on April 16, 1981 it requested by letter access to the public files of WHAT(AM) and WWDB(FM) that was denied when the letter went unanswered. PLGTF also alleges that by telephone conversation on May 23, 1984, it requested and was denied access to Banks' public files. In opposition, Banks states that with reference to the letter of April 16, 1981, Lita Cohen, then Vice-President of Banks, informed PLGTF "that no appointment was necessary." (Opp. to Pet. Renewal, Exhibit 3, pg. 1). With regard to the May 24, 1984 phone call, Banks denies that such a request was ever made and had such a request been made PLGTF would have been informed that it "is free to review the public files at any time during the Station's regular business hours." (Opp. to Pet. Renewal, Exhibit 1, pg. 2).

40. The Commission is constantly confronted with conflicting claims regarding the availability for public inspection of a station's renewal application and related documents. Here, PLGTF claims that it was denied access to Banks public files on April 16, 1981 and May 23, 1984. Conversely, Banks claims that these allegations are absolutely false. On the basis of the information before us, we do not consider these two alleged incidents which are separated by more than three years, sufficient to warrant, if true, any action on our part. Moreover, if true, there is no indication by the PLGTF that any prejudice resulted from the unavailability of the public file. Consequently, we find that PLGTF has failed to raise a substantial and material question of fact requiring resolution at an evidentiary hearing. *West Coast Media, Inc.*, 66 F.C.C. 2d 994, 1008 (1977).

41. *Main Line.* Main Line petitioned for leave to amend its FM application on December 6, 1984. The accompanying amendment was filed after the "B" cut-off date, the last day for filing minor amendments as of right. Under § 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from this amendment will be disallowed.

42. *American Minority.* American Minority petitioned for leave to amend its AM application on October 9, 1984. The accompanying amendment was filed after the "B" cut-off date, the last day for filing minor amendments as of right. Under § 1.65 of the Commission's Rules, the amendment is accepted for filing. However, an applicant may not improve its comparative position after the time for amendments as of right has passed. Therefore, any comparative advantage resulting from this amendment will be disallowed.

43. Except as may be indicated by any issues specified below, the applicants

[49] The allegations that PLGTF raises regarding the use of "insulting and degrading language" against homosexuals and blacks (Pet. at 2 and 3) by Mary Mason and Bob Grant are identical to those contained in a complaint against WHAT and WWDB made by PLGTF in December 1981. These allegations were fully explored and rejected in our letter of January 6, 1982, 8330-C. Therefore, these allegations fail to raise a substantial and material question of fact regarding the renewal of Banks' licenses.

are qualified to construct and operate as proposed. Since the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding on the issues specified below.

44. Accordingly, it is ordered, that, pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent order, upon the following issues:

A. To determine whether, and to what extent, Station WHAT has broadcast information concerning a lottery in violation of § 73.1211 of the Commission's Rules;

B. To determine whether, in light of the evidence adduced under the preceding issue, the licensee of WHAT exercised adequate control over station operations and took reasonable measures to avoid violating § 73.1211 of the Commission's Rules;

C. To determine whether, in light of the evidence adduced under the preceding issues, Independence Broadcasting Co. possesses the requisite qualifications to be a licensee, or whether its comparative qualifications are affected;

D. To determine which of the proposals for WHAT would, on a comparative basis, better serve the public interest;

E. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for WHAT should be granted.

F. To determine, with respect to Banks Broadcasting, Inc., the effect of any adverse findings made under issues A–C on its basic and/or comparative qualifications to be the licensee of WWDB(FM);

G. To determine which of the proposals for WWDB(FM) would, on a comparative basis, better serve the public interest.

H. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications for WWDB(FM) should be granted.

45. It is Ordered, that the petitions to deny filed by the National Black Media Coalition et al. are granted to the extent indicated above and are denied in all other respects.

46. It is further Ordered, that the National Black Media Coalition, the Tri-State Black Media Coalition and Senator T. Milton Street are made parties to this proceeding.

47. It is further ordered, that the Mass Media Bureau, the National Black Media Coalition, the Tri-State Black Media Coalition and Senator T. Milton Street proceed with the initial presentation of evidence with respect to issue A, that the burden of proceeding and the burden of proof with respect to issues A through C shall be on Independence Broadcasting Co.; that the burdens of proceeding and proof with respect to issue F shall be on Banks Broadcasting Co.

48. It is further Ordered, that if it is determined that the hearing record does not warrant an Order denying the application of Independence Broadcasting Co. for renewal of license of Station WHAT, it shall also be determined whether Independence Broadcasting Co. has willfully or repeatedly violated § 73.1211 of the Commission's Rules.

49. It is further Ordered, That as to Independence Broadcasting Co. this document constitutes a notice of apparent liability for a forfeiture of $20,000 for violation of § 73.1211 of the Commission's Rules. In so ordering, we stress that the inclusion of this notice is not to be taken as in any way indicating what the initial or final disposition of this case should be.[50]

50. It is further ordered, that the petition for leave to amend filed by Main line is granted, and its corresponding amendment is accepted for § 1.65 purposes, but no comparative advantage will accrue thereby.

51. It is Further ordered, that the petition for leave to amend filed by American Minority communications, Inc. is granted, and its corresponding amendment is ACCEPTED or § 1.65 purposes, but no comparative advantage will accrue thereby.

52. It is further ordered, that the transfer applications of WHAT (AM) and WWDB(FM) are granted.

53. It is further ordered, that in addition to the copy served on the Chief, Hearing Branch, a copy of each amendment filed in this proceeding subsequent to the date of adoption of this Order shall be served on the Chief, Data Management Staff, Audio Services Division, Mass Media Bureau, Room 350, 1919 M St., Washington, D.C. 20554.

54. It is further orderd, that, to avail themselves of the opportunity to be heard, the applicants and any party respondent herein shall, pursuant to § 1.221(c) of the Commission's Rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for hearing and to present evidence on the issues specified in this Order.

55. It is further ordered, that the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the commission of the publication of such notice as required by §73.3594(g) of the Rules.

56. It is further ordered, that the assignment application of Independence Broadcasting Inc. is held in abeyance pending the outcome of its renewal of WHAT[AM].

57. It is furthered ordered, that the Secretary send by Certified Mail-Return Receipt Requested one copy of this Order to the applicants and to each of the petitioners.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 85–9854 Filed 4–23–85; 8:45 am]

BILLING CODE 6712-01-M

[50] *See Albany Radio, Inc.*, FCC 84–185, 56 R.R. 2d 633 (1984).

FEDERAL DEPOSIT INSURANCE CORPORATION

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of information collection: Consolidated Reports of Income and Condition (Savings Banks) (OMB No. 3064–0054).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for revising the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the submission should be sent to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4351.

SUMMARY: The FDIC is submitting for OMB approval a request to add Memorandum item 5, "Mortgage servicing rights," to the balance sheet of the savings bank Reports of Income and Condition (Call Reports) beginning as of the June 30, 1985 quarterly report date. On the balance sheet currently in use by savings banks, mortgage servicing rights are included in Item 13(a), "Intangible assets." The FDIC Board of Directors adopted a capital maintenance regulation (12 CFR Part 325) that became effective April 18, 1985 (50 FR 11128, March 19, 1985). This regulation distinguishes between mortgage servicing rights and other intangible assets when measuring bank capital ratios and has created the need to collect data on mortgage servicing rights. The addition of the item to the balance sheet is not expected to significantly affect the estimated average reporting burden of 23.5 hours per quarterly Call Report.

Dated: April 18, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-9852 Filed 4-23-85; 8:45 am]

BILLING CODE 6714-01-M

Information Collection Submitted to OMB for Review

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of information collection submitted to OMB for review and approval under the Paperwork Reduction Act of 1980.

Title of information collection: Consolidated Reports of Condition and Income (Insured State Nonmember Commercial Banks) (OMB No. 3064–0052).

Background: In accordance with requirements of the Paperwork Reduction Act of 1980 (44 U.S.C Chapter 35), The FDIC hereby gives notice that it has submitted to the Office of Management and Budget a form SF–83, "Request for OMB Review," for revising the information collection system identified above.

ADDRESS: Written comments regarding the submission should be addressed to Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 and the John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Requests for a copy of the Submission should be sent to John Keiper, Office of the Executive Secretary, Federal Deposit Insurance Corporation, Washington, D.C. 20429, telephone (202) 389–4351.

SUMMARY: The FDIC is submitting for OMB approval changes to the Consolidated Reports of Condition and Income (Call Reports) filed quarterly by insured state nonmember commercial banks. While these changes cover four specific areas, the request for their approval is being made at this time because of the recent adoption by the FDIC Board of Directors of a final rule on capital maintenance (12 CFR Part 325) that became effective April 18, 1985 (50 FR 11128, March 19, 1985).

The changes to the Call Reports that are included in this submission would become effective as of the June 30, 1985 report date and are as follows:

(1) Changes in support of the FDIC's new capital maintenance regulation:

(a) The addition to Schedule RC–M of a breakdown of Schedule RC, item 10, "Intangible assets," into mortgage servicing rights, other identifiable intangible assets, and goodwill.

(b) The relocation of Schedule RC–J, Part III, Memorandum item 1, "Mandatory convertible debt qualified for primary capital or equity capital equivalents," to Schedule RC–M, with the addition of a reconcilement of this net total into its constituent parts.

(c) The deletion of the remainder of Schedule RC–J, Part III.

(2) On Schedule RC–N of the FFIEC 034 only, the addition of a breakdown into generalized loan categories of the currently reported totals for nonaccrual loans and for renegotiated troubled debt (which all other banks already report).

(3) The addition to Schedule RC–L of a new memorandum item for interest rate swaps.

(4) On Schedule RI of the FFIEC 034 only, the relocation from the Memoranda section to the body of the income statement of the item in which tax-exempt securities income is reported.

As a result to the additions and deletions proposed in this submission, the estimated annual burden for the commercial bank Call Report collection system is expected to undergo a slight increase from its present level of 851,869 burden hours to a revised total of 853,369 burden hours. While the effect of these changes will vary from bank to bank, the revised total continues to represent an average of 24.8 hours per report for the 8,593 commercial bank respondents who prepare four reports per year.

Dated: April 18, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-9853 Filed 4-23-85; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-735-DR]

Amendment to a Major-Disaster Declaration; Illinois

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Illinois (FEMA–735–DR), dated March 29, 1985, and related determinations.

DATED: April 18, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472, (202) 646–3616.

Notice

The notice of a major disaster for the State of Illinois, dated March 29, 1985, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of March 29, 1985: Adams, Calhoun, Greene, Hancock, Jersey, Lee, Monroe, and Pike Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

Dave McLoughlin,

Acting Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 85-9804 Filed 4-23-85; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

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 15 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.: 202–010748.

Title: West Coast/Middle East and West Asia Rate Agreement.

Parties:

American President Lines, Ltd.
Hoegh Lines
Barber Lines A/S
Dampskibsselskabet AS 1912 Aktiesel skab Aktiesel- skabet Dampskibsselskabet Svendborg

Synopsis: The proposed agreement would establish a conference agreement in the trade from U.S. and Canadian Pacific Coast ports (excluding Alaska and Hawaii) and ports and points within the United States and Canada served intermodally via Pacific ports to ports and points in Saudi Arabia, the United Arab Emirates, Bahrain, Oman, Qatar, Kuwait, Yemen, Iran, Iraq, Pakistan, Sri Lanka and the West Coast of India.

Dated: April 18, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–9787 Filed 4–23–85; 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.: 224–003939–001.

Title: Long Beach Terminal Agreement.

Parties:

City of Long Beach (City)
Metropolitan Stevedore Company (Metropolitan)

Synopsis: This agreement amends the basic agreement which provides for the 10-year preferential assignment to Metropolitan of bulk loading facilities on Pier G in the Port of Long Beach. The amendment increases the term of the agreement from 10 years to 15 years, commencing on April 1, 1981. It provides a formula for reimbursement of Metropolitan for expenses related to modification of conveyors and other handling equipment in order to handle "white" bulk products as well as "black" bulk products. It also deletes 63,000 square feet from the facility in order that the premises may be leased to a third party for construction and operation of a sulfur prilling facility and silos.

Agreement No.: 202–005600–053.

Title: Philippines North America Conference.

Parties:

American President Lines, Ltd.
Hapag-Lloyd AG
Lykes Bros. Steamship Co., Inc.
A.P. Moller-Maersk Line
Sea-Land Service, Inc.

Synopsis: The proposed amendment would add a new article listing the parties to the agreement and would delete United States Lines, Inc. as a party to the agreement. The parties have requested a waiver of the format requirements of the Commission's regulations.

Agreement No.: 224–010747.

Title: Long Beach Terminal Agreement.

Parties:

City of Long Beach (City)
Sulexport Corporation (Sulexport)

Synopsis: Agreement No. 224–010747 provides for the lease by Sulexport from the City of 63,000 square feet of land area at Pier G, where Sulexport will construct and operate a sulphur prilling and storage facility in connection with the City's Pier G bulk-handling terminal. The term of the lease is for twenty years.

Agreement No.: 224–010749.

Title: Savannah Terminal Agreement.

Parties:

Georgia Ports Authority (Authority)
Yangming Marine Transport Corporation (Yangming)

Synopsis: The agreement covers the assignment of parking slots for operating a container yard to be used for the storage and handling of containers, including trailers and chassis, to be loaded or discharged from ocean-going vessels calling at the Authority's Garden City Terminal. Yangming will operate the container yard, and will have exclusive use of the premises. Yangming will pay to the Authority the applicable wharfage charges. If tonnage is generated by Yangming in excess of 50,000 short tons during the 365 day guarantee period, percentage reductions will be allowed from the payment of the full wharfage charges to the Authority. The term of the agreement is for one year with an option to extend the term for an additional two years. The parties have requested a shortened review period for the agreement.

Dated: April 18, 1985.

By Order of the Federal Maritime Commission.

Bruce A. Dombrowski,

Acting Secretary.

[FR Doc. 85–9788 Filed 4–23–85; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bremer Financial Corporation and Otto Bremer Foundation; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) 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 acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "'reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing.

identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 17, 1985.

A. **Federal Reserve Bank of Minneapolis** (Bruce J. Hedblom, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Bremer Financial Corporation and Otto Bremer Foundation*, both of St. Paul, Minnesota; to acquire certain general insurance agency assets from Stroh-Neameyer Insurance Agency, Inc., Lisbon, North Dakota, thereby engaging in general insurance agency activities pursuant to section 4(c)(8) of the Bank Holding Company Act.

Board of Governors of the Federal Reserve System, April 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-9802 Filed 4-23-85; 8:45 am]

BILLING CODE 6210-01-M

Mellon Bank Corp. 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 effeciency, 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 13, 1985.

A. **Federal Reserve Bank of Cleveland** (Lee S. Adams, Vice President) 1455 East Sixth Street, Cleveland, Ohio 44101:

1. *Mellon Bank Corporation*, Pittsburgh, Pennsylvania; to engage *de novo* through its subsidiary, Mellon Financial Services Corporation, San Francisco, California, in trust activities permissible under § 225.25(b)(3) of Regulation Y. The activities would be conducted through the San Francisco office of Mellon Financial Services Corporation which currently engages in loan origination activities.

2. *Ameritrust Corporation*, Cleveland, Ohio; to engage *de novo* through its subsidiary, Ameritrust Company of New York, New York, New York, in trust company functions and activities as prescribed under § 225.24(b)(3) of Regulation Y.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Provident Bancorp, Inc.*, Dallas, Texas; to engage *de novo* through its subsidiary, Provident Credit Life Insurance Co. Inc., Phoenix, Arizona, in the activity of underwriting as reinsurer credit life and credit accident and health insurance directly related to extensions of credit. These activities are to be conducted in the State of Texas.

Board of Governors of the Federal Reserve System, April 18, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-9803 Filed 4-23-85; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

Report on Revised System of Records Under the Privacy Act of 1974

AGENCY: General Services Administration.

ACTION: Notification of revised system of records.

SUMMARY: The purpose of this document is to give notice, under the provisions of the Privacy Act of 1974, 5 U.S.C. 552a, of intent to revise a system of records that will be maintained by GSA. The system of records, Employee Related Files, GSA/AGENCY-1, is revised to show that records can be retrieved by social security number, diskette use will be password protected, magnetic records can be purged instead of destroyed, and to eliminate collecting data on National Personnel Records Center employees.

DATES: Any interested party may submit written comments about this revised system. Comments must be received on or before the 30th day following publication of this notice. The revised system will become effective without further notice on the 30th day following publication of this notice unless comments are received that would result in a contrary decision.

ADDRESS: Address comments to General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Mr. William Hiebert, GSA Privacy Act Officer, telephone (202) 535-7647.

Background

The purpose of this system is to assemble information on personnel matters affecting employees and uncompensated workers.

The revised system of records is as follows:

GSA/AGENCY-1

SYSTEM NAME:

Employee Related Files.

SYSTEM LOCATION:

This system of records may be located at the supervisory or administrative office level at all General Services Administration facilities and commissions, committees, and small agencies serviced by GSA.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are current and former employees of the General Services Administration and of commissions, committees, and small agencies serviced by GSA; applicants or potential applicants for employment; employees of other agencies for employee relief bills; volunteer workers; and uncompensated workers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records include information on individuals such as name, social security number, birth, home and emergency addresses and telephone numbers, personnel actions,

professional registration, qualifications, training, congressional employees relief bills, injuries, employment history, awards and other recognitions, counseling, warnings, reprimands, grievances, appeals, conduct, leave, pay attendance, work assignments, performance, assessments, permit and pass aplications, indebtedness complaints, travel and outside employment. This system does not include official personnel files covered by the Office of Personnel Management's systems of records OPM/GOVT-1 through 9 and CSC/GOVT-1.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Property and Administrative Services Act of 1949, as amended (63 Stat. 377); Title 5 U.S.C. generally; and Title 31 U.S.C. generally.

PURPOSE:

To assemble in one system information on personnel matters affecting employees and uncompensated workers. To accomplish the above, this system starts requests for personnel actions, plans and schedules training, counsels employees on their performance, sets up a basis for proposing recommendations for disciplinary actions, and carries out general personnel management responsibilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

a. To disclose information to a Federal, State, local, or foreign agency responsible for investigating, prosecuting, enforcing, or carrying out a statute, rule, regulation, or order, where the General Services Administration becomes aware of a violation or potential violation of civil or criminal law or regulation.

b. To disclose information to another Federal agency or a court when the Government is party to a judicial proceeding.

c. To disclose information to a requesting Federal agency in connection with hiring or retaining an employee; issuing a security clearance; reporting an employee investigation; clarifying a job; letting a contract; or issuing a license, grant, or other benefit by the requesting agency where the information is relevant and necessary for a decision.

d. To disclose information to the Merit Systems Protection Board officials, including the Office of Special Counsel; the Federal Labor Relations Authority and its General Counsel; or the Equal Employment Opportunity Commission in performing their duties.

e. To disclose information to an appeal, grievance, or formal complaints examiner; equal employment opportunity investigator; arbitrator; exclusive representative; or other official engaged in investigating, or settling a grievance, complaint, or appeal filed by an employee.

f. To disclose information to the Office of Personnel Management under the agency's responsibility for evaluating Federal personnel management. When official personnel records in the custody of GSA are covered in systems of records published by the Office of Personnel Management as Government-wide records, they are considered part of that system. Other official personnel records covered by notices published by GSA and are separate systems of records may be transferred to the Office of Personnel Management under official personnel programs and activities as a routine use.

g. To disclose information to a Member of Congress or a congressional staff member in response to an inquiry from that congressional office made in behalf of a constituent.

h. To disclose information to an expert, a consultant, or contractor of GSA in performing a Federal duty.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files; magnetic tapes and disks in cabinets.

RETRIEVABILITY:

Filed at each location by name and/or social security number.

SAFEGUARDS:

Records stored in lockable file cabinets, lockable desk drawers, and/or secured rooms. Diskette application protected by password system.

RETENTION AND DISPOSAL:

Records are reviewed annually, documents are updated, and irrelevant documents destroyed. No copies of records are kept in this system after the original or any copies are purged from the official personnel folders. When an employee leaves the agency through transfer or separation, the records are immediately forwarded to the office maintaining the official personnel folder. The records are then screened to ensure that nothing is missing in the official personnel folder and then destroyed. Purging information from electronic media meets this destruction requirement.

SYSTEM MANAGER(S) AND ADDRESSES:

Agency officials with overall responsibility under their jurisdiction are the Heads of Services and Staff Offices for Central Office employees and the Regional Administrators for regional employees. Officials responsible for geographically dispersed systems of records are the senior official at the facility or the supervisor of current and former employees or volunteers. The addresses of the Central Office and regional offices are listed in the appendix following this notice. The addresses of the field activities are listed following the notices GSA/OIRM-8, GSA/PBS-3, GSA/FSS-12, and GSA/FPRS-2.

NOTIFICATION PROCEDURES:

Inquiries by individuals should be addressed to the supervisor or official at the address where the person worked. If not known, general inquiries should be addressed to the Head of the Service of Staff Office for Central Office employees, or to the Regional Administrator for regional office employees at the address listed in the appendix following this notice.

RECORD ACCESS PROCEDURES:

Requests from individuals should be addressed to the supervisor or official at the address where the person worked. If no known, general requests should be addressed to the Head of the Service or Staff Office for Central Office employees, or to the Regional Administrator for regional office employees at the address listed in the appendix following this notice. For identification requirements, refer to the agency regulations outlined in 41 CFR Part 105-64.

CONTESTING RECORD PROCEDURES:

GSA rules for contesting the contents and appealing initial decisions are issued in 41 CFR Part 105-64 of the **Federal Register.**

RECORD SOURCE CATEGORIES:

Individuals themselves, other employees, supervisors, personnel records, and third parties submitting indebtedness complaints.

Dated: April 16, 1985.

Johnny T. Young,

Acting Director, Information Management Division.

[FR Doc. 85-9878 Filed 4-23-85; 8:45 am]

BILLING CODE 6820-34-M

Agency Information Collection Under Review by the Office of Management and Budget; Uniform Tender of Rates and/or Charges for Transportation Services

AGENCY: Office of Policy and Management Systems, GSA.
ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the General Services Administration (GSA) requests the Office of Management and Budget (OMB) to extend the expiration date of a currently approved information collection.

ADDRESSES: Send comments to Franklin S. Reeder, GSA Desk Officer, Room 3235, NEOB, Washington, DC 20503, and to William W. Hiebert, GSA Clearance Officer, General Services Administration (ATRAI), Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Raymond F. Price, Travel and Transportation Regulations Division (703–557–1256).

SUPPLEMENTARY INFORMATION:

a. *Purpose.* This information collection identifies the rates, charges, services, and limitations on which carriers base their offer to transport Government personnel and goods between specified cities and localities.

b. *Annual reporting burden.* This is estimated as follows: Respondents, responses and hours, 45,000 each.

c. *Copies of proposal.* Copies may be obtained from the Directives and Reports Management Branch (ATRAI), Room 3007, GS Building, Washington, DC 20405, telephone (202–566–0666).

Dated: April 15, 1985.

Johnny T. Young,
Acting Director, Information Management Division.

[FR Doc. 85–9874 Filed 4–23–85; 8:45 am]
BILLING CODE 6820–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.
ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings: The following advisory committee meetings are announced:

General and Plastic Surgery Devices Panel

Date, time, and place. May 9 and 10, 9 a.m., Rm. 703–727A, 200 Independence Ave. SW., Washington, D.C.

Type of meeting and contact person. Open public hearing, May 9, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; open public hearing, May 10, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 4 p.m.; closed committee deliberations, 4 p.m. to 5 p.m.; Paul F. Tilton, Center for Devices and Radiological Health (HFZ–410), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7156.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 1, and submit a brief statement of the general nature of the evidence or argument they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for a polybutester nonabsorbable suture; a PMA for a polyglyconate absorbable suture; two PMA's for collagen hemostatic agents; followup data and issues on an implantable collagen device; and if time allows, the proposed classification regulation of wound dressings.

Closed committee deliberations. The committee may review and discuss trade secret or confidential commercial information regarding a premarket approval application. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Circulatory System Devices Panel

Date, time, and place. May 13, 8:30 a.m., Rm. 503A, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing 8:30 a.m. to 9:00 a.m.; open committee discussion 10 a.m. to 2 p.m.; closed committee deliberations 2 p.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7594.

General function of the committee. The Committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before May 6, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a premarket approval application (PMA) for an automatic implantable defibrillator, and possibly a pacemaker.

Closed committee deliberations. If necessary, the committee may discuss trade secret or confidential commercial information relevant to this PMA. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Ophthalmic Devices Panel

Date, time, and place. May 13 and 14, 9 a.m., Auditorium, 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open pulbic hearing, May 13, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 5 p.m.; open public hearing, May 14, 9 a.m. to 10 a.m.; open committee discussion, 10 a.m. to 1 p.m.; closed committee deliberations, 2 p.m. to 3 p.m.; open committee discussion, 3 p.m. to 5 p.m.; Mary Elizabeth Jacobs, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7940.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation. The committee also reviews data on new devices and makes recommendations regarding their safety

and effectiveness and their suitability for marketing.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before April 29, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. On May 13 the committee will discuss general issues relating to approvals of premarket approval applications (PMA's) for intraocular (IOL's) and neodymium:Yttrium-aluminum-garnet (Nd:YAG) lasers, and may discuss specific PMA's for these devices. The committee will also discuss ultraviolet light (UV) effects on the eye and labeling issues for UV-absorbing IOL's. If discussion of all pertinent IOL or Nd:YAG laser issues is not completed, discussion will be continued the following day. On May 14 the committee will discuss PMA's for contact lenses and other ophthalmic devices and requirements for PMA approval. Comments received on the report entitled "Materials Science Basis for a Suggested Guideline Test Matrix of Soft Lens Groups" distributed at the February meeting and subsequently mailed to interested persons, will be discussed.

Closed committee deliberations. On May 13 the committee will conduct reviews of PMA's for IOL's and Nd:YAG lasers. On May 14 the committee may discuss trade secret or confidential commercial information relevant to PMA's for contact lenses or other ophthalmic devices. These portions of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings. This guideline was published in the **Federal Register** of April 13, 1984 (49 FR 14723). These procedures are primarily intended to expedite media access to FDA's public proceedings, including hearings before a public advisory committee conducted pursuant to Part 14 of the agency's regulations. Under this guideline, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including the presentation of participants at a public hearing. Accordingly, all interested persons are directed to the guideline, as well as the **Federal Register** notice announcing issuance of the guideline, for a more complete explanation of the guideline's effect on public hearings.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 17, 1985.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 85–9801 Filed 4–23–85; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Privacy Act of 1974; Report of New System

Correction

In FR Doc. 85–8778, beginning on page 14457, in the issue of Friday, April 12, 1985, on page 14458, middle column, insert the System Identification No. "09–70–2004" before the System Name.

BILLING CODE 1505–01–M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; National Advisory Allergy and Infectious Diseases Council, Allergy and Immunology Subcommittee; Microbiology and Infectious Diseases Subcommittee; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Advisory Allergy and Infectious Diseases Council, National Institute of Allergy and Infectious Diseases, and its subcommittees on May 20–21, 1985, at the National Institutes of Health, Building 31C, Conference Room 6, Bethesda, Maryland 20205.

The meeting will be open to the public on May 20 from approximately 9:00 a.m. to 9:30 a.m. for opening remarks of the Institute Director and again from 1:30 p.m. to approximately 5:00 p.m. for discussion of procedural matters, Council business, and a report from the Institute Director which will include a discussion of budgetary matters. The primary program discussions will be on Acquired Immunodeficiency Syndrome. On May 21 the meeting will be open to the public from approximately 8:30 a.m. to 9:30 a.m. for the reports of the Director of the Microbiology and Infectious Diseases Program and the Director of the Immunology, Allergic and Immunologic Diseases Program.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting of the NAAIDC Allergy and Immunology Subcommittee and of the NAAIDC Microbiology and Infectious Diseases Subcommittee will be closed to the public for approximately three hours for the review, evaluation, and discussion of individual grant applications. It is anticipated that this will occur from 9:30 a.m. until approximately 12:30 p.m. on May 20. The meeting of the full Council will be closed from approximately 9:30 a.m. until adjourment on May 21 for the review, evaluation, and discussion of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Patricia Randall, Office of Research Reporting and Public Response, National Institute of Allergy and Infectious Diseases, Building 31, Room 7A32, National Institutes of Health, Bethesda, Maryland 20205, telephone (301) 496–5717, will provide summaries of the meetings and rosters of the Council members as requested.

Dr. John W. Diggs, Director, Extramural Activities Program, NIAID, NIH, Westwood Building, Room 703, telephone (301) 496–7291, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.855, Pharmacological Sciences; 13.856, Microbiology and Infectious Diseases Research, National Institutes of Health)

Dated: April 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–9837 Filed 4–23–85; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; President's Cancer Panel; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the President's Cancer Panel, June 3, 1985, at the Memorial Sloan-Kettering Cancer Center, William Paul Hoffmann Auditorium, 424 East 68th Street, New York, New York 10021.

The entire meeting will be open to the public from 9:00 a.m. to adjournment. Agenda items include reports by the Chairman, President's Cancer Panel, and discussions to obtain information regarding center programs supported by the National Cancer Institute. Attendance by the public will be limited to space available.

Mrs. Winifred Lumsden, Committee Management Officer, National Cancer Institute, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20205 (301/496–5708) will provide summaries of the meeting and rosters of Panel members, upon request.

Dr. Elliott Stonehill, Executive Secretary, President's Cancer Panel, National Cancer Institute, Building 31, Room 11A23, National Institutes of Health, Bethesda, Maryland 20205 (301/496–1148) will furnish substantive program information.

Dated: April 16, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–9840 Filed 4–23–85; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee A; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee A, National Heart, Lung, and Blood Institute, National Institutes of Health, on June 27, 1985, in Building 31, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20205.

This meeting will be open to the public on June 27, 1985 from 8:30 am to approximately 9:30 am to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code, and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 27, from approximately 9:30 am until adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Peter M. Spooner, Executive Secretary, Heart, Lung, and Blood Research Review Committee A,

Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7265, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.837, Heart and Vascular Diseases Research; 13.838, Lung Diseases Research; National Institutes of Health)

Dated: April 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-9834 Filed 4-23-85; 8:45 am]

BILLING CODE 4140-01-M

National Heart, Lung, and Blood Institute; Heart, Lung, and Blood Research Review Committee B; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Heart, Lung, and Blood Research Review Committee B, National Heart, Lung, and Blood Institute, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20205, on June 27, 1985, in Building 31, Conference Room 9.

This meeting will be open to the public on June 27, 1985, from 8:30 AM to approximately 10:00 AM to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(4) and 552(c)(6), Title 5, U.S. Code, and section 10(d) Pub. L. 92-463, the meeting will be closed to the public on June 27, 1985, from approximately 10:00 AM to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Terry Bellicha, Chief, Public Inquiry Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 4A21, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-4236, will provide a summary of the meeting and a roster of the committee members.

Dr. Louis M. Ouellette, Executive Secretary, NHLBI, Westwood Building, Room 554, National Institutes of Health, Bethesda, Maryland 20205, phone (301) 496-7915, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, Heart and Vascular Diseases Research; and 13.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: April 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85-9833 Filed 4-23-85; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Allergy and Infectious Diseases; Symposium

Notice is hereby given of a symposium at the National Institutes of Health, Building 31C, Conference Room 6, 9000 Rockville Pike, Bethesda, Maryland 20205, on June 3, 1985, from 8:30 a.m. to adjourment at approximately 5:00 p.m. This symposium will be open to the public to discuss the use of antiviral agents in retroviral diseases. Attendance by the public will be limited to space available.

Dr. George Galasso, Associate Director for Extramural Affairs, Office of the Director, National Institutes of Health, Building 1, Room 111, telephone (301) 496-5356, will provide substantive program information.

Dated: April 16, 1985.

James B. Wyngaarden,

Director, NIH.

[FR Doc. 85-9832 Filed 4-23-85; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Advisory Council and its Subcommittees; Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Arthritis, Diabetes, and digestive and Kidney Diseases Advisory Council and its subcommittees on May 29 and 30, 1985, in Conference Room 10, Building 31, National Institutes of Health, Bethesda, Maryland. The meeting will be open to the public May 29 from 8:30 a.m. and 12:00 p.m. to discuss administration, management, and special reports. Attendance by the public will be limited to space available.

Meeting of the full Council and its subcommittees will be closed to the public as indicated below in accordance with provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commerical property such as patentable materials, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The following subcommittees will be closed to the public on May 29, 1985, from 1:00 p.m. to adjournment: Arthritis, Musculoskeletal and Skin Diseases; Diabetes, Endocrine, and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney, Urology and Hematology. The full Council meeting will be closed to the public on May 30 from 8:30 a.m. to approximately 12:00 p.m.

The full Council meeting will then be open for the reports of the Division Directors on May 30 from approximately 1:00 p.m. to adjournment at 3:30 p.m.

Further information concerning the Council meeting may be obtained from Dr. Walter Stolz, Acting Executive Secretary, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Westwood Building, Room 637, Bethesda, Maryland 20205, (301) 496-7277.

A summary of the meeting and roster of the members may be obtained from the Committee Management Office, NIADDK, Building 31, Room 9A47, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5765.

(Catalog of Federal Domestic Assistance Program No. 13.846-849, Arthritis, Bone and Skin Diseases; Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: April 12, 1985.

Betty J. Beveridge,

NIH, Committee Management Officer.

[FR Doc. 85-9836 Filed 4-23-85; 8:45 am]

BILLING CODE 4140-01-M

National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases (NIADDK), May 9, 10, and 11, 1985, National Institutes of Health, Building 2, Room 102, Bethesda, Maryland 20205.

This meeting will be open to the public from 8:00 p.m. to 10:10 p.m. on May 9, from 9:00 a.m. to 12:05 p.m. and from 2:05 p.m. to 4:25 p.m. on May 10, from 9:00 a.m. to 10:30 a.m. on May 11. The open portion of the meeting will be devoted to scientific presentations by various laboratories of the NIADDK Intramural Research Program.

Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public from 7:30 p.m. to 8:00 p.m. on May 9, from 12:05 p.m. to 2:00 p.m. and 4:25 p.m. to adjournment on May 10, and from 10:30 a.m. to adjournment on May 11, for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIADDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Summaries of the meeting and rosters of the members will be provided by the Committee Management Office, National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases, Building 31, Room 9A48, Bethesda, Maryland 20205. Further information concerning the meeting may be obtained by contacting the office of Dr. Jesse Roth, Executive Secretary, Board of Scientific Counselors, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20205, (301) 496–4128.

Dated: April 16, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–9839 Filed 4–23–85; 8:45 am]

BILLING CODE 4140–01–M

National Institute of Child Health and Human Development; Board of Scientific Counselors; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute of Child Health and Human Development, June 7, 1985, in Building 31, Room 2A52. This meeting will be open to the public from 9:00 a.m. to 12 noon on June 7 for the review of the Intramural Research Program and scientific presentations. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the meeting will be closed to the public on June 7 from 1:00 p.m. to 4:30 p.m. for the review, discussion, and evaluation of individual programs and projects conducted by the National Institutes of Health, NICHD, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Landow Building, Room 6C08, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–1485, will provide a summary of the meeting and a roster of Board members. Dr. Arthur Levine, Scientific Director, NICHD, Building 31, Room 2A50, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496–2133, will furnish substantive program information.

Dated: April 16, 1985.

Betty J. Beveridge,

Committee Management Officer, NIH.

[FR Doc. 85–9838 Filed 4–23–85; 8:45 am]

BILLING CODE 4140–01–M

National Library of Medicine; Board of Regents, the Extramural Programs Subcommittee; Meetings

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Regents of the National Library of Medicine on June 6–7, 1985, in the Board Room of the National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland, and the meeting of the Extramural Programs Subcommittee of the Board of Regents on June 5, 1985, from 3:00 to 5:00 p.m., in the 5th-floor Conference Room of the Lister Hill Center Building. The meeting of the Board will be open to the public from 9:00 a.m. to 5:00 p.m. on June 6 and from 9:00 a.m. to 10:45 a.m. on June 7 for administrative reports and program discussions. Attendance by the public will be limited to space available.

In accordance with provisions set forth in sections 552b(c)(4), 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, the entire meeting of the Extramural Programs Subcommittee on June 5 will be closed to the public, and the regular Board meeting on June 7 will be closed from approximately 10:45 a.m. to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property, such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Robert B. Mehnert, Chief, Office of Inquiries and Publications Management, National Library of Medicine, 8600 Rockville Pike, Bethesda, Maryland 20209, Telephone Number: 301–496–6308, will furnish a summary of the meeting, rosters of Board members, and other information pertaining to the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.879—Medical Library Assistance, National Institutes of Health)

Dated: April 12, 1985.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 85–9835 Filed 4–23–85; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

Statement of Organization, Functions, and Delegations of Authority; Food and Drug Administration

Part H, Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent part at 45 FR 57175, August 27, 1980) is amended to reflect organizational changes in the Food and Drug Administation (FDA) and the deletion from the Federal Register of certain FDA organizational functional statements.

FDA is establishing an Office of Research and an Office of Research Services in the National Center for Toxicological Research (NCTR). NCTR research activities and research support activities will be consolidated in these two offices. This will complete FDA's line office structure for the entire agency.

FDA is also abolishing the Office of Scientific Intelligence as part of the overall consolidation of NCTR activities.

Due to the establishment of the Office of Research and the Office of Research Services and the realignment of the NCTR substructure, FDA is deleting all functional statements currently published in the **Federal Register** for the ten NCTR divisions whose activities are being consolidated to form the two new Offices. Due to the realignment, publication of these functional statements is no longer required.

Section HF–B, Organization and Functions is amended as follows:

1. Delete subparagraph (q–3), *Office of Scientific Intelligence (HFT13)* and redesignate subparagraphs (q–4), (q–4–i),(q–4–i), (q–4–i), (q–4–ii), and (q–4–iii), as subparagraphs (q–3), (q–3–i), (q–3–ii), and (q–3–iii).

2. Insert new subparagraph (q–4), *Office of Research (HFTD).*

(q–4) *Office of Research (HFTD).* Organizes, plans, and directs Center

research programs in the areas of chemistry, biochemical toxicology, genetic toxicology, reproductive and developmental toxicology, pharmacokinetics, molecular biology, microbiology, and immunology.

Directs studies on the kinetics and metabolism of chemicals prerequisite to the implementation of carcinogenic, teratogenic, and mutagenic experiments; directs the development of protocols for safety evaluation of toxic chemicals.

Directs the development of experimental methods used to extrapolate test results accurately from animal to man.

Directs the development of *in vitro* models to serve as links in the assessment of toxic manifestations expected in mammals in general and in man in particular.

Directs research to expand comparative physiology and biochemistry to primates and other potentially applicable experimental species.

Coordinates research in responsible program areas with leading scientists in other segments of the scientific community.

Coordinates with other Center and agency components and top level officials of other agencies to provide input for long-term research planning in responsible program areas and to insure implementation of programs responsive to the Center's portion of the agency's integrated research plan.

Responsible for the management of Center research project contracts in responsible program areas.

3. Insert new subparagraph (q–5), *Office of Research Services (HFTE).*

(q–5) *Office of Research Services (HFTE).* Organizes, plans and directs Center research services programs in the areas of pathology, microbiology, diet preparation, animal husbandry, and analytical services.

Plans and coordinates the implementation of research service programs in response to the Office of Research; directs pathology support services for the Center.

Performs research services relating to chemical and physiochemical behavior of test chemicals, integrity of dosage forms, and safe use and disposal of test chemicals.

Implements analytical methods to insure nutritional integrity and absence of deleterious substances in animal diets as they affect test results.

Develops, modifies, and validates microbial testing procedures which contribute to the assessment of toxic industrial chemicals, drugs, food additives, or naturally occurring and potentially toxic materials in the environment.

Directs and implements a microbiological surveillance program, providing quality assurance for all laboratory animal operations and toxicology experiments involving animal systems.

Establishes the requirements for analysis of diets used in toxicological evaluations and directs the operation of a diet preparation facility to support Center research.

Monitors the maintenance of an animal breeding facility to support research projects at the Center; directs animal care, barrier entry procedures, equipment and holding facilities, and data collection for animals in experiments.

Responsible for the management of on-site Center service contracts in responsible program areas.

4. Delete subparagraphs (q–6) through (q–15), National Center for Toxicological Research.

Effective Date: April 16, 1985.

Dated: April 16, 1985.

James O. Mason,

Acting Assistant Secretary for Health.

[FR Doc. 85–9911 Filed 4–23–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[4–20703–ILM]

Montana; Resource Management Plan/ Environmental Impact Statement for the South Dakota Resource Area

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of availability of draft resource management plan/ environmental impact statement and public meetings.

SUMMARY: Pursuant to section 202(f) of the Federal Land Policy and Management Act of 1976 and section 102(c) of the National Environmental Policy Act of 1969, a draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) has been prepared for the South Dakota Resource Area. The South Dakota Resource Area, Miles City District, contains 280,672 acres of public land and 5,294,122 mineral acres of public domain located in South Dakota. The emphasis of the plan centers on 278,673 surface acres of Brule, Butte, Custer, Fall River, Haakon, Harding, Jackson, Lawrence, Lyman, Meade, Pennington, Perkins, and Stanley Counties. The draft RMP/EIS examines five management plan alternatives: Preferred Alternative (a combination of the other alternatives); Alternative A (continuation of existing management or no action); and three alternatives varying from resource protection to resource production.

Public Participation

Copies of the draft RMP/EIS are available from the Miles City District Office, Garryowen Road, P.O. Box 940, Miles City, Montana 59301, phone (406) 232–4331 or from the South Dakota Resource Area Office, 510 Roundup Street, Belle Fourche, South Dakota 57717, phone (605) 892–2526. Public reading copies will be available for review at the following locations:

Office of Public Affairs, Interior Building, 18th and C Streets, NW., Washington, DC 20240

BLM, Montana State Office, Public Affairs Office, 222 N. 32nd Street, Billings, Montana 59107

Miles City District Office, Garryowen Road, P.O. Box 940, Miles City, Montana 59301

Also, public libraries within the 13 South Dakota Counties listed above.

Written comments on the draft RMP/EIS should be submitted between April 26 and July 26 (90-day comment period) to: Chris Roholt, Project Manager, BLM, P.O. Box 940, Miles City, Montana 59301 or Billy McIlvain, Area Manager, BLM, 510 Roundup Street, Belle Fourche, South Dakota 57717. Oral or written comments will be received on May 22 from 1:30 p.m. to 4:30 p.m. and 7:30 p.m. to 9:00 p.m. at the Belle Fourche Community Hall. Oral or written comments concerning the adequacy of the draft RMP/EIS will be considered in the preparation of the final RMP/EIS for the South Dakota Resource Area.

FOR FURTHER INFORMATION CONTACT: Chris Roholt, Project Manager, Miles City District Offices, P.O. Box 940, Miles City, Montana 59301, Telephone: (406) 232–4331.

Marvin LeNoue,

Acting State Director.

April 11, 1985.

[FR Doc. 85–9321 Filed 4–23–85; 8:45 am]

BILLING CODE 4310–DN–M

[F–21905–98; 5–000262–GP5–068]

Alaska Native Claims Selection

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(e) of the Alaska Native

Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e) (1976), will be issued to Doyon, Limited for approximately 17,155 acres. The lands involved are within the Fairbanks Meridian, Alaska.

T. 30 N., R. 13 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in the Tundra 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 24, 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. 85-9846 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-JA-M

[F-19155-17; 5-000262-GP5-067]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of sec. 14(e) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(e) (1976), will be issued to Doyon, Limited for approximately 23,004 acres. The lands involved are in the vicinity of Tanacross, Alaska.

Copper River Meridian, Alaska

T. 17 N., R. 9 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 Anchorge, Alaska 99513. ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision shall have until May 24, 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 of 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. 85-9847 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-JA-M

Salt Lake District, UT; Notice of Intent, Bonneville Salt Flats

AGENCY: Bureau of Land Management, Interior.

ACTION: Intention to designate the Bonneville Salt Flats as an Area of Critical Environmental Concern (ACEC).

SUMMARY: Notice is hereby given concerning designation of the Bonneville Salt Flats, Utah, as an ACEC. This decision results from the recent Tooele County Management Framework Plan completed in 1984.

The Bonneville Salt Flats Special Recreation Management Plan has identified 30,203.06 acres of public land as the most significant area of the salt flats to be managed. The same area coincides with the ACEC designation and is described as follows:

	Acres
T.1 N., R.16W., SLM, Utah:	
Sec. 6, Lots 1-7, S½ NE¼, E½ NW¼, E½ SW¼	478.48
T.2 N., R.16W., SLM, Utah:	
Sec. 20, All	640.00
Sec. 21, All	640.00
Sec. 28, All	640.00
Sec. 29, All	640.00
Sec. 30, All	635.76
Sec. 31, All	636.68
Sec. 33, NW¼	160.00
T.1 N., R.17W., SLM, Utah:	
Sec. 1, All	640.08
Sec. 3, All	640.16
Sec. 4, Lots 1, 2, S½ NE¼, S½	480.02
Sec. 8, E½, SE¼	480.00
Sec. 9, All	640.00
Sec. 10, All	640.00
Sec. 11, All	640.00
Sec. 12, All	640.00
Sec. 13, W½	320.00
Sec. 14, All	640.00
Sec. 15, All	640.00
Sec. 17, All	640.00
Sec. 18, Lots 3, 4, E½, E½ SW¼	480.10
Sec. 19, All	640.16
Sec. 20, All	640.00
Sec. 21, All	640.00
Sec. 22, All	640.00
Sec. 23, All	640.00
Sec. 26, W½	320.00
Sec. 27, All	640.00
Sec. 28, All	640.00
Sec. 29, All	640.00
Sec. 30, All	639.92
Sec. 31, All	639.92
Sec. 33, All	640.00
Sec. 34, All	640.00
Sec. 35, W½	320.00
T.2 N., R.17W., SLM, Utah:	
Sec. 25, All	640.00
Sec. 26, SE¼	160.00
Sec. 34, SE¼	160.00
Sec. 35, All	640.00
T.1 N., R.18W., SLM, Utah:	
Sec. 24, E½, SW¼	480.00
Sec. 25, All	640.00
Sec. 26, E½, SW¼	480.00
Sec. 34, E½, SW¼	480.00
Sec. 35, All	640.00
T.1 S., R.17W., SLM, Utah:	
Sec. 3, W½	319.45
Sec. 4, All	639.80
Sec. 5, All	639.72
Sec. 6, All	611.12
Sec. 7, Lots 1, 2, NE¼, E½, NW¼	306.09
Sec. 8, N½	320.00
Sec. 9, N½	320.00
T.1 S., R.18W., SLM, Utah:	
Sec. 1, Lots 1, 2, E½ SW¼ NE¼ SE¼ NE¼, NE¼, SE¼ E½ SE¼ SE¼	199.16
Sec. 3, Lots 1-4, SW¼ NE¼, W½ SE¼ NE¼, S½ NW¼, NE¼ SW¼, W½ SW¼, W½ NW¼ SE¼	438.12
Sec. 4, All	638.32
Sec. 5, SE¼	160.00
Sec. 8, All	640.00
Sec. 9, N½ NE¼, W½ SW¼ NE¼, NW¼, W½ NE¼ SW¼, NW¼ SW¼, W½ SW¼ SW¼	340.00

The Bonneville Salt Flats are a highly unique and world known geological phenomenon. Special qualities on the salt resource accommodate high speed automobile testing and racing, coupled with scenic contrasts desired by filming groups from around the world.

A 60-day public comment period on the ACEC portion of the Special Recreation Management Plan begins upon publication of this notice and extends to June 28, 1985.

For further information contact: Gregg Morgan, Bureau of Land Management, 2370 South 2300 West, Salt Lake City, Utah 84119, (801)524-5348.

Frank W. Snell,

Salt Lake District Manager.

[FR Doc. 85-9822 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-DQ-M

[5-00250-GP5-158] 4310-33

Spokane District Advisory Council; Meeting

Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Spokane District Advisory Council will be held on Wednesday, May 29, 1985. The meeting will being at 9:30 a.m. in the Conference Room of the BLM Spokane District Office, East 4217 Main Avenue, Spokane, Washington.

The agenda for the meeting is as follows:

1. Discussion of the proposed BLM/USFS interchange.
2. Discussion of the status of the Final RMP/EIS.
3. Discussion of land exchanges.
4. Discussion of the Juniper Dunes Wilderness Area.
5. Discussion of the 1985 Grazing Fee Review and Evaluations Draft Report.
6. Discussion of old business.
7. Public comments and statements.

Any responsible person wishing to make an oral statement should notifiy the District Manager, Bureau of Land Management, Spokane District Office, East 4217 Main Avenue, Spokane, Washington 99202, or telephone (509) 456–2570 by the close of business, 4:30 p.m., Friday, May 24, 1985. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

A written report of the Council meeting will be maintained at the BLM Spokane District Office and will be made available for public inspection. Reproduction of the meeting report will be made available to the public at the cost of duplication. The meeting is open to the public and news media.

Joseph K. Buesing,

District Manager.

[FR Doc. 85-9879 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-33-M

[OR 38433; 5-00250-GP5-149]

Oregon; Realty Action; Lease of Public Lands in Josephine County, OR

Summary

The following described public land has been examined and identified as suitable for a five year agricultural lease under section 203 of the Federal Land Policy and Management Act of 1976 (90 Stat. 2743, 2762; 43 U.S.C. 1732) and section 14a of The Wild and Scenic Rivers Act, Pub. L. 90–542 (16 U.S.C. 1271 et seq.) as amended through Pub L. 96–580, December 23, 1980, at no less than the appraised fair market value.

Parcel I

Lot 7 in Section 14, Township 36 South, Range 7 West of the Willamette Meridian

LESS AND EXCEPTING from the above described land the following tract: Beginning at the Northeast corner of D.L.C. No. 38 in said Section 14, Twonship 36 South, Range 7 West of the Willamette Meridian, and running thence East to the center of said Section 14; thence North to Rogue River; thence in a Southwesterly direction along said river to a point due North from the point beginning; thence South to the point of beginning.

Parcel II

Beginning 858 feet West of the Northeast corner of Donation Land Claim No. 38 in Section 14, Township 36 South, Range 7 West of the Willamette Meridian; thence running North to Rogue River; thence running Easterly along Rogue River to the Northeast corner of Government Lot 8, Section 14; thence South to the Southeast corner of said Lot 8; thence West along South line of Lot 8 to the point of beginning;

LESS AND EXCEPTING from the above described land the following tract: Beginning at a point 858 feet West of the Northeast corner of Donation Land Claim No. 38, in Section 14, Township 36 South, Range 7 West of the Willamette Meridian, Oregon; thence run North, a distance of 20 feet; thence East a distance of 16 feet; thence South, a distance of 20 feet; thence West, a distance of 16 feet to the point of beginning.

ALSO, LESS AND EXCEPT, the West 16 feet from the above described tract of land.

Parcel III

Beginning at the Northeast corner of D.L.C. No. 38 Section 14, Township 36 South, Range 7 West of the Willamette Meridian, Oregon, and running thence West along the North boundary line of said D.L.C., 858 feet; thence South 1029 feet, more or less, to the North boundary of Riverbanks Road; thence following along the North boundary of said Riverbanks Road in a Southeasterly and Easterly direction to the East line of said D.L.C. No. 38, thence North 1280 feet, more less, to the point of beginning.

LESS AND EXCEPTING the West 16 feet thereof;

ALSO, LESS AND EXCEPT, the following described property:

Commencing at the Northeast corner of D.L.C. No. 38 in Section 14, Township 36 South, Range 7 West of the Willamette Meridian, and running South to a point 600 feet North of the North line of Riverbanks Road (Rogue River Loop Highway), the true point of the beginning; thence West 58 feet; thence South to the North line of said Riverbanks Road; thence East along the North line of said Riverbanks Road 58 feet; thence North to the true point of the beginning.

The parcels of land to which the above descriptions apply contain 27.50 acres, more or less.

There are no significant resource values which will be affected by this proposal. The leasing of this parcel is consistent with BLM planning for the subject land and the Public Interest will be served by offering this land for lease.

Additional Information

Additional information may be obtained from the Bureau of Land Management, Medford District Office, 3040 Biddle Road, Medford, Oregon 97504. Eric Schoblom (503) 776–3772.

Qualifications

Bidders must be United States citizens 18 years of age or over; corporations must be authorized to own real property or interest therein in the State of Oregon. Proof of meeting these requirements shall accompany bids.

Bid

Sealed bids shall be accompanied by certified check, postal money order, bank draft, or cashier's check made payment to: *Department of the Interior-BLM* for not less than $66.00. Bids will only be considered if they are made for at least the minimum rent.

Preferential Bidder

Robert M. and Betty Mae Sloan, as the immediate owners of this property prior to its acquisition by the United States, have the right to meet the highest bid.

Minimum Rent

The minimum rent for this parcel is determined to be $30.00/acre for each hayable acre, there are approximately 22.0 hayable acres. The minimum annual rent for this parcel is therefore $660.00.

Deadline for Submission

Sealed bids shall be considered only if received at the Medford District Officer prior to 1:00 p.m. the day of the opening.

The sealed bid envelope must be marked as indicated on the sample below:

Return address

Medford District Office

3040 Biddle Road

Medford, OR 97504

Agricultural lease OR _____

Bid Opening

Bids will be opened at 3:00 p.m. on June 28, 1985.

Sealed bids shall be opened and publicly declared at the state time. If two or more qualified sealed bids for the same amount are received, the apparent successful bidder will be determined by drawing. All unsuccessful bids will be returned.

The successful bidder shall submit the remainder of the first years full rental within 30 days. Failure to submit the balance of the first years full rental within the above specified time limit shall result in cancellation of the lease and the deposit shall be forfeited. The next high bid will then be honored.

The successful bidder agrees that he takes the lease subject to the following stipulations:

1. The use of herbicides is prohibited.
2. Lessee is responsible for irrigation.
3. Construction of approach may be necessary.

Before bids are submitted, full information concerning the lands, the conditions of the lease, and submision of bids should be obtained from the Medford District Office.

Dated: April 11, 1985.

Hugh R. Shera,
District Manager.

[FR Doc. 85-9896 Filed 4-23-85; 8:45 am]
BILLING CODE 4310-33-M

[CA-6956]

California; Exchange of Public and Private Lands in Lassen County

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of issuance of land exchange conveyance document.

SUMMARY: The purpose of this exchange was to acquire non-Federal lands that have significant multiple-use values; i.e., archaeological, wildlife, livestock grazing, and recreation, that outweigh the values found on Federal lands to be exchanged. The exchange will provide improved management of Federal and State land. The values of the public and private lands in the exchange were equal.

FOR FURTHER INFORMATION CONTACT: Viola Andrade, California State Office, (916) 484-4431.

SUPPLEMENTARY INFORMATION: The United States issued an exchange conveyance document to the State of California on June 29, 1984, for the following describe lands under section 206 of the Federal Land Policy and Management Act of October 21, 1976 (43 U.S.C. 1716):

Mount Diablo Meridian, California

T. 27 N., R. 15 E.,
Portions of Secs. 1, 3, 4, 9, 13, 14, 15, 23, 25, and 27;
T. 28 N., R. 15 E.,
Portions of Secs. 32, 33, 34, and 35;
T. 26 N., R. 16 E.,
Portions of Secs. 3 and 10, all of Secs. 11 and 12, and portions of Secs. 13, 14, and 20;
T. 27 N., R. 16 E.,
Portions of Secs. 8, 17, and 20;
T. 28 N., R. 16 E.,
Portions of Sec. 8
T. 26 N., R. 17 E.,
Portions of Secs. 6 and 7;
T. 27 N., R. 17 E.,
Portions of Secs. 9, 12, 13, 14, 15, 23, 25, 26, and 34;
T. 28 N., R. 17 E.,
Portions of Secs. 18 and 33;
Comprising 7,920.64 acres of public land.

In exchange for these lands, the United States acquired the following described lands from the State of California:

Mount Diablo Meridian, California

T. 35 N., R. 8 E.,
Sec. 36, All;
T. 31 N., R. 13 E.,
Sec. 36, All;
T. 32 N., R. 13 E.,
Portion of Sec. 36;
T. 31 N., R. 14 E.,
Sec. 16, All;
T. 30 N., R. 15 E.,
Portion of Sec. 36;
T. 33 N., R. 15 E.,
Sec. 36, All;
T. 29 N., R. 16 E.,
Sec. 36, All;
T. 30 N., R. 16 E.,
Sec. 16, All;
T. 31 N., R. 16 E.,
Portion of Sec. 36;
T. 36 N., R. 16 E.,
Portion of Sec. 36;
T. 25 N., R. 17 E.,
Portion of Sec. 36;
T. 29 N., R. 17 E.,
Sec. 16 and 36, All;
T. 30 N., R. 17 E.,
Sec. 16 and 36, All;
T. 31 N., R. 17 E.,
Sec. 36, All;
T. 32 N., R. 17 E.,
Sec. 16 and 36, All;
T. 33 N., R. 17 E.,
Secs. 16 and 36, All;
T. 34 N., R. 17 E.,

Secs. 16 and 36, All;
T. 35 N., R. 17 E.,
Sec. 36, All;
Comprising 12,425.29 acres of State lands.

A complete description of the above described public and private lands is available for inspection at the California State Office, 2800 Cottage Way, Sacramento, CA 95825.

Dated: April 15, 1985.

Sharon N. Janis,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-9892 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-84-M

Fish and Wildlife Service

Availability of Detailed Map Depicting the Lands and Waters Designated as Appropriate for the Atchafalaya National Wildlife Refuge, Iberville, Point Coupee, and St. Martin Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the detailed map depicting the lands and waters designated as appropriate for the Atchafalaya National Wildlife Refuge in Iberville, Point Coupee, and St. Martin Parishes, Louisiana, is available for public inspection in the following offices:

(1) Office of the Regional Director, Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303;

(2) Office of Ecological Services, Fish and Wildlife Service, 103 East Cypress Street, Room 102, Lafayette, Louisiana 70502; and

(3) Office of Information and Education, Louisiana Department of Wildlife and Fisheries, 2156 Wooddale Boulevard, Suite 900, Baton Rouge, Louisiana 70806.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth M. Butts, Chief, Branch of Planning and Coordination, Office of Wildlife Resources, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; telephone (404) 221-3543 or FTS 242-3543.

Dated: April 17, 1985.

Walter O. Steiglitz,

Acting Director.

[FR Doc. 85-9815 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; National Historic Landmarks Boundary

April 10, 1985.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that specific boundaries for each landmark be defined.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service has notified owners, public officials and other interested parties and provided them with a 60-day opportunity to make comments on the proposed following boundary, and that boundary has now been formally established by the National Park Service. Careful consideration was given to comments received, and in some cases, the documentation or boundary has been revised if the National Park Service concurred with the comments. The property is listed on the National Register of Historic Places and is eligible for the benefits of listing. Copies of the documentation of the landmark and boundary, including maps, may be obtained from: Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (202) 343-9536.

Boundary for Blood Run Site, located at Larchwood, Lyon County, Iowa: Point of Beginning: (Point A) A 1330 feet MSL monument at the center of Section 24, T 100 N, R 49 W. The boundary proceeds from this point of beginning 900 feet (274 m.) south to the edge of a headward eroding draw in the second terrace margin then about 250 feet (76 m.) down that draw onto the first terrace of Blood Run. It proceeds 1000 feet (305 m.) in a southeasterly direction across both first terraces as well as intervening floodplain and channel of Blood Run to the mouth of a secondary tributary and 1310 feet contour south southeast of the Chicago, Rock Island, and Pacific railroad bed (Point B). It follows the 1310 feet and the 1320 feet contours in a general southwestern vector for approximately 2000 feet (610 m.) as they constitute the toe of a northwest facing terrace slope. The boundary crosses a second northwest draining tributary to Blood Run at about 1310 feet elevation and follows that contour around the northern edge of a remnant ridge. It then proceeds 1000 feet (305 m.) south southwest up an unnamed draw to an elevation of 1350 feet south of a knoll with a midpoint elevation of 1410+ feet MSL. It then proceeds about 500 feet (152 m.) on a west northwest vector bisecting the low point of a saddle between the knoll and north facing high terrace slope south of the saddle. The boundary subsequently proceeds 600 feet (183 m.) south up a draw from 1350 to 1400 feet elevation. It then passes through a second saddle proceeding 300 feet (91 m.) southwest to a complimentary 1400 feet contour. It proceeds downslope in a southwest (area of Point C) then westerly direction for about 1200 feet (366 m.) and reaches the back of the second terrace above Big Sioux River at an elevation of 1340+ −1350-feet MSL. The boundary then swings in a southwest, west (area of Point D), and northwest direction across the second and first terraces to the Big Sioux River in an arc with a general west northwest cord distance of 3500 feet (1067 m.) Point E).

The boundary crosses the Big Sioux River and the Iowa-South Dakota State line at UTM Zone 14, 694210E, 4814170N. The boundary traverses the South Dakota floodplain and joins the first terrace at the point of initiation between a colluvial slope and laterally planed flooplain. It proceeds 1850 feet (564 m.) north northeast against the toe of the second terrace slope at a general elevation of 1270 feet to a point on tangent between that contour and the Chicago, Rock Island and Pacific Railroad bed. It follows railroad grade benching for about 400 feet (122 m.) in a northwesterly direction (to Point F) then swings north across Spring Creek at a vector distance of 1200 feet (366 m.) upstream from its confluence with Big Sioux River. The boundary ascends a steep terrace to the 1300 feet contour (Point G) and follows that elevation until the toe of the second terrace slope is defined by the 1280 and then 1270 feet contours down Spring Creek Canyon to its restricted north bank juncture with the Big Sioux River Valley. The boundary remains between 1270+ −1280-feet MSL following the Western margin of the first terrace above Big Sioux River (passing through Point H) until reaching the mouth of an unnamed draw approximately 3000 feet (914 m.) south of Springdale Cemetery. It meanders up the draw flowline for a vector distance of 2800 feet (853 m.) north (area of Point I) and emerges onto the second (i.e. high) terrace by crossing a dirt road south and east of Springdale Cemetery that has been looped

northeast around headward erosion of a minor draw. The boundary traverses that terrace in a northeasterly direction through a slight swale at an elevation of 1430+ −1440-feet MSL. It then follows the second terrace (Point J) escarpment in a dramatically meandering southeast direction for a vector distance of 1200 feet (366 m.) (area of Point K). The boundary departs the second terrace proceeding east southeast down a steep draw and crosses the Big Sioux River as well as the South Dakota-Iowa State line at UTM Zone 14, 695340E, 4815735N. It proceeds 1500 feet (457 m.) east southeast across the first terrace and then climbs east northeast onto the second terrace at an escarpment elevation of 1320 feet. The boundary then arcs up grade east northeast, east, and southeast for a cord distance of about 800 (244 m.) feet to the 1330 feet MSL monument point of beginnng (Point A).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

[FR Doc. 85-9818 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

Aniakchak National Monument and Preserve; Availability of a Draft General Management Plan/ Environmental Assessment, Land Protection Plan, and Wilderness Suitability Review

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: This notice announces the availability of the draft general management plan/environmental assessment, land protection plan, and wilderness suitability review for Aniakchak National Monument and Preserve. The document will be available for public review and comment for 60 days, and public meetings will be held in Anchorage, King Salmon and Naknek (dates, locations and times to be announced locally).

This document proposes management actions addressing issues and problems facing Aniakchak National Monument and Preserve for the next 10 years. There are two parts within this document. The first part is the draft general management plan, which includes proposals for managing natural and cultural resources, subsistence and visitor uses, and for determining the National Park Service's staff and facility requirements. The land protection plan explains options and recommendations, priorities and methods for protection of federal lands from activities that might take place on private lands that could cause harm or threaten Aniakchak's resoruces. The wilderness suitability review evaluates the suitability of non-wilderness lands within Aniakchak for inclusion in the National Wilderness System.

The second part of the document includes a discussion of Aniakchak's resources, other alternatives considered, and the environmental consequences of the proposal and the alternatives.

Following consideration of public comments, a final general management plan, land protection plan, and wilderness suitability review will be developed.

DATES AND ADDRESSES: Comments on the draft document should be received no later than June 26, 1985, and should be submitted to: Regional Director, National Park Service, Alaska Regional Office, 2525 Gambell St., Rm 107, Anchorage, Alaska 99503-2892.

Public reading copies of the draft document will be available for review at the following locations:

Office of Public Affairs, National Park Service, Department of the Interior, 18th and C Streets, NW., Washington, D.C. 20240
National Park Service, Aniakchak National Monument/Preserve, King Salmon, Alaska 99613
Loussac Library, 524 W. 6th Avenue, Anchorage, Alaska 99502
Fairbanks Library, 1215 Cowles, Fairbanks, Alkaska 99701
Juneau Memorial Library, 114 W. 4th, Juneau, Alaska 99801
City Office, Chignik, Alaska 99564
City Office, Chignik Lake, Alaska 99564
City Office, Kodiak, Alaska 99615
City Office, Port Heiden, Alaska 99549
Alaska Regional Office, National Park Service, 2525 Gambell Street, Rm. 101, Anchorage, Alaska 99503-2892
Consortium Library, University of Alaska, 3211 Providence Ave., Anchorage, Alaska 99507
Alaska Resources Library, Federal Building, 701 C Street, Anchorage, Alaska 99513
Elmer Rasmuson Library, University of Alaska, Fiarbanks, Alaska 99701
National Park Service, Federal Building, Home, Alaska 99762
City Office, Chignik Lagoon, Alaska 99565
City Office, King Salmon, Alaska 99613
City Office, Meshik, Alaska
National Park Service, 201 First Street, Fairbanks, Alaska 99701

A limited number of copies of the full document are available upon request from:

Linda Nebel, Chief of Planning, National Park Service, Alaska Regional Office, 2525 Gambell St., Room 204, Anchorage, Alaska 99503-2892; (907) 271-4366.

Dated: April 10, 1985.

Roger J. Contro,

Regional Director, Alaska Region.

[FR Doc. 85-9813 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

Arrow Rock Historic District; National Register of Historic Places; National Historic Landmark

April 10, 1985.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that specific boundaries for each landmark be defined.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service has notified owners, public officials and other interested parties and provided them with a 60-day opportunity to make comments on the proposed following boundary, and that boundary has now been formally established by the National Park Service. Careful consideration was given to comments received, and in some cases, the documentation or boundary has been revised if the National Park Service concurred with the comments. The property is listed on the National Register of Historic Places and is eligible for the benefit of listing. Copies of the documentation of the landmark and boundary, including maps, may be obtained from: Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (202) 343-9536.

Boundary for Arrow Rock Historic District, located at Arrow Rock, Saline County, Missouri: The boundaries are contiguous with those for Arrow Rock State Park and the town of Arrow Rock as they join to form a single, contiguous 269-acre area. Some of the few generally unobtrusive features which do not contribute to the national significance of the landmark include: a water tower, rudimentary picnic facilities, and a few modern structures in the town of Arrow Rock.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

[FR Doc. 85-9816 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

Cornwall Iron Furnace; National Register of Historic Places; National Historic Landmark Boundaries

April 10, 1985.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation and therefore are without a clear delineation of the amount of property involved. The results of such designation make it important that we define specific boundaries for each landmark.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service notifies owners, public officials and other interested parties and provided them with an opportunity to make comments on the proposed boundaries.

The 60-day comment period on the attached National Historic Landmark has ended, and the boundaries have been established. Copies of the documentation of the landmark and its boundaries, including maps, may be obtained from Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, P.O. Box 37127, Washington, D.C. 20013-7127, Attention: Chief of Registration (Phone: 202-343-9536).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

Cornwall Iron Furnace National Historic Landmark, Cornwall, Lebanon County, Pennsylvania

Beginning on the north side of Rexmont Road at the southeast corner of Block 19E Lot 40, then easterly along the north side of Remont Road crossing the intersection with Cornwall Road to a point on the north side of Rexmont Road due north of the northeast corner of Block 19J Lot 120 (said northeast corner being on the south side of Rexmont Road), then due south across Rexmont Road and along the west line of Block 19J Lot 120 to the north line of Block 19 Lot 500, then westerly along the north line of Block 19 Lot 500 to the east side of Boyd Street, then southeasterly along the east side of Boyd Street to the west line of Block 19J Lot 98, then along the west, north, and east lines of Block 19J Lot 98 to the north side of Gold Road, then easterly along the north line of Gold Road to a point around 145' in the course of the west line of Block 19K Lot 28 northerly of the northwest corner of the said Block 19K Lot 28, then southerly in the course of and along the west line of Block 19K Lot 28 to the north side of Boyd Street, then easterly and southerly along the north and east sides of Boyd Street to the north line of Block 19K Lot 30 then westerly in the north line of Block 19K Lot 30 and the south side of Nickel Alley to the east side of Quartz Street, then southerly along the east side of Quartz Street to the south side of Granite Street, then westerly along the south side of Granite Street to the west side of Shirk Street, then northerly along the west side of Shirk Street to the south side of Silver Road, then westerly along the south side of Silver Road crossing the northernmost section of Block 19J Lot 100 to the east line of Block 19 Lot 180, then southerly and westerly in the east and south lines of Block 19 Lot 180 to the point where the said line of Block 19 Lot 180 angles southward away from the rim of the mine hole, then due west from said angle around 1950' across Block 19 Lot 180 to a point around 600' due south of the southeast corner of Block 19H Lot 35, then due north around 600' to the southeast corner of Block 19H Lot 35, then northerly and westerly along the east and north line of Block 19H Lot 35 to the east line of the 20' wide paper alley to the east of the east lines of the lots on the east side of Old Mine Road in the village of Burd Coleman, then northerly along the east line of said alley to a point around 3225' due west of the most southeasterly corner of Block 19 Lot 200, then due east around 3225' across Block 19 Lot 180 to the most southeasterly corner of Block 19 Lot 200, then northeasterly in the east line of Block 19 Lot 200, to the west side of Boyd Street, then northwesterly along the west side of Body Street to the northeasternmost corner of Block 19 Lot 200, then westerly along the north line of Block 19 Lot 200 to the west bank of Furnace Creek, then northwesterly along the several courses of the bank of Furnace Creek and into Block 19 Lot 195 to a point around 1200' westerly of the northwest corner of the main block Cornwall Mansion, then easterly in the course of the north wall of the main block of Cornwall Mansion around 1200' to the said northwest corner, then along the rear facade of Cornwall Mansion, including the rear wing, then easterly from the northeast corner of the main block of Cornwall Mansion to a point on the north side of the lane leading easterly from the mansion directly opposite the angle formed by the south side of the side lane and the east side of the driveway running along the east side of the fountain just east of the mansion, then southerly across the lane leading eastward from the mansion to the said angle, then continuing southerly along the east side of the driveway on the east side of the fountain to the east side of the driveway running southerly Rexmont Road, then southerly along the east side of the driveway to the northernmost corner of Block 19E Lot 40, then southeasterly along the north and east lines of Block 19E Lot 40 to the north side of Rexmont Road and the place of beginning.

[FR Doc. 85-9814 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

El Cuartelejo; National Register of Historic Places; National Historic Landmark Boundary

April 10, 1985.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that specific boundaries for each landmark be defined.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service has notified owners, public officials and other interested parties and provided them with a 60-day opportunity to make comments on the proposed following boundary, and that boundary has now been formally established by the National Park Service. Careful consideration was given to comments received, and in some cases, the documentation or boundary has been revised if the National Park Service concurred with the comments. The property is listed on the National Register of Historic Places and is eligible for the benefits of listing. Copies of the documentation of the landmark and boundary, including maps, may be obtained from: Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (202) 343-9536.

Boundary for El Cuartelejo National Historic Landmark is an archeological district composed of 26 discrete sites and many broader localities of artifactual remains that are continuous distributions in surface exposure. These collective remains are found with and adjacent to Ladder Creek Canyon and associated tributaries in northern Scott County, Kansas (*viz.*, Lake Scott State Park and vicinity). Physiographic context and administrative convenience facilitate establishment of the landmark

district boundary. The terrace and soil contexts within which well defined sites exist permit projecting probable limits for surface exposed localities. With the exception of sites 15 and 20 (i.e., 14SC404 and 14SC402), most sites exist within soils of T_0 through T_2 terraces above present stream grades and lake level. Other localilties in similar contexts are identified where earth disturbing activities expose upper solum horizons (e.g., roads, parking zones, camping areas). These artifact bearing units are traced laterally until (1) archeological surveys indicate no cultural material, or (2) the statigraphy is terminated by another physiographic unit such as a talus slope, terrace margin, or cap rock escarpment. These limits are not projected beyond the current State Park boundary unless a pedestrian survey reports continuation of artifactural or other salient cultural material (e.g., site 8 (14SC2) and more northerly terrace system). In no case is the landmark district extended into a second political subdivision of the state based on probability projectons (e.g., Logan County). Portions of the State Park not included within the boundary are reported free of significant cultural material (e.g., SW¼ of SW¼ of NW¼ of Section 13 T 16 S., R 33 W. (6th PM).

A practice of describing National Historic Landmark Boundaries by verbal relation to topographic contours on USGS quadrangles is of limited utility in regions demonstrating moderate to rapid geomorphological change. Mean relief changes for Ogallala escarpment, colluvial slopes, and terrace aggradation within Lake Scott State Park are calculated at 1.3 feet per year (cf., 1939 Lake McBride, Kansas 7.5 minute topographic quadrangle and 1976 Lake Scott, Kansas 7.5 minute topographic quadrangle). These changes are principle consequences of headward fluvial erosion (i.e., Ogallala escarpment) and reestablishment of stream grades by initiation and historic alteration of lake levels (i.e., terrace development). These geomorphic dynamics should initiate reevaluations of the boundary graphically illustrated herein every 5 years or until all cultural locality projections are sufficiently researched to resolve formal site status. The landmark boundary should be periodically monitored for adverse encroachment by geomorphological processes, *vis-a-vis*, Section 8 of Pub. L. 91–383 as amended by Pub. L. 94–458 (90 Stat. 1939).

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

[FR Doc. 85–9817 Filed 4–23–85; 8:45 am]

BILLING CODE 4310-70-M

National Register of Historic Places; National Historic Landmarks Boundary; Erie Canal

April 10, 1985.

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that specific boundaries for each landmark be defined.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service has notified owners, public officials and other interested parties and provided them with a 60-day opportunity to make comments on the proposed following boundary, and that boundary has now been formally established by the National Park Service. Careful consideration was given to comments received, and in some cases, the documentation or boundary has been revised if the National Park Service concurred with the comments. The property is listed on the National Register of Historic Places and is eligible for the benefits of listing. Copies of the documentation of the landmark and boundary, including maps, may be obtained from: Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (202) 343–9536.

Boundary for Erie Canal Historic Landmark, located at Florida and Glen, Montgomery County, New York: Beginning at Point A, the southeasternmost corner of Section 38 Block 1 Lot 1 in the north line of the New York, West Shore, and Buffalo Railroad right-of-way, then proceeding westerly along the north line of the railroad right-of-way, crossing Queen Ann Street, to the so-called Blue Line at the west side of Queen Ann Street; then proceeding westerly along the Blue Line to Point B, the easternmost point of Section 38 Block 1 Lot 2; then proceeding westerly along the Blue Line and the north line of Section 38 Block 1 Lot 2 approximately 1300' to Point C, an angle in the said lines approximately 150' east of the eastern edge of Wemp's Basin; the proceeding due south across Section 38 Block 1 Lot 2 to the north line of the New York, West Shore and Buffalo Railroad right-of-way; then proceeding westerly in the north line of the railroad right-of-way approximately 975'; then proceeding due north across Section 38 Block 1 Lot 2 to Point D, an angle in the said north line of said lot and the Blue Line; then proceeding westerly and southerly in the Blue Line, crossing the Voorhees Culvert, to Point E, approximately 710' southwest of the Voorhees Culvert; then proceeding southeasterly, perpendicular to the Blue Line, approximately 80' to Point F; then proceeding south westerly, at right angles to the 80' line aproximately 890', to Point G; then proceeding northwesterly, perpendicular to the Blue Line, approximately 90' to Point H, on the Blue Line; then proceeding southwesterly in the Blue Line to Point I, approximately 50' northeast of the Enders house (#5) and formerly the intersection with a property line; then proceeding southeasterly, perpendicular to the blue Line, to the north side of Railroad Street, then proceeding southwesterly along and the course of the north side of Railroad Street, and the extention of this line, to the mean low water mark in the east bank of Schoharie Creek, then proceeding northwesterly along the mean low opposite a small outbuilding (identified as building #7 in the attached Description) approximately 100' southeast of the Blue Line; then proceeding southwesterly across Scholharie Creek, parallel to the Blue Line, into the Town of Glen, and through Section 53 Block 1 Lot 3 approximately 875' to Point J; then proceeding northwesterly, at a right right angle to the 875' line, through Section 53 Block 1 Lot 3 to the Blue Line; then proceeding northerly, westerly, and southerly in the Blue Line, crossing Hartley Lane, to the north line of the New York State Truway; then proceeding westerly in the north line of the Thruway to the northernmost of the two Blue Lines of the 1820 canal; then proceeding easterly and northerly in the Blue Line, again crossing Hartley Lane, to the means low water marks in the west bank of Schoharie Creek; then proceeding northeasterly across Schoharie Creek to the Blue Line at the mean low water mark in the east bank of Scholharie Creek; then proceeding northerly and easterly in the Blue Line, crossing Main Street and East Church Street, to Point K, approximately 1615' northeast of the east side of East Church Street; then

proceeding northwesterly perpendicular to tyhe mid-line of the 1820 canal approximately 75' to Point L; then proceeding northeasterly roughly parallel to the Blue Line approximately 875' to Point M; then proceeding southeasterly, perpuedicular to the Blue Line, approximately 100' to the Blue Line; then proceeding northerly and easterly in the Blue Line and partially in the mean low water mark of the south banks of a small creek and the Mohawk River to Point N, approximately 225' west of the west side of Emery's Culvert; then proceeding along the mean low water mark of the south bank of the Mohawk River to Point O, approximately 50' east of the east side of Emery's Culvert; then proceeding due south through Section 38 Block 1 Lot 1 to the Blue Line; then proceeding easterly in the Blue Line and partially along the mean low water mark of the south bank of the Mohawk River (include Putnam's Culvert) to Point P, approximately 125' due north of Point A; then proceeding due south approximately 125' to Point A, the place of beginning.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

[FR Doc. 85-9819 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

Kathio Site; National Register of Historic Places; National Historic Landmark Boundary

April 10, 1985

The National Park Service has been working to establish boundaries for all National Historic Landmarks for which no specific boundary was identified at the time of designation, and therefore, are without a clear delineation of the amount of property involved. The results of such designation make it important that specific boundaries for each landmark be defined.

In accordance with the National Historic Landmark program regulations 36 CFR Part 65, the National Park Service has notified owners, public officials and other interested parties and provided them with a 60-day opportunity to make comments on the proposed following boundary, and that boundary has now been formally established by the National Park Service. Careful consideration was given to comments received, and in some cases, the documentation or boundary has been revised if the National Park Service concurred with the comments. The property is listed on the National Register of Historic Places and is eligible for the benefits of listing. Copies of the documentation of the landmark and boundary, including maps, may be obtained from: Jerry L. Rogers, Associate Director, Cultural Resources, and Keeper of the National Register of Historic Places, National Park Service, Washington, D.C. 20240, Attention: Chief of Registration (202) 343-9536.

Boundary for Kathio Site, located at Vineland, Mille Lacs, Minnesota: The boundary includes all of Mille Lacs-Kathio State Park plus Kathio point (the land in Secs. 27 and 28, T. 43 N., R. 27 W.) and Sec. 25 and the E½ of Sec. 26, T. 42 N., R. 27 W. The boundary encloses the 17 known sites in this vicinity. The boundary includes only those sites from early maps which are known to exist at the present. It should be mentioned that there are several other known sites of importance on the shores of Mille Lacs Lake relating to the Woodland and early historic periods in central Minnesota, but they have not been included within landmark boundaries because they are isolated examples in Garrison and Crow Wing Counties, some distances from the landmark district.

Carol D. Shull,

Chief of Registration, National Register of Historic Places, Interagency Resources Division.

[FR Doc. 85-9820 Filed 4-23-85; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-225 through 232 (Final)]

Certain Carbon Steel Products From Austria, Sweden, and Venezuela

AGENCY: United States International Trade Commission.

ACTION: Institution of final countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the institution of final counterervailing duty investigations Nos. 701-TA-225 through 232 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United Staes is materially retarded, by reason of imports of the following carbon steel products, which have been found by the Department of Commerce, in preliminary determinations, to be subsidized by the Governments of the respective countries:

Carbon steel plates, whether or not in coils, provided for in item 607.66 of the Tariff Schedules of the United States (TSUS), from—
- Sweden [investigation No. 701-TA-225 (Final)], and
- Venezuela [investigation No. 701-TA-226 (Final)];

Hot-rolled carbon steel sheets, provided for in TSUS items 6076.67 and 607.83, from—
- Austria [investigation No. 701-TA-227 (Final)],
- Sweden [investigation No. 701-TA-228 (Final)], and
- Venezuela [investigation No. 701-TA-229 (Final)]; and

Cold rolled carbon steel plates and sheets, provided for in TSUS item 607.83, from—
- Austria [investigation No. 701-TAS-230 (Final)],
- Sweden [investigation No. 701-TA-231 (Final)], and
- Venezuela [investigation No. 701-TA-232 (Final)].

Unless these investigations are extended, Commerce will make its final subsidy determinations by May 28, 1985, and the Commission will make its final injury determinations by July 17, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of these investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, Augest 15, 1984).

EFFECTIVE DATE: March 20, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Eninger (202-523-0312), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted as a result of affirmative preliminary determinations by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Austria, Sweden, and Venezuela of certain carbon steel products. The investigations were requested in petitions filed on December 19, 1984, by the United States Steel Corp, Pittsburgh, PA. In response to

those petitions the Commission conducted preliminary countervailing duty investigations and, on the basis of information developed during the course of those investigations, determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of the subject merchandise (50 FR 6070, Feburary 4, 1985).

Participation in the Investigations.

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list.

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Augest 15, 1984), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Hearing, Staff Report and Written Submissions.

The Commission will hold a public hearing in connection with these investigations; the time and place of the hearing will be announced at a later date. A public version of the prehearing staff report in the investigations will be placed in the public record prior to the hearings, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21). The dates for filing prehearing and posthearing briefs and the date for filing other written submissions will also be announced at a later date.

Authority

These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, August 15, 1984).

By order of the Commission.

Issued: April 15, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9932 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-206 (Final)]

Fabric and Expanded Neoprene Laminate From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731-TA-206 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of fabric and expanded neoprene laminate, provided for in items 355.81, 355.82, 359.50, and 359.60 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before May 28, 1985, and the Commission will make its final injury determination by July 12, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: March 15, 1985.

FOR FURTHER INFORMATION CONTACT: Lee Cook (202-523-0348), Office of Industries, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of fabric and expanded neoprene laminate from Japan are being sold in the United States at less than fair value within the meaning of section 731 of the act (19 U.S.C. 1673). The investigation was requested in a petition filed on October 1, 1984, by Rubatex Corp., Bedford, VA. In response to that petition the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (49 FR 45935, November 21, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with section 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff Report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 24, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 11, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 17, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on May 22, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 6, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted as the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

Written Submissions

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 18, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information to the subject of the investigation on or before June 18, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 CFR 32569, Aug. 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of section 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, Aug. 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

By order of the Commission.

Issued: April 15, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9935 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 731-TA-58 (Final)]

Hot-Rolled Carbon Steel Plate From Romania

AGENCY: United States International Trade Commission.

ACTION: Continuation of a final antidumping investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the continuation of final antidumping investigation No. 731-TA-58 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Romania of hot-rolled carbon steel plate, provided for in items 607.66, 607.94, 608.07, and 608.11 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be sold in the United States at less than fair value (LTFV). Unless the investigation is extended, Commerce will make its final LTFV determination on or before May 28, 1985, and the Commission will make its final injury determination by July 9, 1985 (see sections 735(a) and 735(b) of the act (19 U.S.C. 1673d(a) and 1673d(b)).

For fgurther information concerning the conduct of this investigation hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: March 12, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Fulcher (202-523-0290) or Ms. Nita Kavalauskas (202-523-0286), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being continued as a result of a decision by the U.S. Department of Commerce published in the **Federal Register** on March 12, 1985 (50 FR 9812), that the suspension agreement concerning hot-rolled carbon steel plate from Romania (which was published in the **Federal Register** on January 4, 1983 (48 FR 317)) no longer meets the requirement that the agreement be in the public interest. As a consequence, Commerce has cancelled the suspension agreement and resumed its antidumping investigation as if its affirmative preliminary determination under section 733(b) of the Tariff Act of 1930 were made on the date of the publication of its notice to resume the investigation.

The investigation was originally requested in a petition filed on January 11, 1982, by U.S. steel producers. In response to that petition, the Commission conducted a preliminary antidumping investigation and, on the basis of information developed during the course of that investigation, determined on February 25, 1982, that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (47 FR 35666).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives,

who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, August 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the docuemnt. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record of May 22, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 6, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 22, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 10 a.m. on May 24, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing preharing briefs is May 24, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

Written submission

All legal arguments, economic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing brjefs must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 13, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 13, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, August 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, August 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 43 FR 32569, August 15, 1984).

By order of the Commission.

Issued: April 15, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9931 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-242 (Preliminary) and 731-TA-252 and 253 (Preliminary)]

Certain Welded Carbon Steel Pipes and Tubes From Thailand and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that industries in the United States are materially injuries by reason of imports of welded carbon steel standard [2] and line pipes and tubes [3] which are allegedly subsidized by the Government of Venezuela. The Commission also determines, pursuant to section 773(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is threatened with material injury by reason of imports of welded carbon steel standard pipes and tubes from Thailand [4] and materially injured by welded carbon steel line pipes and tubes from Venezuela, which are allegedly being sold in the United States at least than fair value (LTFV).

Background

On February 28, 1985, petitions were filed with the U.S. International Trade Commission and the U.S. Department of Commerce by counsel for the Committee on Pipe and Tube Imports alleging that an industry in the United States is materially injured and threatened with material injury by reason of imports of certain welded carbon steel pipes and tubes which are being subsidized by the Governments of Thailand and Venezuela, and which are also being sold in the United States at LTFV. On March 12 1985, counsel amended the petitions to state, among other things, that the petitions were filed by the Standard Pipe Subcommittee and the Line Pipe Subcommittee on the Committee on Pipe and Tube Imports, and by each of the individual manufacturers that are members of those subcommittees. Accordingly, affective February 28, 1985, the Commission instituted investigation No. 701-TA-242 (Perliminary), to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded by reason of imports

[1] The "record" is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(1)).

[2] Chairwoman Stern and Vice Chairman Liebeler dissenting with respect to standard pipes and tubes.

[3] The term "welded carbon steel standard pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA). The term "welded carbon steel line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 16 inches in outside diameter, conforming to API specifications for line pipe, provided for in TSUSA items 610.3208 and 610.3209.

[4] Chairwoman Stern determines on the basis of a cumulative analysis that there is a reasonable indication that an industry in the United States is materially injured by reason of imports of welded carbon steel standard pipes and tubes from Thailand. Vice Chairman Liebeler dissenting with respect to imports from Thailand.

from Venezuela of certain welded carbon steel pipes and tubes which are allegedly subsidized by the Government of Venezula.[1] The Commission also instituted, effective February 28, 1985, investigations Nos. 731-TA-252 and 253 (Preliminary), to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially ratarded by reason of import of certain welded carbon steel pipes and tubes from Thailand and Venezuela which are alleged to be sold in the United States LTFV.

In the process os instituting these investigations, Commerce advised the petitioner that the welded carbon steel pipe and tube products covered by the petitions represented two distinct classes or kinds of products, standard pipe and line pipe. Subsequently, on March 14, 1985, the petitions involving imports from Thailand were withdrawn as they relate to line pipe because there is no known production in Thailand of line pipe to American Petroleum Institute (API) specifications. On the same date, the antidumping petition involving imports from Venezuela was withdrawn as it relates to standard pipe because the Commission, on February 1, 1985, had made an affirmative perliminary determination with respect to imports of that product form Venezuela and Commerce was in the process of conducting its antidumping investigation.

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of March 18, 1985 (50 FR 10866). The conference was held in Washington, DC, on March 22, 1985, and all persons who requested the opportunity to appear in person or by counsel were given the opportunity to do so. The Commission's determinations in these investigations were made in an open "Government in the Sunshine" meeting held on April 8, 1985.

The Commission transmitted its report on these investigations to the Secretary of Commerce on April 15, 1985. A public version of the Commission's report, Certain Welded Carbon Steel Pipes and Tubes from Thailand and Venezuela (investigations Nos. 701-TA-242 (Perliminary) and 731-TA-252 and 253 (Preliminary)), USITC Publication 1680, contains the views of the Commission and information developed during the investigations.

By order of the Commission.

Issued: April 15, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9928 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[1] Thailand is not a "Country under the Agreement" and therefore the Commission is not required to reach a determinaton with respect to injury from allegedly subsidized imports. Consequently, the Commission did not institute a countervailing duty investigation with respect to the allegedly subsidized imports from Thailand.

[Investigation No. 337-TA-199]

Certain Anodes for Cathodic Protection and Components Thereof; Decision Not to Review Intitial Determinations Terminating Investigation as to Remaining Respondents

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of initial determinations terminating the investigation as to the remaining respondents.

SUMMARY: The Commission has determined not to review a Commission administrative law judge's initial determinations (IDs) granting motions to terminate the remaining respondents.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0350.

SUPPLEMENTARY INFORMATION:

Background

Investigation No. 337-TA-199 was undertaken to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation or sale of certain anodes for cathodic protection of metallic structures. The investigation was instituted on the basis of a complaint filed by Duriron Co., Inc., alleging unfair acts and practices by four British and four U.S. companies in connection with the importation, distribution, or sale of the accused anodes. (See 49 FR 30023 (July 25, 1984), as amended at 49 FR 45273 (November 15, 1984).)

On February 14, 1985, complainant Duriron and respondents Harco Corp., Jennings Winch & Foundry, Ltd. (Jennings), and Hugh Jennings & Co., Ltd. (Jennings), moved for termination of the investigation insofar as it concerns Harco and Jennings (Motion No. 199-12). The motion explained that Duriron, Harco, and Jennings had signed a memorandum agreement containing licensing provisions, which settled their dispute. The agreement provided for the transfer of Duriron's anode business to Harco and a sublicense for Harco under Duriron's patents relating to tubular anodes.

Duriron also moved for termination of the remaining respondents, Met-Pro, Inc., and Richards' Foundries Ltd. (Motion No. 119-11). That motion noted that Duriron had settled with all other respondents and that Met-Pro and Richards had neither responded to the complaint and notice of investigation or moved for summary determination. In light of their failure to take such action, Duriron requested that the termination of Met-Pro and Richards be without prejudice.

The Commission investigative attorney supported the termination of all respondents. He argued, however, that Duriron and/or Harco should be prohibited from filing a second section 337 complaint against Met-Pro and Richards, except upon a showing of substantially changed circumstances.

On March 1, 1985, the presiding administrative law judge issued an ID granting the motion to terminate Harco and Jennings (Order No. 11). She also issued an ID granting the motion to terminate Met-Pro and Richards but without the conditions suggested by the Commission investigative attorney (Order No. 12).

Because Duriron sought termination of Harco and Jennings on the basis of a settlement agreement, the Commission solicited written comments on the ID concerning the proposed termination of Harco and Jennings (50 FR 10116 (March 13, 1985)). No. comments were received.

The parties did not petition for review of either of the IDs, and the Commission determined that a review on the Commission's own motion was not warranted. The IDs thus became the Commission's determinations. (See 19 CFR 210.53(h), as amended at 49 FR 46123 (November 23, 1984).)

Termination of the investigation as to respondents Harco, Jennings, Met-Pro, and Richards furthers the public interest by conserving the resources of the Commission and the parties.

Public inspection

Copies of the IDs, the memorandum agreement, and all other nonconfidential documents on the record of the investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0471.

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9942 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-221]

Certain Apparatus for Disintegration of Urinary Calculi; Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on March 15, 1985, and supplemented on April 5, 1985, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Blackstone Corporation, 1111 Allen Street, Jamestown, New York 14701 and Karl Storz-Endoscopy America, Inc., 10111 W Jefferson Street, Culver City, California 90232. A motion for temporary relief was filed on March 28, 1985. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain apparatus for disintegration of urinary calculi into the United States, or in its sale, by reason of alleged direct, induced, and contributory infringement of at least claims 1, 2, 3, and 10 of U.S. Letters Patent 3, 830,240. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an efficiently and economically operated domestic industry and/or to prevent the establishment of such an industry in the United States.

Complainants request that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States. After a full investigation, complainants request that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Gary Rinkerman, Esq., or Steven H. Schwartz, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-1273 or 202-523-4877, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 15, 1985, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain apparatus for disintegration of urinary calculi into the United States, or in its sale, by reason of alleged direct, induced, and contributory infringement of claims 1, 2, 3, and 10 of U.S. Letters Patent 3, 830, 240, the effect or tendency of which is to destroy or substantially injure an efficiently and economically operated domestic industry and/or to prevent the establishment of such an industry in the United States.

(2) Pursuant to § 210.54(e) of the Commission's rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed on March 29, 1985, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules.

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainants are—

Blackstone Corporation, 1111 Allen Street, Jamestown, New York 14701

Karl Storz-Endoscopy America, Inc., 10111 W. Jefferson Street, Culver City, California 90232

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Richard Wolf GmbH, 07134 Knittlingen, Postfach 40, Federal Republic of Germany

Richard Wolf Medical Instruments Corporation, 7046 Lyndon Avenue, Rosemont, Illinois 60018

(c) Gary Rinkerman, Esq., and Steven H. Schwartz, Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128 and Room 122, respectively, Washington, D.C. 20436, shall be the Commission investigative attorneys, a party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge. Pursuant to § 210.24(e) of the Commission's Rules of Practice and Procedure, the presiding administrative law judge shall determine as expeditiously as possible whether or not temporary relief proceedings should be instituted.

Responses must be submitted by the named respondents in accordance with § 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21, as amended, 49 FR 46123). Pursuant to § 201.16(d) (19 CFR 201.16(d), as amended 49 FR 32571) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to the complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and the motion for temporary relief, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0471.

Issued: April 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9929 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[332-211]

Competitive Assessment of the U.S. Ball and Roller Bearing Industry

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request from the Subcommittee on Trade of the House Committee on Ways and Means, the Commission has instituted on its own motion investigation No. 332-211 under section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), for the purpose of gathering and presenting information on the competitive position in domestic and world markets of the U.S. industry producing antifriction balls and rollers and ball and roller bearings.

EFFECTIVE DATE: April 17, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. David Slingerland (telephone 202-523-0263) or Ms. Carla Springer (telephone 202-523-0108), Machinery and Equipment Divsion, U.S. International Trade Commission, Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: In its study the Commission has been requested to deal principally with the major products produced by the industry, particularly those that are experiencing increased U.S. import competition. In addition, it was requested that the Commission's analyses cover, as fully as available data permit, the following points:

1. Current profile of the U.S. and major foreign ball and roller bearing industries;
2. A profile and current status of the U.S. and major foreign markets;
3. Conditions of competition between the U.S. and foreign industries; and
4. Future trends and markets for these products.

The Subcommittee recommended that the Commission hold a public hearing and has asked the U.S. Departments of Defense and Commerce and the Federal Trade Commission to cooperate with the Commission in the conduct of the study.

Public Hearing

A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C., beginning at 10:00 a.m., on October 3, 1985, to be continued on October 4, 1985, if required. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 701 E Street, NW., Washington, D.C. 20436, not later than noon, September 26, 1985.

Written Submissions

In lieu of or in addition to appearances at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on September 26, 1985. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9944 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-204]

Certain Pull-Type Golf Carts and Wheels Therefor; Decision Not To Review Initial Determination Permitting Withdrawal of Complaint as to Respondent Ren Shyan; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Decision not to review initial determination granting complainants' motion to withdraw the complaint with respect to a respondent; termination of investigation.

SUMMARY: The Commission has determined not to review the administrative law judge's initial determination (ID) (Order No. 11) granting complainants' motion to withdraw the complaint as to respondent Ren Shyan Enterprises Co., Ltd. (Ren Shyan), the one remaining respondent in this investigation. Termination of Ren Shyan terminates the investigation.

FOR FURTHER INFORMATION CONTACT: Carol McCue Verratti, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0079.

SUPPLEMENTARY INFORMATION: On March 6, 1985 complainants Ajay Enterprises Corp. and Spherex Inc. moved to withdraw the complaint with respect to respondent Ren Shyan. The presiding administrative law judge issued an ID granting complainants' motion. No petitions for review or comments from Government agencies or the public were received.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

Issued: April 16, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9934 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-201]

Certain Products With Gremlin Character Depictions; Decision To Review and Reverse an Initial Determination Suspending the Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Review and reversal of an initial determination suspending the investigation.

SUMMARY: The U.S. International Trade Commission hereby gives notice of its decision to review and reverse an initial determination (ID) suspending the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: William E. Perry, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0499.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules § 210.53(c) and (h) (19 CFR 210.53(c) and (h)). No petition for review of the ID was filed, nor were any comments received from Government agencies.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street N.W., Washington, D.C. 20436, telephone 202-523-0161.

Issued: April 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9926 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-01-M

[Investigation No. 337-TA-190]

Certain Softballs and Polyurethane Cores Therefor; Decision Not To Review Initial Determination

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined not to review the administrative law judge's (ALJ) initial determination (ID) that there is no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation.

Authority.—The authority for the Commission disposition of this matter is contained in section 337 of the Tariff Act of 1930 and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (49 FR 46123 (November 23, 1984); to be codified at 19 CFR 210.53–210.56).

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0493.

SUPPLEMENTARY INFORMATION: On February 19, 1985, the presiding administrative law judge issued an ID that there is no violation of section 337 in the importation and sale of certain softballs and polyurethane cores therefor. Complainant and the Commission investigative attorney (IA) petitioned for review of various parts of the ID pursuant to 19 CFR 210.54(a). After examining the ID, the petitions for review, and the IA's response to complainant's petition, the Commission has determined not to review the ID. The Commission has further determined to take no position with regard to the issues of "best mode" and infringement of U.S. Letters Patent 3,976,195. By taking no position on those two issues, the Commission neither affirms nor reverses the ALJ as to them. Accordingly, the ID (except for the issues of best mode and infringement) has become the determination of the Commission pursuant to 19 CFR 210.53(h).

Notice of this investigation was published in the **Federal Register** of May 11, 1984 (49 FR 20076).

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Issued April 16, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9927 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-197]

Certain Compound Action Metal Cutting Snips and Components Thereof; Initial Determination Terminating Respondent on the Basis of Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received an initial determination from the presiding officer in the above-captioned investigation terminating the following respondent on the basis of a settlement agreement: Azco Tool, Inc.

SUPPLEMENTARY INFORMATION: This investigation is being conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). Under the Commission's rules, the presiding officer's initial determination will become the determination of the Commission thirty (30) days after the date of its service upon the parties, unless the Commission orders review of the initial determination. The initial determination in this matter was served upon the parties on April 19, 1985.

Copies of the initial determination, the settlement agreement, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Written Comments

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondent. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street, NW., Washington, D.C. 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reason why confidential treatment should be granted. The Commission will either accept the submission in confidence or return it.

FOR FURTHER INFORMATION CONTACT: Ruby J. Dionne, Office of the Secretary, U.S. International Trade Commission, telephone 202–523–0176.

Issued: April 18, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9946 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion Systems; Change of the Commission Investigative Attorney

Notice is hereby given that, as of this date, Stephen L. Sulzer, Esq. and Steven H. Schwartz, Esq., of the Office of Unfair Import Investigations will be the Commission investigative attorneys in the above-cited investigation.

The Secretary is requested to publish this Notice in the **Federal Register**.

Dated: April 16, 1985.

Arthur Wineburg,

Office of Unfair Import Investigations.

[FR Doc. 85-9951 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-189]

Certain Optical Waveguide Fibers; Termination of Investigation Based on a Finding of No Violation of Section 337 of the Tariff Act of 1930

AGENCY: U.S. International Trade Commission.

ACTION: Termination of investigation upon a finding of no violation of section 337 of the Tariff Act of 1930.

SUMMARY: Notice is given that the U.S. International Trade Commission has determined that there is no violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Wayne W. Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 523–3359.

SUPPLEMENTARY INFORMATION: On April 5, 1984, the Commission instituted the investigation in response to a complaint filed on behalf of Corning Glass Works, Corning, New York. The Commission published a notice in the **Federal Register** of April 18, 1984 (49 FR 15287), which instituted an investigation to

determine whether there is a violation of section 337 in the unauthorized importation or sale of certain optical waveguide fibers, by reason of the alleged—

(1) coverage of such fibers by claims 1 and 2 of U.S. Letters Patent 3,659,915 and (2) manufacture abroad of such fibers by a process covered by claims 1, 3 and 8 of U.S. Letters Patent 3,933,454, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States. On April 18, 1985 the Commission determined that there was no violation of section 337 in the investigation in the importation or sale of the optical waveguide fibers in question.

Copies of the Commission's Action and Order, the Opinions issued in connection therewith, and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202–523–0161.

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–9945 Filed 4–23–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–180]

Certain X-Ray Image Intensifier Tubes; Review and Reversal of Initial Determination; Request for Written Comments on Proposed Termination; Extension of Deadline for Concluding Investigation

AGENCY: U.S. International Trade Commission.

ACTION: (1) Review and reversal of initial determination (ID) terminating the above-captioned investigation and denying confidential treatment for the parties' settlement agreement, (2) request for written comments on the proposed termination of the investigation on the basis of the parties' settlement, and (3) extension of the administrative deadline for concluding the investigation.

SUMMARY: The Commission has reviewed and reversed the initial determination (ID) of the presiding administrative law judge (ALJ), which (1) granted a motion for termination of the investigation and (2) denied the respondents' motion for confidential treatment for a patent licensing agreement entered into by the parties.

The Commission has granted confidential treatment for the license agreement, a related letter agreement, and a related cover letter, to the extent requested by the parties in their joint petition for review. The two agreements and the cover letter shall be available for public inspection and comment as discussed below. The Commission's disposition of the motion for termination of the investigation will be deferred until after the period for filing such comments has expired.

The Commission also has extended the administrative deadline for concluding this investigation from April 12, 1985, to June 14, 1985.

FOR FURTHER INFORMATION CONTACT: P.N. Smithey, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION:

Background

The investigation was instituted to determine whether there is a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation of certain X-ray image intensifier tubes into the United States, or in their sale. The preceedings were initiated on the basis of a complaint filed by Varian Associates, Inc., alleging infringement of two U.S. patents owned by Varian. The respondents are the Dutch corporation N.V. Philips Gloeilampenfabrieken and related U.S. companies North American Philips Corp. and Philips Medical Systems, Inc. (See 49 FR 4046 (February 1, 1984), as amended at 49 FR 6416 February 21, 1984).) (The respondents will be referred to collectively as Philips.)

On January 23, 1985, complainant Varian moved to terminate the investigation, explaining that the parties had entered into a patent licensing agreement and a related letter agreement (Motion No. 180–6"C").

On January 28, 1985, Philip filed a motion requesting that the Commission withhold Varian's nonconfidential copy of the licensing agreement from public inspection and grant confident treatment to the licensing agreement in its entirely. In the alternative, Philips requested that the Commission grant confident treatment to certain portions of the licensing agreement. Varian and the Commission investigative attorney filed responses opposing Philips' motion.

On March 8, 1985, the Commission certified the motions to the ALJ for an ID. On March 11, 1985, the ALJ issued an ID granting the motion for termination and denying the motion for confidential treatment.

On March 22, 1985, Varian and Philips jointly petitioned for review of the ID, citing Commission policy and errors of law. The Commission investigative attorney did not respond to the petition. The Commission granted the petition for review and reversed the ID.

Public inspection

The motion for termination, the Commission's Action and Order reversing the ID, nonconfidential copies of the parties' licensing agreement, related letter agreement, and related cover letter (as well as all other nonconfidential documents on the record of the investigation) are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, Docket Section, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0471.

Written comments

Interested persons may file written comments with the Commission concerning termination of the investigation on the basis of the parties' settlement. The original and 14 copies of all such comments must be filed with the Secretary to the Commission, 701 E Street NW., Washington, DC 20436, no later than 10 days after publication of this notice in the **Federal Register**. Any person desiring to submit a document (or portion thereof) to the Commission in confidence must request confidential treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why confidential treatment should be granted. (See CFR 201.6.) The Commission either will accept the submission in confidence or return it.

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–9943 Filed 4–23–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701-TA-240 and 241 (Preliminary) and 731-TA-249 through 251 (Preliminary)]

Oil Country Tubular Goods From Austria, Romania, and Venezuela

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Austria and Venezuela of oil country tubular goods,[4] [5] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Governments of Austria and Venezuela.

In addition, on the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Austria, Romania, and Venezuela of oil country tubular goods,[4] [5] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On February 28, 1985, a petition was filed with the Commission and the Department of Commerce by U.S. Steel Corp., Pittsburgh, PA, alleging that an industry in the United States is materially injured or threatened with material injury by reason of subsidized imports of oil country tubular goods from Austria and Venezuela, and by reason of imports of LTFV imports of oil country tubular goods from Austria, Romania, and Venezuela. Accordingly, effective February 28, 1985, the Commission instituted preliminary countervailing duty investigations Nos. 701-TA-240 and 241 (Preliminary) and preliminary antidumping investigations Nos. 731-TA-249, 250, and 251 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 11, 1985 (50 FR 9723). The conference was held in Washington, DC, on March 25, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on April 15. The views of the Commission are contained in USITC Publication 1679 (April 1985), entitled "Oil Country Tubular Goods From Austria, Romania, and Venezuela: Determination of the Commission in Investigations Nos. 701-TA-240 and 241 (Preliminary), and Investigations Nos. 731-TA-249-251 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9941 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[3] Chairwoman Stern finds that there is a reasonable indication that an industry in the United States is materially injured or is threatened with material injury by reason of imports of oil country tubular goods from Austria and Venezuela upon which bounties or grants are alleged to be paid, and by reason of imports of oil country tubular goods from Austria, Romania and Venezuela which are alleged to be sold at LTFV.

[4] Except drill pipe.

[5] Commissioners Eckes and Lodwick did not exclude drill pipe.

[Investigation No. 701-TA-221 (Final)]

Certain Cast-Iron Pipe Fittings From Brazil

Determinations

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of nonalloy, nonmalleable cast-iron pipe fittings,[2] other than for cast-iron soil pipe, provided for in items 610.62 and 610.65 of the Tariff Schedules of the United States (TSUS), which are subsidized by the Government of Brazil.

The Commission further determines that an industry in the United States is not materially injured or threatened with material injury, and that the establishment of an industry in the United States is not materially retarded, by reason of imports from Brazil of nonalloy, malleable cast-iron pipe fittings,[3] provided for in TSUS items 610.70 and 610.74, which are subsidized by the Government of Brazil.[4]

Background

The Commission instituted this investigation effective December 19, 1984, following a preliminary determination by Commerce that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Brazil of certain cast-iron pipe fittings.

Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 16, 1985 (50 FR 2349). The hearing was held in Washington, DC, on March 18, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in this investigation to the Secretary of Commerce on April 17, 1985. The views of the Commission are contained in USITC Publication 1681 (April 1985), entitled "Certain Cast-Iron Pipe Fittings from Brazil: Determinations of the Commission in Investigation No. 701-TA-221 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9948 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] In accordance with an amendment to the petition for this investigation filed on Oct. 5, 1984, only nonmalleable pipe fittings that fall within standard and heavy-duty pressure ratings (125 and 250 pounds per square inch, respectively) are included within the scope of the investigation.

[3] In accordance with an amendment to the petition for this investigation filed on Oct. 5, 1984, only malleable pipe fittings that fall within standard and heavy-duty pressure ratings (150 and 300 pounds per square inch, respectively) are included within the scope of the investigation.

[4] Commissioner Eckes determines that an industry in the United States is materially injured by reason of imports of such merchandise.

[Investigation No. 701-TA-235 (Final)]

Iron Ore Pellets From Brazil

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-235 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of iron ore pellets,[1] provided for in item 601.24 of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Brazil. Commerce will make its final subsidy determination in this investigation on or before May 29, 1985, and the Commission will make its final injury determination by July 19, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: March 22, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Wilson (202-523-0291), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determination by the department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Brazil of certain types of iron ore pellets. The investigation was requested in a petition filed on Decemeber 20, 1984, by the Cleveland-Cliffs Iron Co., Oglebay Norton Co., Pickands Mather & Co., and the United Steelworkers of America. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured or threatened with material injury by reason of imports of the subject merchandise (50 FR 6074, Feb. 13, 1985).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.)

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the exporation of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, August 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on May 24, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 10, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on May 31, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 4, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 5, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, August 15, 1984)).

Written submissions

All legal arguments, economic analyses, and factural materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing brief must conform with the provisions of § 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on June 17, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 17, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended by 49 FR 32569, August 15, 1984). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.)

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for

[1] For purposes of this investigation, the term "iron ore pellets" covers fine particles of iron oxide, hardened by heating and formed into balls from ⅜-inch to ⅝-inch in diameter, for use in blast furnaces to obtain pig iron, provided for in item 601.2450 of the Tariff Schedules of the United States Annotated (TSUSA). The term does not include pellets for use in electric furnaces and containing not over 3 percent by weight of silica.

confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569 August 15, 1984).

Authority

This investigation is being conducted under authority of the Tariff act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

Issued: April 11, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9930 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-224 (Final)]

Live Swine and Pork From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation and scheduling of a hearing to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of final countervailing duty investigation No. 701-TA-224 (Final) under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry, in the United States is materially retarded, by reason of imports from Canada of live swine and of fresh, chilled or frozen meat (except meat offal) of swine, provided for in items 100.85 and 106.40, respectively, of the Tariff Schedules of the United States, which have been found by the Department of Commerce, in a preliminary determination, to be subsidized by the Government of Canada. Commerce will make its final subsidy determination in this investigation on or before June 10, 1985 and the Commission will make its final injury determination by July 31, 1985 (see sections 705(a) and 705(b) of the act (19 U.S.C. 1671d(a) and 1671d(b))).

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201, as amended by 49 FR 32569, August 15, 1984).

EFFECTIVE DATE: April 3, 1985.

FOR FURTHER INFORMATION CONTACT: Lawrence Rausch (202-523-0286), Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted as a result of an affirmative preliminary determinatin by the Department of Commerce that certain benefits which constitute subsidies within the meaning of section 701 of the act (19 U.S.C. 1671) are being provided to manufacturers, producers, or exporters in Canada of live swine and fresh, chilled, and frozen pork. The investigation was requested in a petition filed on November 2, 1984 by the National Pork Producers Council, Des Moines, IA. In response to that petition the Commission conducted a preliminary countervailing duty investigation and, on the basis of information developed during the course of that investigation, determined that there was a reasonable indication that an industry in the United States was materially injured by reason of imports of the subject merchandise (49 FR 50315, December 19, 1984).

Participation in the Investigation

Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's Rules of Practice and Procedure (19 CFR 201.11), not later than twenty-one (21) days after the publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, August 15, 1984), each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Staff report

A public version of the prehearing staff report in this investigation will be placed in the public record on June 3, 1985, pursuant to § 207.21 of the Commission's rules (19 CFR 207.21).

Hearing

The Commission will hold a hearing in connection with this investigation beginning at 10:00 a.m. on June 25, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m.) on June 19, 1985. All persons desiring to appear at the hearing and make oral presentations should file prehearing briefs and attend a prehearing conference to be held at 9:30 a.m. on June 19, 1985 in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is June 13, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rule requires that testimony be limited to a nonconfidential summary and analysis of material contained in prehearing briefs and to information not available at the time the prehearing brief was submitted. Any written materials submitted at the hearing must be filed in accordance with the procedures described below and any confidential materials must be submitted at least three (3) working days prior to the hearing (see § 201.6(b)(2) of the Commission's rules (19 CFR 201.6(b)(2), as amended by 49 FR 32569, Aug. 15, 1984)).

Written submissions

All legal arguments, econmic analyses, and factual materials relevant to the public hearing should be included in prehearing briefs in accordance with § 207.22 of the Commission's rules (19 CFR 207.22). Posthearing briefs must conform with the provisions of § 207.24 (19 CFR 207.24)) and must be submitted not later than the close of business on June 28, 1985. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before June 13, 1985.

A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the Commission's rules (19 CFR 201.8, as amended 49 FR 32569, August 15, 1984). All written submissions except for

confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6, as amended by 49 FR 32569, August 15, 1934).

Authority

This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

Issued: April 18, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9949 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

Request for Public Comment on Termination of Countervailing Duty Investigations Concerning Float Glass From the Federal Republic of Germany and the United Kingdom

AGENCY: U.S. International Trade Commission.

ACTION: Request for comments on proposed termination of countervailing duty investigations under section 104(b) of the Trade Agreements Act of 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau, Office of Investigations, telephone 202-523-0368.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such industry would be materially retarded, if the order were to be revoked. On December 27, 1982, the Commission received requests from counsel for exporters of float glass from the Federal Republic of Germany and the United Kingdom for the review of the countervailing duty orders on float glass from the subject countries. Notice of the countervailing duty orders was published on December 27, 1982, in the **Federal Register** (47 FR 57549 and 47 FR 57550).

The Commission received letters on March 29, 1985, from counsel for ASG Industries, Inc., PPG Industries, Inc., Libbey-Owens-Ford Company, and CE Glass, the original petitioners for the countervailing duty orders, stating that the they withdraw their request for the imposition of countervailing duties under the above-referenced countervailing duty orders.

In light of the legislative history of section 704(a) of the Tariff Act of 1930 indicating Congress' expectation that the Commission will permit public comment prior to termination, the Commission requests written comments from persons concerning the proposed termination of the investigations on float glass from the Federal Republic of Germany and the United Kingdom. These written comments must be filed with the Secretary to the Commission no later than 30 days after publication of this notice in the **Federal Register.**

Issued: April 15, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9933, Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-245, 246, and 247 (Final)]

Certain Textile Mill Products and Apparel From Turkey, Indonesia, and the Philippines

AGENCY: United States International Trade Commission.

ACTION: Termination of countervailing duty investigations.

SUMMARY: On April 8, 1985, petitioners in the subject investigations filed letters with the Commission and the Department of Commerce withdrawing their petitions. Accordingly, pursuant to § 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the following investigations are terminated:

Certain Textile Mill Products and Apparel from Turkey (investigation No. 701-TA-245 (Final));

Certain Textile Mill Products and Apparel from Indonesia (investigation No. 701-TA-246 (Final)); and

Certain Textile Mill Products and Apparel from the Philippines (investigation No. 701-TA-247 (Final)).

Specific information on the products covered by the investigations concerning imports from Turkey and Indonesia is provided in Commerce's **Federal Register** notices of March 12, 1985 (50 FR 9816 and 50 FR 9861, respectively); information on the products covered by the investigation concerning imports from the Philippines is provided in Commerce's **Federal Register** notice of March 26, 1985 (50 FR 11925).

EFFECTIVE DATE: April 8, 1985.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau (202-523-0368), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

Authority

These investigations are being terminated under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.40 of the Commission's rules (19 CFR 207.40, as amended by 49 FR 32569, August 15, 1984).

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-9947 Filed 4-23-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-245, 246, and 247 (Final)

Certain Textile Mill Products and Apparel from Turkey, Indonesia, and the Philippines

AGENCY: United States International Trade Commission.

ACTION: Institution of countervailing duty investigations.

SUMMARY: The Commission hereby gives notice of the institution of the following final countervailing duty investigations under section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the named countries of certain textile mill products and apparel which have been found by the Department of Commerce, in preliminary determinations, to be subsidized by the Governments of those countries.

Investigation No. 701-TA-245 (Final). Certain Textile Mill Products and Apparel from Turkey;

Investigation No. 701–TA–246 (Final), Certain Textile Mill Products and Apparel from Indonesia; and

Investigation No. 701–TA–247 (Final), Certain Textile Mill Products and Apparel from the Philippines.

Specific information on the products covered by the investigations concerning imports from Turkey and Indonesia is provided in Commerce's **Federal Register** notices of March 12, 1985 (50 FR 9816 and 50 FR 9861, respectively); information on the products covered by the investigation concerning imports from the Philippines is provided in Commerce's **Federal Register** notice of March 26, 1985 (50 FR 11925).

EFFECTIVE DATES: March 8, 1985, for the investigation concerning imports from Turkey; March 12, 1985, for the investigation concerning imports from Indonesia; and March 26, 1985, for the investigation concerning imports from the Philippines.

FOR FURTHER INFORMATION CONTACT: Ms. Vera Libeau (202–523–0368), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

On July 20, 1984, petitions were filed with the Department of Commerce by counsel for the American Textile Manufacturers Institute (ATMI), the Amalgamated Clothing and Textile Workers Union, and the International Ladies' Garment Workers Union, alleging that the Governments of Indonesia and Turkey pay or bestow, directly or indirectly, bounties or grants upon the manufacture, production, or export of certain textiles and textile products within the meaning of section 303 of the Tariff Act of 1930. On August 2, 1984, Commerce received a petition from the same petitioners alleging that the Government of the Philippines likewise pays or bestows, directly or indirectly, such bounties or grants. On December 3, 1984, all of the above mentioned petitions were amended, with respect to textile mill products, to include as individual petitioners the following ATMI member firms:

Belton Industries, Inc., Belton, SC;
Burlington Industries, Inc., Greensboro, NC;
Chatham Manufacturing Co., Elkin, NC;
Milliken & Co., Spartanburg, SC;
Mount Vernon Mills, Inc., Greensville, SC;
Shuford Mills, Inc., Hickory, NC;
J.P. Stevens & Co., Inc., New York, NY; and
West Point-Pepperell, Inc., West Point, GA.

On December 17, 1984, Commerce made preliminary determinations that the Governments of Turkey and Indonesia are providing their manufacturers, producers, and exporters of certain textile mill products and apparel with benefits which constitute bounties or grants within the meaning of the countervailing duty law. Similar preliminary determinations with respect to the Government of the Philippines were made by Commerce on December 31, 1984.

As Indonesia, Turkey, and the Philippines were not, at the time of filing of the petitions, "countries under the Agreement" within the meaning of section 701(b) of the Tariff Act of 1930, there was no requirement for the Commission to conduct preliminary material injury investigations pursuant to section 703(a). However, on February 25, 1985, the Office of the United States Trade Representative announced that Turkey had become a "country under the Agreement" (50 FR 8428); similar announcements were made regarding Indonesia on March 4, 1985, (50 FR 9342), and the Philippines on March 15, 1985 (50 FR 11471). As a result of these announcements, Title VII of the Tariff Act of 1930 applies to all countervailing duty investigations of merchandise from Turkey, Indonesia, and the Philippines. According to section 102 of the Trade Agreements Act of 1979, once Title VII becomes applicable, any pending investigation under section 303 must terminate. Where a preliminary but not a final determination has been made, the case is to be treated as if the preliminary determination were made under section 703 of the Tariff Act of 1930 as of the date Title VII first applied to the country.

On March 8, 1985, Commerce notified the Commission that it had terminated its investigations under section 303 on imports from Turkey, and that, in accordance with section 102(a)(2) of the Trade Agreements Act of 1979, it was changing the effective date of its preliminary determinations to February 25, 1985. The Commission received similar notifications on March 12, 1985, and March 26, 1985, respectively, changing the effective dates of Commerce's preliminary investigations to March 4, 1985, for Indonesia and March 15, 1985, for the Philippines. Accordingly, pursuant to § 207.20 of its rules (19 CFR 207.20), the Commission began final material injury investigations concerning imports from Turkey effective March 8, 1985; concerning imports from Indonesia effective March 12, 1985; and concerning imports from the Philippines effective March 26, 1985.

Authority

These investigations are being instituted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, August 15, 1984).

Issued: April 19, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–9950 Filed 4–23–85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–247X]

Alabama Southern Railroad Co.; Abandonment; Between York and Lilita, AL; Exemption

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 10.3-mile line of railroad between milepost SR MP YL 0.0 near York and milepost SR MP YL 10.3 near Lilita, AL.

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 any U.S. District Court, 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 [30 days from service of this decision] (unless stayed pending reconsideration). Petitions to stay must be filed by [10 days after service], and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by [20 days after service] 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: Charles H.

White, Jr., 1000 Potomac Street, NW, Suite 501, Washington, DC 20007.

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 18, 1985

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-9791 Filed 4-23-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-241X]

Arcata and Mad River Rail Road Co.; Abandonment Exemption; Humboldt County, CA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirement of prior approval under 49 U.S.C. 10903 *et seq.*, the abandonment by Arcata and Mad River Rail Road Company of its entire line (7.5 miles) in Humboldt County, CA, subject to a 180-day public use condition on that portion of the right-of-way within the city limits of Blue Lake, CA. No employee protective conditions are imposed.

DATES: This exemption is effective on May 24, 1985. Petitions for reconsideration must be filed by May 14, 1985. Petitions for stay must be filed by May 6, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-241X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioner's representative: Fritz R. Kahn, Esq., Suite 1000, 1660 L Street, NW., Washington, DC 20036

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

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

Decided: April 9, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85-9793 Filed 4-23-85; 8:45 am]

BILLING CODE 7035-01-M

[No. 35404 and 39380]

General American Transp. Corp. v. Indiana Harbor Belt Railroad Co., and; General American Transp. Corp., et al. v. Baltimore and Ohio Chicago Terminal Railroad Co., et al.

AGENCY: Interstate Commerce Commission.

ACTION: Extension of time to file comments.

SUMMARY: By a notice served March 15, 1985, and published in the Federal Register March 18, 1985 (50 FR 10867) the Commission requested that further comments and reply comments be filed by May 2, 1985, and June 1, 1985, respectively. The Baltimore and Ohio Chicago Terminal Railroad Company (BOCT) and six other railroads seek extension of those dates to July 1, 1985 and August 30, 1985, respectively. Complainants seek a shorter extension of time. In light of the complexity of the issues, we are granting BOCT's request.

DATES: Written comments are due by July 1, 1985; reply comments are due by August 30, 1985.

ADDRESS: Send an original and 10 copies of all documents to: Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423, and serve on all parties to this proceeding.

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

Decided: April 17, 1985.

By the Commission, Reese H. Taylor, Jr., Chairman.

James H. Bayne,

Secretary.

[FR Doc. 85-9792 Filed 4-23-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-242X]

Maryland and Pennsylvania Railroad Co., Abandonment Exemption; in York County, PA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by Maryland and Pennsylvania Railroad Company of 8.4 miles of railroad in York County, PA, subject to employee protective conditions.

DATES: This exemption will be effective on May 23, 1985. Petitions to stay must be filed by May 6, 1985, and petitions for reconsideration must be filed by May 14, 1985..

ADDRESS: Send pleadings referring to Docket No. AB-242X to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Petitioner's representative: Alfred P. Smith, 490 East Market Street, York, PA 17403

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

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

Decided: April 15, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85-9794 Filed 4-23-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-55 (Sub-144X]

Seaboard System Railroad, Inc.; Abandonment Exemption; Richmond, VA

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment by Seaboard System Railroad, Inc., of 6,821 feet of track on the Collier Subdivision, Raleigh Division, between milepost AR 0.63 at the James River, and milepost AR 1.92 between Hall Street and Maury Street in Richmond, VA, subject to standard labor protective conditions.

DATES: This exemption will be effective on April 24, 1985. Petitions to reopen must be filed by May 14, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-55 (Sub-No. 14AX) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
(2) Petitioner's representative: Charles M. Rosenberger, 500 Water Street, Jacksonville, Florida 32202

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

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

Decided: April 15, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85-9795 Filed 4-23-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

[Civil Action Nos. 83-1640 and 83-1711]

Lodging of Consent Decree Pursuant to the Clean Water Act; Southland Crop.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *Student Public Interest Research Group* v. *Southland Corp. and United States* v. *Southland Corp.*, Civil action Nos. 83-1640; 83-1711 (consolidated), has been lodged in the United States District Court for the District of New Jersey.

The proposed consent decree concerns discharges of pollutants from Southland's plant in Great Meadows, New Jersey into the Pequest River. The proposed consent decree requires Southland to pay a civil penalty of $100,000 and to conduct bioassays to demonstrate compliance in accordance with its permit. The proposed decree requires both an initial series of bioassays and additional bioassays in the event of excessive discharges, and allows the citizen plaintiffs to seek modification of the proposed decree to seek a larger number of additional biossays in the event of excessive discharges. In addition, the proposed consent decree requires corrective action in the event that the bioassays show non-complying discharges.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *Student Public Interest Research Group* v. *Southland Corp., and United States* v. *Southland Corp.*, D.J. No. 90-5-1-1-1998.

The proposed consent decree may be examined at the Office of the United States Attorney, Federal Building, 970 Broad Street, Room 502, Newark, New Jersey and at the Region 2 Office of the Environmental Protection Agency, 26 Federa Plaza, Room 900, New York, New York. Copies of the proposed consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please refer to the referenced cases and enclose a check in the amount of $3.00 (10 cents per page reproduction cost) made payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530.

[FR Doc. 85-9894 Filed 4-23-85; 8:45 am]

BILLING CODE 4410-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment a draft of a proposed revision to a guide in its Regulatory Guide Series together with a draft of the associated value/impact statement. This series has been developed to described and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The draft, temporarily identified by its task number, CE 404-4 (which should be mentioned in all correspondence concerning this draft guide), is proposed Revision 2 to Regulatory Guide 3.4, "Nuclear Criticality Safety in Operations with Fissionable Materials Outside Reactors." The guide is being developed to describe procedures acceptable to the NRC staff for preventing accidental criticality in operations with fissionable materials outside reactors and for validating calculational methods used in assessing nuclear criticality safety. The guide endorses ANSI/ANS-8.1-1983, "Nuclear Criticality Safety in Operations with Fissionable Materials Outside Reactors," which was developed by the American Nuclear Society.

This draft guide and the associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not respresent an official NRC staff position.

Public comments are being solicited on both drafts, the guide (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data. Comments on both drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by June 26, 1985.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with: (1) Items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 18th day of April 1985.

For the Nuclear Regulatory Commission.

Guy A. Arlotto,

Director Division of Engineering Technology Office of Nuclear Regulatory Research.

[FR Doc. 85-9924, Filed 4-23-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-317]

Baltimore Gas and Electric Co. (Calvert Cliffs Nuclear Power Plant Unit No. 1; Exemption

I

The Baltimore Gas and Electric Company (BG&E) is the holder of Facility Operating License No. DPR-53 which authorizes the operation of the Calvert Cliffs Nuclear Power Plant, Unit No. 1, at a steady-state power level not in excess of 2700 megawatts thermal. The facility utilizes a pressurized water reactor located in Calvert County, Maryland.

II

10 CFR 50.55a requires that piping and components of boiling and pressurized water reactor plants be tested, examined and pressure tested to the requirements of Section XI of the ASME Code and that the examinations and tests be completed during each of four (4) ten-year intervals. These ten-year intervals are calculated from the start date of commercial opeation of the facility.

10 CFR 50.55a(g)(4) requires that licensees update their inservice inspection (ISI) and inservice testing (IST) programs to a newer edition of Section XI of the Code each ten years. Since the regulations require these updates based on the 10-year anniversary of facility commercial operation, multi-unit sites often find that each unit has an ISI and ISI program structured for a slightly different edition of the Code.

III

By letters dated March 6, 1984 and January 28, 1985, the licensee requested an exemption to the requirements of 10 CFR 50.55a(g)(4) which would allow the use of a common start date for ISI and IST for Calvert Cliffs Units 1 and 2. That common start date would be achieved by extending the termination date of the Unit 1 programs to coincide with the termination of the Unit 2 programs. The Unit 1 ISI and IST programs would be thus extended to terminate on April 1, 1987 rather than on May 8, 1985.

The Commission's staff has reviewed this request and has determined that a common ISI and IST start date for Calvert Cliffs Units 1 and 2 has inherent administrative, technical, and cost saving advantages, both for the licensee and the Commission. The staff has concluded that:

1. The same Code edition and addenda, by regulation, can be used as the basis for the ISI and IST program for Calvert Cliffs Units 1 and 2;

2. Since the units are similar in design, only one ISI and IST program would have to be written and submitted by the licensee;

3. The Commission's staff would have to review and approve only one ISI and one IST submittal instead of two of each; and

4. The change of the ISI date to April 1, 1987 will not affect the completion of examination and pressure test requirements for the inspection intervals.

Therefore, the staff concludes that the exemption request should be granted. If a common start date were not established, the ISI and IST programs would be accomplished, for some period of time, utilizing two different ASME Code editions. Although administratively possible, this situation could contribute to increased personnel errors in the performance of inspection and testing requirements to two different versions of the Code. This can create a substantial and additional administrative workload for what can be described as only nominal technical differences in the inspection and testing requirements.

IV

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), the exemption requested by the licensees's letters of March 6, 1984 and January 28, 1985, is authorized by law and will not endanger life or property or the common defense and security, and is otherwise in the public interest. The Commission hereby grants to the licensee and exemption from the requirements of 10 CFR 50.55a(g)(4) as it relates to the 120-month inspection interval for inservice examination of components, inservice tests to verify operational readiness of pumps and valves, and system pressure tests.

Pursuant to 51.32, the Commission has determined that the issuance of the exemption will have no significant impact on the environment (50 FR 13893).

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland, this 18th day of April, 1985.

For the Nuclear Regulatory Commission.

Frank J. Miraglia, Jr.,

Deputy Director, Office of Nuclear Reactor Regulation.

[FR Doc. 85-9923 Filed 4-23-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-440-OL, 50-441-OL; ASLBP No. 81-457-04 OL]

Cleveland Electric Illuminating Company, et al. (Perry Nuclear Power Plant, Units 1 & 2); Hearing Location

April 18, 1985.

Hearings in these proceedings will reconvene on Tuesday, April 30 at 9:00 a.m. on the issue of hydrogen control at the following location:

Perry Town Hall, Center Road and Main Street, Perry, Ohio 44081

Bethesda, Maryland.

For the Atomic Safety and Licensing Board.

Jerry R. Kline,

Administrative Judge.

[FR Doc. 85-9922 Filed 4-23-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-5]

The Pennsylvania State University; Consideration of Application for Renewal of Facility Operating License

The United States Nuclear Regulatory Commission (the Commission or NRC) is considering renewal of Facility License No. R-2, issued to the Pennsylvania State University for operation of the Pennsylvania State University Breazeale Reactor located on the University's campus in the Centre County.

The renewal would extend the expiration date of Facility License No. R-2 for twenty years from date of issuance, in accordance with the licensee's timely application for renewal dated March 1, 1985.

Prior to a decision to renew the license, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By May 24, 1985, the licensee may file a request for a hearing with respect to renewal of the subject facility license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for

leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary of the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the renewal action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Station, or may be delivered to the Commission's Public Document Room, at 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (petitioner's name and telephone number); (date petition was mailed); (Pennsylvania State University); and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 and to Delbert J. McQuaide, 811 University Drive, State College, Pennsylvania 16801, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission or the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this acton, see the application for renewal dated March 1, 1985; which is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555.

Dated at Bethesda, Maryland, this 18th day of April 1985.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 85–9921 Filed 4–23–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–407]

University of Utah; Renewal of Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 5 to Facility Operating License No. R–126 for the University of Utah (the licensee) which renews the license for operation of the TRIGA training and research reactor located in Salt Lake City, Utah. The facility is a non-power reactor that has been operating at power levels not in excess of 100 kilowatts (thermal). The renewed Operating License No. R–126 will expire twenty years from its date of issuance.

The amended license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regualtions in 10 CFR Chapter I. Those findings are set forth in the license amendment. Opportunity for hearing was afforded in the notice of the proposed issuance of this renewal in the **Federal Register** on July 14, 1983 at 45 FR 32244. No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has prepared a Safety Evaluation Report (NUREG–1096) for the renewal of Facility Operating License No. R–126 and has, based on that license, concluded that the facility can continue to be operated by the licensee without endangering the health and safety of the public.

The Commission also has prepared an Environmental Assessment, dated March 27, 1985, for the renewal of Facility Operating License No. R–126 and has concluded that this action will not have a significant effect on the quality of the human environment. The Notice of Finding of No Significant Environmental Impact was published in the **Federal Register** on April 15, 1985.

For further details with respect to this action, see: (1) The application for amendment dated March 8, 1983, as supplemented, (2) the Finding of No Significant Environmental Impact, (3) Amendment No. 5 to Operating License R–126, (4) the Commission's related Safety Evaluation Report (NUREG–1096), and (5) the Environmental Assessment. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, DC. 20555.

Copies of NUREG–1096 may be purchased by calling (301) 492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC. 20555, or purchased from the National Technical Information Service, Department of Commerce, 5285 Port Royal Road, Springfield, VA 22161.

Dated at Bethesda, Maryland, this 17th day of April 1985.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 85-9920 Filed 4-23-85; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, May 2, 1985
Thursday, May 9, 1985
Thursday, May 16, 1985
Thursday, May 23, 1985
Thursday, May 30, 1985

These meetings will start 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chaper 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management representatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the abililty of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Management under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washington, D.C. 20415, (202) 632-9710.

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

April 12, 1985.

[FR Doc. 85-9800 Filed 4-23-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 35-23665; 70-6973]

The Connecticut Light and Power Co.; Proposal To Extend Period for the Issuance and Sale of Preferred Stock and To Continue Reservation of Jurisdiction Over First Mortgage Bonds

April 18, 1985.

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, and electric utility subsidiary of Northeast Utilities, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to section 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act") and Rule 50 promulgated thereunder.

By order in this proceeding dated September 5, 1984 (HCAR No. 23409), CL&P was authorized to issue and sell, at any time or from time to time through March 31, 1985, up to 2,000,000 shares ($50,000,000 aggregate par value) of its Class A Preferred Stock, $25 par value, in one or more series. The filing has not been completed with respect to the proposed issuance and sale of up to $110,000,000 principal amount of first and refunding mortgage bonds, in one or more series and, accordingly, jurisdiction was reserved thereover.

It is now proposed that the period during which CL&P may issue and sell said preferred stock be extended to December 31, 1986, and that jurisdiction continue to be reserved over the proposed issuance and sale of the bonds pending completion of the record. CL&P has not issued any of the preferred stock.

The proposed preferred stock may have either a fixed dividend rate or an adjustable dividend rate, as determined at the time of issue. The dividend rate or the method of calculating the dividend rate (if a series is offered with an adjustable dividend rate), the price, exclusive of accrued dividends, if any, to be paid to CL&P (which shall not be less than $25 nor more than $25.688 per share), and the underwriters' compensation will be determined through the receipt of competitive proposals. An adjustable divident rate would be subject to a maximum rate of 16% per annum and a minimum rate of 6% per annum. CL&P has been advised that the effective dividend cost of an issue of preferred stock with an adjustable dividend rate offers the potential for savings, as compared with the effective dividend cost of a conventional fixed dividend rate issue of preferred stock. In addition, adjustable dividend rate issues bear redemption provisions that, on balance, are more favorable to the issuers than conventional issues with fixed dividend rates. CL&P is adding a sinking fund provision option for any series of the preferred stock having a fixed dividend rate.

It is stated that in issuing and selling the preferred stock, CL&P will comply with Rule 50 under the Act, as modified by the Commission's September 2, 1982, Statement of Policy with respect thereto (HCAR No. 22623), by using alternative methods to develop and procure two or more competitive offers for the purchase of such securities.

The net proceeds from the issue and sale of the preferred stock will be used to repay, in part, short-term borrowings (consisting of bank loans and commercial paper) and construction trust borrowings which were incurred or are expected to be incurred to finance CL&P's construction program and, in the case of short-term borrowings, for general working capital purposes. The net proceeds from the issue and sale of the preferred stock may also be used for temporary investments in short-term high quality securities that are exempt under section 9(c) of the Act and Rule 40 promulgated thereto. As of March 28, 1985, CL&P's short-term borrowing were approximately $4,000,000, and its

construction trust borrowings were approximately $5,700,000. Any net proceeds remaining after repayment of all outstanding short term debt and construction trust borrowings will be invested temporarily, pending the need to apply those funds to finance the company's construction program or for general working captial purposes.

The amended declaration and any further 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 May 13, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will recieve a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-9889 Filed 4-23-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14476; 812-6062]

Government Investors Trust et al.; Application for an Order Permitting a Proposed Joint Account

April 17, 1985.

Notice is hereby given that Government Investors Trust, GIT Cash Trust, GIT Tax-Free Trust, GIT Income Trust, and GIT Equity Trust ("Funds"), each of which is registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified management investment company, and Bankers Finance Investment Management Corp. ("BFIMC"), on behalf of itself and of each other investment company advised by BFIMC now or in the future (collectively, "Applicants"), 1655 North Fort Myer Drive, Arlington, Virginia 22209, filed an application on February 20, 1985, and an amendment thereto on April 10, 1985, requesting an order of the Commission, pursuant to section 17(d) of the Act and Rule 17d-1 thereunder, permitting the arrangement hereinafter described. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the complete text of the relevant provisions.

The application indicates that each of the Funds has as its investment advisor BFIMC. Applicants state that the Funds comprise the GIT Investment Funds group, and that those Funds which presently invest in repurchase agreements (which are all of the Funds in the GIT Investment Funds group except GIT Tax-Free Trust, which invests principally in securities exempt from federal income taxation) had as of February 15, 1985, total net assets of $337,036,000. Applicants also state that GIT Tax-Free Trust, which does not presently invest in repurchase agreements, is joining in this application in anticipation that it may wish to do so in the future. Applicants represent that all the Funds have currently effective registration statements under the Act and the Securities Act of 1933 and are currently offering their shares for sale to the public.

Applicants state that each of the Funds has, or may be expected to have, uninvested cash balances at the end of each trading day which in the normal course are or would be invested in overnight repurchase agreements with a bank or major brokerage house in order to earn additional income for each Fund. Applicants seek permission to deposit those cash balances, which are presently invested daily in individual repurchase agreements, into a single joint account in which the daily balance would be used to enter into one or more large repurchase agreements in a total amount equal to the aggregate daily balance in the account.

According to the application, the repurchase desk operated by BFIMC on behalf of the Funds currently begins at 8:30 a.m., Washington, D.C. time, negotiating the interest rate for repurchase agreements for that day and lining up the United States government obligations required as collateral, the estimated amount of the collateral being based on the figures for repurchase agreements entered into on the previous trading day. Through continuous communication with the portfolio managers of the various Funds, the trading desk is in a position to start placing definitive East Coast orders between 10:30 a.m. and 1:00 p.m., Washington, D.C. time. Since any one of the Funds may engage in portfolio trades up to the close of business in the securities markets in which the securities in which it invests are traded, in unusual circumstances an East Coast repurchase agreement may be entered into as late as 3:00 p.m., Washington, D.C. time.

The application indicates that each repurchase agreement is made by calling a United States bank or "primary" government securities dealer and indicating the rate of interest and size of the desired repurchase agreement. Particular U.S. government obligations are then identified and the Fund custodian is notified. The securities are either wired to the account of the Fund custodian at the Richmond Federal Reserve Bank, physically delivered to the Funds' custodian or segregated on the records of the bank if it is the custodian bank of the Fund entering into the repurchase agreement. This procedure occurs on almost every trading day for each of the four Funds which presently enter into repurchase agreements. Applicants state that the usual administrative charge (which is a processing fee only and not related to the size of the transaction) is $17.00 per transaction each way for each item of collateral and that this administrative charge will be imposed by the custodian bank to be effective in the immediate future. Applicants further state that during the 12 months ended December 31, 1984, the Funds invested in an aggregate 1,512 repurchase agreements and that if the administrative charge was imposed during this period, the total transaction charges that would have been imposed would be $51,408. During this same period, the average total amount invested daily in repurchase agreements by all Funds approximated $47,750,000. Applicants represent that if the proposed joint account had been in place and, assuming that daily balances in the account were invested in an average of two repurchase agreements per business day, the total transaction cost would have amounted to $17,136, an aggregate savings of $33,912 annually.

Applicants state the proposed joint account would operate as follows: (a) A separate custodian cash account would be established into which each Fund would cause its daily net cash balances to be deposited daily; (b) cash in the joint account would be invested solely in repurchase agreements collateralized by U.S. government obligations, i.e., obligations issued or guaranteed as to principal and interest by the government of the United States or by any of its agencies or instrumentalities; (c) all investments held by the joint account would be valued on an amortized cost basis; (d) each Fund that values its

portfolio on the basis of amortized cost or "penny rounding" would use the average maturity of the joint account for the purpose of computing the Fund's average portfolio maturity; (e) in order to assure that there would be no opportunity for one Fund to use any part of a balance of the joint account credited to another Fund, no Fund would be allowed to create a negative balance in the joint for any reason, although it would be permitted to draw down its entire balance at any time; (f) each Fund would participate in the income earned or accrued in the joint account on the basis of the percentage of the total amount in the account on any day represented by its share of the account; (g) BFIMC would administer the investment of the cash balances in, and operation of, the joint account as part of its duties under its existing investment advisory agreement with each Fund and the administration of the joint account would be within the fidelity bond coverage required by section 17(g) of the Act.

Applicants state that the proposed joint trading account, which Applicants represent is indistinguishable from any other Fund custodian account except that Fund deposits can be commingled, will not have any separate existence which would have the indicia of a separate legal entity. Applicants further state that each Fund would automatically transfer its uninvested cash remaining after the conclusion of its daily trading activity into the account, and that the sole function of this account would be to provide a convenient way of aggregating what otherwise would be one or more individual daily transactions for each Fund necessary to manage the daily uninvested cash balances of the Fund. According to the application, each Fund would participate in the joint trading account on the same basis as every other Fund, and BFIMC would have no monetary participation in the joint account, but would be responsible for investing amounts in the account, establishing accounting and control procedures and ensuring the equal treatment of each Fund.

Applicants state that it is difficult to predict (i) the average size of the joint account, since the daily needs of each Fund will fluctuate, (ii) the average percent of the joint account which any single Fund's participation would represent, since fluctuations in both the size of the joint account and a particular Fund's needs are likely to be substantial, or (iii) the average percent of a Fund's assets that may be deposited into the joint account, since the assets remaining uninvested on any given day can fluctuate widely as the result of, for example, sales of portfolio securities required by unexpectedly large redemptions, failure of a sizable purchase transaction to settle at the anticipated time or scarcity of appropriate portfolio securities for investment on any given day.

Applicants state that each Fund, by participating in the proposed joint account, and BFIMC, by administering the proposed joint account, could be deemed to be "a joint participant" in a transaction which is a "joint enterprise or other joint arrangement" within the meaning of Rule 17d–1 under the Act. Applicants, however, represent that the board of trustees of each of the Funds has determined that (i) the proposed joint account would be fair, economically desirable and beneficial for that Fund; (ii) the proposed method of operating the joint account would not result in any conflicts of interest between any of the Funds or between a Fund and BFIMC; and (iii) there is no basis on which to predicate greater benefit to one Fund than to another. They further determined that future participation in such joint trading account by one or more Funds which do not presently exist would not change their conclusions with respect to participation by the present Funds and that it would be desirable to permit such future participation without the necessity of applying for an amended order.

Applicants submit that the criteria of Rule 17d–1 for issuance of an order under section 17(d) of the Act and Rule 17d–1 thereunder to allow the Funds to use the proposed joint trading account have been met. Specifically, Applicants assert that participation in the proposed joint account by each Fund would not be on a basis less advantageous than that of other Fund participants, and that participation by BFIMC in such account would be ministerial only. Finally, Applicants state that, by joining in this application any investment company which is now or in the future may be advised by BFIMC, it is understood that all representatives which are applicable to those Funds presently investing in repurchase agreements will apply equally to any Fund which may be so in the future.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than May 13, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–9890 Filed 4–23–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21948; File Nos. SR–PSDTC–84–15; SR–PCC–84–13]

Self-Regulatory Organizations; Order Approving Proposed Rule Changes of Pacific Clearing Corp. and Pacific Securities Depository Trust Co.

On December 14, 1984, the Pacific Clearing Corporation ("PCC") and Pacific Securities Depository Trust Company ("PSDTC") filed with the Securities and Exchange Commission proposed rule changes under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). Notice of the proposals was published in Securities Exchange Act Release No. 21807 (March 4, 1985), 50 FR 9530 (March 8, 1985). No comments were received. As discussed below, the Commission is approving the proposed rule changes.

The proposed rule changes amend PSDTC's and PCC's Rules [1] to enable PCC and PSDTC staff to admit applicants for membership on a temporary basis pending review by PCC's or PSDTC's board of directors. [2] To be eligible for temporary membership, applicants are required to have excess net capital of at least $100,000 and must make a participant's fund deposit of at least $50,000. [3]

[1] *See* PSDTC Rule 2, section 2(b); PCC Rule II, section 2(b).

[2] PSDTC and PCC Rules currently require all applicants to be approved only by PSDTC's or PCC's board of directors.

[3] In conversations with Division of Market Regulation staff, PCC and PSDTC stated that candidates for temporary membership status would be required to meet all of PCC's and PSDTC's membership standards in addition to the proposed standards. *See* PCC Rule II, PSDTC Rule 2, and PCC/PSDTC's Standards of Financial Responsibility and Operational Capability.

Temporary approval can be made by two senior officers [4] of PCC or PSDTC of one such senior officer plus an officer from the Internal Audit Department of the Pacific Stock Exchange Inc., PCC's and PSDTC's parent corporation. In addition, temporary membership status will be effective only until the applicant is reviewed by PCC's or PSDTC's board of directors. Under the proposals, that board review must occur within 60 days after the applicant's first use of PCC or PSDTC services. Finally, PCC and PSDTC state in their filings that trading activity of temporary members will be monitored daily.

PCC and PSDTC state in their filings that the proposals are consistent with sections 17A(b)(3) (B) and (F) of the Act because they will facilitate the admission of qualified applicants for membership and promote the use of PCC and PSDTC facilities for the clearance and settlement of securities transactions and the safeguarding of securities and funds.

For the following reasons, the Commission believes that PCC's and PSDTC's proposals are consistent with the Act and, in particular, section 17A(b)(3) regarding the safeguarding of securities and funds in the possession of PCC and PSDTC, or for which they are responsible. Thus, the Commission is approving the proposals. First, the proposals require applicants for temporary membership status to meet PCC's and PSDTC's Standards of Financial Responsibility and Operational Capability, which have been approved previously by the Commission. [5] Those Standards require applicants for membership and continuing members, among other things, to maintain certain minimum or excess net capital, demonstrate sufficient financial ability to meet their anticipated obligations to PCC or PSDTC, and demonstrate adequate personnel and operational abilities.

Second, the proposals impose on temporary members further assurances of financial responsibility. The proposals provide that a temporary member must have $100,000 excess net capital and make a participant's fund deposit of at least $50,000 (most of that deposit can be in the form of non-cash assets, such as letters of credit and certain high-grade investment securities). In addition, PCC/PSDTC will monitor temporary members daily. The Commission believes these provisions should help to protect PCC and PSDTC and their participant's from potential financial exposure from temporary members.

Finally, the proposals should discipline senior officers' decisions to admit temporary members. That discipline is provided by PCC and PSDTC board of director review of those decisions within 60 days after the temporary member's first use of PCC or PSDTC services. The Commission believes that such board review also will provide a timely and important supplement to the initial staff review of temporary members. If, for example, the operational or financial condition of the temporary member changes after initial staff approval, PCC's or PSDTC's board will be unable to reassess the applicant's qualifications for full membership status.

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule changes be, and hereby are, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: April 18, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-9888 Filed 4-23-85; 8:45 am]

BILLING CODE 8010-01-M

[4] PCC and PSDTC stated that "senior officers" under the proposals would be PCC's and PSDTC's President and Executive Vice President.

[5] *See* Securities Exchange Act Release No. 20286 (October 14, 1983) 48 FR 48732 (October 20, 1983). For net capital requirements and participant fund deposits, the proposals provide stricter standards for temporary member applicants.

[Release No. 34-21960; SR-Phlx-85-3]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Approving Proposed Rule Change

The Philadelphia Stock Exchange, Inc., ("Phlx") submitted a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] to amend subparagraph (c)(1)(A) of Rule 1014 concerning bid-ask differentials for options with expiration periods of nine months or longer. The Commission solicited comment on the proposal, but received none.[3]

Specifically, the proposed rule change amends the language in subparagraph (c)(1)(A) of Rule 1014 to indicate that the bid-ask differentials set forth in that subparagraph shall apply to series of less than nine months, and that for all other series, the bid-ask differentials shall be twice those set forth in this subparagraph. Previously, the language in the rule did not define the options series to which the bid-ask differentials were applicable by the number of months to expiration. Rather, subparagraph (c)(1)(A) stated that, "[t]he bid-ask differentials as stated above shall apply to all but the longest terms series of options open for trading in each class."

In its filing, Phlx indicates that since it amended Rule 1012 to permit the listing of series of foreign currency options that expire in twelve months,[4] a corresponding amendment to Rule 1014(c)(1)(A) became necessary to clarify that the bid-ask differential appropriate for foreign currency options series (with twelve month expirations) is the same as the bid-ask differential for options series with nine month expirations—*i.e.*, twice that which is applicable to all other series, as stated in the Rule. In addition, Phlx states that it believes that the proposal is consistent with section 6(b)(5) of the Act, in that the rules of the Exchange are designed to facilitate transactions in securities and to protect investors and the public interest.

By establishing different bid-ask differentials for options series with near-term (less than nine months) expirations and those with far-term (greater than nine months) expirations, the Commission believes the rule should enhance efficiency and liquidity in the marketplace, in a manner consistent with the demand for a particular options series (which is usually greater for those options series with near-term expirations, and less for those options series with far-term expirations).

Accordingly, the Commission finds that the Phlx proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges. In particular, the Commission finds that the proposal is consistent with section 6 of the Act.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

[1] 15 U.S.C. 78s(b)(1) (1984).

[2] 17 CFR 240.19b-4 (1984).

[3] The proposed rule change was noticed in Securities Exchange Act Release No. 21833 (March 11, 1985), 50 FR 10335 (March 14, 1985).

[4] *See* Securities Exchange Act Release No. 21512 (November 21, 1984), 49 FR 46858 (November 28, 1984).

Dated: April 19, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-9891 Filed 4-23-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974; Changes to Notices of Systems of Records

The Department of Transportation herewith publishes proposed changes to the Storage, Safeguards, and Retention and Disposal sections of DOT/FAA 845, Correspondence Control and Information Systems; and changes to the Categories of Individuals, and Categories of Records in the Systems sections of DOT/OST 008, Departmental Advisory Committee Files.

Any person or agency may submit written comments on the proposed changes of systems to the Acting Privacy Officer (M-34) Room 7109, U.S. Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590. Comments must be received by May 12, 1985, to be considered.

If no comments are received, the proposed changes will become effective on May 12, 1985. If comments are received, the comments will be considered and where adopted, the documents will be republished with the changes.

Issued in Washington, D.C. April 18, 1985.

Jon H. Seymour,

Acting Assistant Secretary for Administration.

DOT/FAA 845

SYSTEM NAME:

Correspondence Control and Information System, DOT/FAA.

SYSTEM LOCATION:

Fedral Aviation Administration. Office of the Administrator, 800 Independence Ave., SW., Washington, D.C. 20591.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who write, call (including HOTLINE calls), or are referred in writing by a second party, to the Administrator, to the Deputy Administrator, and their immediate offices; individuals who write, call, or are referred in writing by a second party to the Secretary, to the Deputy Secretary, and their immediate offices and the correspondence which has been referred to the Federal Aviation Administration; individuals who are the subject of an action requiring approval or action by one of the forenamed, such as appeals, actions, training, awards, foreign travel, promotions, selections, grievances, delegations, application of waivers from the Federal Aviation Administration, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence and/or records of calls submitted by, or on behalf of, an individual including resumes, letters of reference, etc; responses to such correspondence and calls, staff recommendations on actions requiring approval or action by the Administrator, the Deputy Administrator, the Secretary, and the Deputy Secretary.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to the appropriate action office within or outside the Department or agency for preparation of a response. Referral, to the appropriate agency for actions involving matters or law, of regulations beyond the responsibility of the agency or Department, such as the Department of Justice in matters of law enforcement. As a data source for management information, such as briefing material on hearings, trend analysis, responsiveness, etc.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer Magnetic disk, microfilm, and hardcopy. Access to the records will be by means of identification numbers and passwords known only to the user and the System Manager.

RETRIEVABILITY:

Records will be retrieved by control number, suspense date, correspondence date, subject matter, last name and location of originator and addressee, constituent's name, action office, and type.

SAFEGUARDS:

Terminal access through the system's software is limited to the Office of the Administrator.

RETENTION AND DISPOSAL:

Hard copies are destroyed after material is microfilmed.

SYSTEM MANAGER(S) AND ADDRESS:

Manager, Administrative Staff, Office of the Administrator, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591.

NOTIFICATION PROCEDURE:

Notification Procedure: Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

RECORD ACCESS PROCEDURES:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

CONTESTING RECORD PROCEDURES:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator, or his delegate, at the following address:

Federal Aviation Administration, Office of the Administrator, 800 Independence Avenue, SW., Washington, D.C. 20591.

RECORD SOURCE CATEGORIES:

Correspondence, records of calls from individuals, their representatives, or sponsors. Response to incoming correspondence and records of calls. Related material for background as appropriate.

DOT/OST 008

SYSTEM NAME:

Departmental Advisory Committee Files, DOT/OST.

SYSTEM LOCATION:

Department of Transportation (DOT), Office of the Secretary (OST), Office of the Executive Secretary (S-10), 400 7th Street, SW., Room 10203, Washington, D.C. 20590.

SECURITY CLASSIFICATION:

None.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Present and former members of Departmental advisory committees and candidates applying for a position on an advisory committee.

CATEGORIES OF RECORDS IN THE SYSTEM:

Membership file listing name, address, occupation, committee name, and term of appointment. Biographical information on committee members and applicants.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To maintain records in accordance with the requirements of the Federal Advisory Committee Act and GSA's

Interim Rule on Advisory Committee Management. To prepare required reports to GSA and to the Congress. To answer membership inquiries from Departmental elements, from the Congress, from public and private organizations and individuals. To provide a current list of qualified applicants for vacancies which occur on the advisory committees.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

All data is stored on a disk which is located inside the processor, with magnetic tape backup. The hard copies will be stored in the Executive Secretariat and will be secured at all times. Access to the records will be by means of identification number and password known only to the user and the system manager.

RETRIEVABILITY:

Records will be retrievable by name or by any of the categories listed under "Categories of Records".

SAFEGUARDS:

The records are safeguarded by (1) user identification and password; (2) establishment of permission to view the file by the system or owner of the record; and (3) encryption of documents, records and data elements. All hard copies are stored in a locked storage area and are only accessible by permission of the Committee Management Coordinator.

RETENTION AND DISPOSAL:

Hardcopies will be sent to the Archives, until such time as we receive instruction from the Archives regarding the permanent retention of discs or magnetic tapes. Discs and tapes will be destroyed. Records are retired to the Federal Records Center within five years after a committee becomes inactive. All records over five years old may be retired to the Federal Records Center.

SYSTEM MANAGER AND ADDRESS:

Executive Secretary and DOT Committee Management Officer, Office of the Secretary (OST), Department of Transportation (DOT), 400 7th Street, SW., Room 10205, Washington, D.C. 20590.

NOTIFICATION PROCEDURE:

Any individual who wishes to be notified if the system of records contains a record pertaining to him may apply in writing to the System Manager at the above address.

RECORD ACCESS PROCEDURES:

Any individual who wishes to review the contents of a record pertaining to him may apply in writing to the System Manager.

CONTESTING RECORD PROCEDURES:

Same as "Record Access Procedures". Appeals should be directed to the Secretary of Transportation, if request for modification or deletion is denied.

RECORD SOURCE CATEGORIES:

Information contained in the system is obtained from (1) committee sponsor; (2) individuals who apply for advisory committee appointments; and (3) persons who recommend them for appointment. Each applicant must complete a Candidate Biographical Information Request form which contains all of the data to be stored in the "Categories of Records", and the individual signs a permission statement authorizing the Department of Transportation to retain such records.

[FR Doc. 85-9937 Filed 4-23-85; 8:45 am]
BILLING CODE 4910-62-M

Office of Hearings

[Docket 43006]

Pan Aviation Fitness Investigation; Prehearing Conference

Notice is hereby given that a prehearing conference in the above-entitled matter is assigned to be held on April 23, 1985, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, D.C. 20590, before the undersigned administrative law judge.

Dated at Washington, D.C., April 16, 1985.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 85-9845 Filed 4-23-85; 8:45 am]
BILLING CODE 4910-62-M

Federal Aviation Administration

Seattle-Tacoma International Airport, Seattle, WA; Noise Compatibility Program and Request for Review

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the Port of Seattle for Seattle-Tacoma International Airport (SEA) under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements. The FAA also announces that it is reviewing a proposed noise compatibility program that was submitted for SEA under Part 150 in conjunction with the noise exposure maps, and that this program will be approved or disapproved on or before October 8, 1985.

DATES: The effective date of the FAA's determination on the SEA noise exposure maps and of the start of its review of the associated noise compatibility program is April 11, 1985. The public comment period ends May 17, 1985.

FOR FURTHER INFORMATION CONTACT: Dennis Ossenkop, FAA, Airports Division, ANM-611, 17900 Pacific Hwy S., C-68966, Seattle, WA 98168.

Comments on the proposed noise compatibility program should also be submitted to the above office.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps for SEA are in compliance with applicable requirements of Part 150, effective April 11, 1985. Further, FAA is reviewing a proposed noise compatibility program for that airport which will be approved or disapproved on or before October 8, 1985. This notice also announces the availability of this program for public review and comment.

Under section 103 on Title I of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA a noise exposure map which meets applicable regulations and which depicts noncompatible land uses as of the date of submission of such map, a description of projected aircraft operations, and the ways in which such operations will affect such map. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted a noise exposure map that has been found by FAA to be in compliance with the requirements of Federal Aviation Regulation Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

SEA submitted to the FAA on February 8, 1985, noise exposure maps, descriptions and other documentation

which were produced during an airport Noise Exposure Update Study. It was requested that the FAA review this material as the noise exposure maps, as described in section 103(a)(1) of the Act, and that the noise mitigation measures, to be implemented jointly by the airport and surrounding communities, be approved as a noise compatibility program under section 104(b) of the Act.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by SEA. The specific maps under consideration are Exhibits 4–1, 4–2, 4–3, 4–6, 4–7, and 4–8 in the submission. The FAA has determined that these maps for SEA are in compliance with applicable requirements. The determination is effective on April 11, 1985. FAA's determination on an airport operator's noise exposure maps is limited to the determination that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such acceptance does not constitute approval of the applicant's data, information or plans, or a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure maps submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the maps of depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under § 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

The FAA has formally received the noise compatibility program for SEA, also effective on April 11, 1985.

Preliminary review of the submitted material indicates that it conforms to the requirements for the submittal of noise compatibility programs, but that further review will be necessary prior to approval or disapproval of the program. The formal review period, limited by law to a maximum of 180 days, will be completed on or before October 8, 1985.

The FAA's detailed evaluation will be conducted under the provisions of 14 CFR 150.33. The Primary considerations in the evaluation process are whether the proposed measures may reduce the level of aviation safety, create an undue burden on interstate or foreign commerce, or be reasonably consistent with obtaining the goal of reducing existing noncompatible land uses and preventing the introduction of additional noncompatible land uses.

Interested persons are invited to comment on the proposed program with specific reference to these factors. All comments, other than those properly addressed to local land use authorities, will be considered by the FAA to the extent practicable. Copies of the noise exposure maps, the FAA's evaluation of the maps, and the proposed noise compatibility program are available for examination at the following locations:

Federal Aviation Administration, Independence Avenue, SW, Room 615, Washington, D.C.

Federal Aviation Administration, Airports Division, ANM–600, 17900 Pacific Hwy S. C–68966, Seattle, Washington 98168

Port of Seattle, Planning and Research Dept., Pier 66, Seattle, Washington

Questions may be directed to the individual named above under the heading, **FOR FURTHER INFORMATION CONTACT.**

Issued in Seattle, Washington, April 11, 1985.

Edward G. Tatum,

Manager, Airports Division Northwest Mountain Region.

[FR Doc. 85–9828 Filed 4–23–85; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. IP84–16; Notice 2]

American Honda Motor Co., Inc.; Denial of Petition for Inconsequential Noncompliance

This notice denies the petition by American Honda Motor Co., Inc., of Gardena, California, to be exempted from the notification and remedy requriements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.218, Motor Vehicle Safety Standard No. 218, *Motorcycle Helmets*, on the basis that it is inconsequential as it related to vehicle safety.

Notice of the petition was published on October 31, 1984, and an opportunity afforded for comment (49 FR 43829).

Paragraph S5.5, *Projections*, of Safety Standard No. 218 states in pertinent part that "A helmet shall not have any rigid projections inside its shell." Honda has distributed "less than 20,000" helmets in the model years 1982–84 with provision for installation of audio headsets which are ellipsoidal in shape, about 1½ inches at the longest point, and which project inwards from the liner surface approximately 1 inch. Petitioner stated that it is aware of no comments from purchasers concerning the noncompliance. Further, the headset mounting points are below the impact test areas designated in Standard No. 218.

In order to obtain an expert opinion as to the likelihood of an internally mounted audio headset becoming a significant causative factor of injury, the petitioner consulted Dr. Irving Rehman, Emeritus Professor of Anatomy, University of Southern California School of Medicine, who had performed over 300 autopsies on motorcycle accident victims, with particular attention to the head and neck region. Dr. Rehman submitted a preliminary report which has been placed in the docket with the petition. Dr. Rehman's report indicates that he had examined a sample "to determine whether and placement of the two ear speakers over the mastoid area had any potential to produce inuury, skull fracture, and/or brain damage." He concluded that he saw "no probability" for the speaker "to produce trauma in an impact to the mastoid area of the head."

No comments were received on the petition.

The speakers in question extend inwards from the helmet shell about one inch and are constructed of hard plastic. They are therefore "rigid projections" within the meaning of the prohibition of paragraph S5.5. They are not protected or covered by padding or any other effective protective materials. The comfort padding in the area surrounding the speaker does not appear capable of providing useful load-carrying capacity. The helmet as designed will not prevent contacts between the speakers and the helmet user's head during an impact, and therefore, the speakers present a potential safety problem.

The petitioner claimed that accident data shows low injury frequency in the

ear area, specifically only 4 to 8% of all injuries, and that no accident data show injury attributable to speakers in helmets. Honda and Dr. Rehman did not identify the source of the data. However, NHTSA believes that a DOT-sponsored study by Professor H. Hurt of the University of Southern California may have been its source. This data covered the years 1975–80, at a time that helmet speakers were scarce if indeed furnished at all and it is therefore irrelevant that the data showed no speaker-head injuries.

The petitioner also claimed that the speakers would not cause injuries in the head area, citing the strength of the mastoid bone as demonstrated through scientific studies. NHTSA does not dispute the fact that the mastoid bone is the most likely one to be contacted by the speaker in an accident, or the studies demonstrating the strength of that bone. However, there are other bones in the ear area with a lesser fracture load which could be contacted in an accident. Dr. Rehman cites a report that the energy required to fracture the mastoid bone is 615 inch-pounds, but he also referenced another study showing that the fracture load of the bone in the temporo-parietal area is 550 pounds as demonstrated by drop-tower impacts through a 1-square inch contact area. The Society of Automotive Engineers, however, has ascribed a force range beginning at 400 pounds for temporo-parietal fracture in SAE J585 *Human Tolerance to Impact Conditions as Related to Motor Vehicle Design.* The NHTSA has examined how these loads relate to those experienced in tests of helmets to Standard No. 218 in judging the injury potential of the speakers. To judge impact attenuation, the standard specifies that a helmet mounted on a headform shall be dropped in guided free fall upon fixed flat and hemispherical steel anvils (paragraph S7.1). The total drop weight is the 11 pounds of the instrumented headform plus the weight of the helmet tested. The Honda helmet weighs roughly 3.5 pounds. The impact energy for the 72-inch drop would therefore be 1,044 inch-pounds, and for the 45.5 inch drop, 790.25 inch-pounds. Either figure is larger than the fracture energy of the mastoid bone, by 70% for the higher drop, and 29% for the lower one. NHTSA assumes that almost all the impact energy of the hemispherical drop would be transmitted through the rigid speaker to the head with the potential for mastoid and temporo-parietal bone fracture.

For the foregoing reasons, NHTSA has determined that petitioner has not met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on April 19, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-9844 Filed 4-23-85; 8:45 am]

BILLING CODE 4910-59-M

International Harmonization of Safety Standards; Calendar of Meetings

The National Highway Traffic Safety Administration (NHTSA) will continue its participation during this year in the international meetings to harmonize U.S. and foreign motor vehicle safety standards. These meetings will be conducted by the Group of Experts on the Construction of Vehicles (WP29) under the Inland Transport Committee of the United Nations' Economic Commission for Europe (ECE) and the eight groups of Rapporteurs of the WP29. The NHTSA currently represents the United States in all of the rapporteur meetings except those on Pollution and on Noise.

This calendar consists of those ECE meetings currently scheduled. It is published for information and planning purposes and the meeting dates and places are subject to change. NHTSA attendance at these meetings will be affected by agenda content, priorities and availability of travel funds. Inquiries or comments relating to specific meetings should be made at least two weeks preceding that meeting.

FOR FURTHER INFORMATION CONTACT:

Francis J. Turpin, Office of Vehicle Safety Standards (NRM-10), National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-2212.

April 9–12, 1985
- Group of Rapporteurs on Noise (GRB), Thirteenth Session—Geneva, Switzerland.

April 29–May 3, 1985
- Group of Rapporteurs on Protective Devices (GRDP), Fifteenth Session—Geneva, Switzerland.

May 6–10, 1985
- Group of Rapporteurs on Brakes and Running Gear (GRRF), Seventeenth Session—London, England.

May 28–31, 1985
- Group of Rapporteurs on Safety Provisions on Motorcoaches and Buses (GRSA) Thirty-first Session—Geneva, Switzerland.

June 13–14, 1985
- Ad Hoc Meeting on the Program of Work of WP29, Twenty-eighth Session—Geneva, Switzerland.

June 17–21, 1985
- Group of Experts on the Construction of Vehicles (WP29), Seventy-sixth Session—Geneva, Switzerland.

July 9–12, 1985
- Group of Rapporteurs on Lighting and Light-Signalling (GRE), Thirteenth Session—Lipstadt, Federal Republic of Germany.

July 23–26, 1985
- Group of Rapporteurs on General Safety Provisions (GRSG), Forty-sixth Session—Geneva, Switzerland.

August 27–30, 1985
- Group of Rapporteurs on Pollution and Energy (GRPE), Twelfth Session—Geneva, Switzerland.

September 2–4, 1985
- Group of Rapporteurs on Crashworthiness (GRCS), Seventeenth Session—Geneva, Switzerland.

October 7–11, 1985
- Group of Rapporteurs on Protective Devices (GRD), Sixteenth Session—Geneva, Switzerland.

October 17–18, 1985
- Ad Hoc Meeting on the Program of Work of WP29, Twenty-ninth Session—Geneva, Switzerland.

October 21–25, 1985
- Group of Experts on the Construction of Vehicles (WP29) Seventy-seventh Session—Geneva, Switzerland.

November 5–8, 1985
- Group of Rapporteurs on Lighting and Light-Signalling (GRE), Fourteenth Session—Tokyo, Japan.

November 11–15, 1985
- Group of Rapporteurs on General Safety Provisions (GRSG), Forty-seventh Session—Geneva, Switzerland.

November 19–22, 1985
- Group of Rapporteurs on Brakes and Running Gear (GRRF), Eighteenth Session—Geneva, Switzerland.

January 14–17, 1986
- Group of Rapporteurs on Noise (GRB), Fourteenth Session—Geneva, Switzerland.

January 22–24, 1986
- Group of Rapporteurs on Crashworthiness (GRCS), Eighteenth Session—Geneva, Switzerland.

February 4–7, 1986
- Group of Rapporteurs on Pollution and Energy (GRPE), Thirteenth Session—Geneva, Switzerland.

February 18–21, 1986
- Group of Rapporteurs on Safety Provisions on Motorcoaches and Buses (GRSA), Thirty-second

Session—Geneva, Switzerland.
March 6–7, 1986
Ad Hoc Meeting on the Program of Work of WP29, Thirtieth Session—Geneva, Switzerland.
March 10–14, 1986
Group of Experts on the Construction of Vehicles (WP29) Seventy-eighth Session—Geneva, Switzerland.

The following meetings took place earlier this year.
January 29–31, 1985
Group of Rapporteurs on Crashworthiness (GRCS), Sixteenth Session—Geneva, Switzerland.
February 11–14, 1985
Group of Rapporteurs on Pollution and Energy (GRPE), Eleventh Session—Geneva, Switzerland.
March 7–8, 1985
Ad Hoc Meeting on the Program of Work of WP29, Twenty-seventh Session—Geneva, Switzerland.
March 11–15, 1985
Group of Experts on the Construction of Vehicles (WP29) Seventy-fifth Session, Geneva, Switzerland.

Issued on April 19, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85–9901 Filed 4–23–85; 8:45 am]

BILLING CODE 4910–59–M

Research and Special Programs Administration

National Hazardous Materials Transportation Advisory Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the National Hazardous Materials Transportation Advisory Committee (NHMTAC) on May 9 and 10, 1985, at 9:00 a.m. at the Peabody Hotel, 149 Union Avenue, Memphis, TN 38103.

The purpose of the meeting is to receive reports from the Emergency Response, Prevention, and Information Exchange Working Groups and discuss their content.

Attendance is open to the public but limited to the space available. With approval of the chair of the Committee, and availability of time, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Ms. Cecy Ivie, Materials Transportation Bureau (DMT–60), Room 8432, 400 Seventh Street, S.W., Washington, DC 20590, telephone (202) 472–2698, of the topics to be addressed and the time requested to address each topic. Members of the public may present written statements to the Committee before or after any meeting of the Committee. Such statements should be sent to: National Hazardous Materials Transportation Advisory Committee, ATTN: Ms. Cecy Ivie, Materials Transportation Bureau (DMT–60), Room 8432, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

Dated: April 23, 1985.

Sherwood C. Chu,

Associate Director for Regulatory Planning and Analysis, Materials Transportation Bureau.

[FR Doc. 85–10094 Filed 4–23–85; 11:05 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Dated: April 18, 1985.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB (listed by submitting bureau(s)), for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of these submissions may be obtained by calling the Treasury Bureau Clearance Officer listed under each bureau. Comments regarding these information collections should be addressed to the OMB reviewer listed at the end of each bureau's listing and to the Treasury Department Clearance Officer, Room 7221, 1201 Constitution Avenue, NW., Washington, D.C. 20220.

Comptroller of the Currency

OMB Number: 1557–0081
Form Number: FFIEC 031–034
Type of Review: Revision
Title: Reports of Condition and Income (Interagency Call Report)
Clearance Officer: Eric Thompson, (202) 447–1177, Comptroller of the Currency, 6th Floor, L'Enfant Plaza, Washington, D.C. 20219
OMB Reviewer: Robert Neal, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, D.C. 20503

James V. Nasche, Jr.,

Departmental Reports, Management Office.

[FR Doc. 85–9903 Filed 4–23–85; 8:45 am]

BILLING CODE 4810–25–M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 79
Wednesday, April 24, 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

	Item
Federal Deposit Insurance Corporation	1
Federal Reserve System	2
International Trade Commission	3
National Mediation Board	4
Nuclear Regulatory Commission	5

1

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Goverment in the Sunshine Act" (5 U.S.C. 552b), notice is herby given that at 6:00 p.m. on Thursday, April 18, 1985, the Board of Directors of the Federal Deposity Insurance Corporation met in closed session, by telephone conference call, to:

(A) (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Peoples National Bank of Lampasas, Lampasas, Texas, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, April 18, 1985; (2) accept the bid for the transaction submitted by United Peoples Bank, Lampasas, Texas, a newly-chartered State nonmember bank subsidiary of Capital Peoples Bancshares, Inc.; (3) approve the applications of United Peoples Bank, Lampasas, Texas, for Federal deposit insurance and for consent to purchase certain assets of and assume the liability to pay deposits made in The Peoples National Bank of Lampasas, Lampasas, Texas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B) (1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The First National Bank of Springfield, Springfield, Colorado, which was closed by the Senior Deputy Comptroller for Bank Supervision, Office of the Comptroller of the Currency, on Thursday, April 18, 1985; (2) accept the bid for the transaction submitted by Baca State Bank, Springfield, Colorado, an insured State nonmember bank; (3) approve the applicaiton of Baca State Bank, Springfield, Colorado, for consent to purchase certain assets of and assume the liability to pay deposits made in The First National Bank of Springfield, Springfield, Colorade, and to establish the sole office of The First National Bank of Springfield as a branch of Baca State Bank; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(C) consider a recommendation, pursuant to section 10(b) of the Federal Deposit Insurance Act, that the Corporation examine a certain State member bank (name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8) and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8) and (c)(9)(A)(ii))); and

(D) consider the application of LTCB Trust Company, an operating noninsured trust company located at 140 Broadway, New York, New York, for Federal deposit insurance and for consent to exercise full trust powers.

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Mr. H. Joe Selby, acting in the place and stead of Director C. T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that not earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 19, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-10014 Filed 4-22-85; 2:55 pm]

BILLING CODE 6714-01-M

2

FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, April 29, 1985.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed Federal Reserve Bank salary structure adjustments made under Delegation of Authority.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: April 19, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-9912 Filed 4-19-85; 4:47 pm]

BILLING CODE 6210-01-M

3

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Wednesday, April 24, 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. Ratification List.
4. Petitions and Complaints.
   (a) Liquid support for human bodies (Docket No. 1185).
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. 85-9936 Filed 4-22-85; 9:42 am]

BILLING CODE 7020-02-M

4

NATIONAL MEDIATION BOARD

TIME AND DATE: 2:00 P.M., Wednesday, May 1, 1985.

PLACE: Board Hearing Room 8th Floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of the Board actions taken by notation voting during the month of April, 1985.

2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the montly report of the Board's notation voting actions will be available from the Executive Secretary's office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, Tel: (202) 523–5920.

Date of notice: April 18, 1985.

Mr. Rowland K. Quinn, Jr.,

Executive Secretary, National Mediation Board.

[FR Doc. 85–9983 Filed 4–22–85; 1:47pm]

BILLING CODE 7550–01–M

5

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of April 22, 29, May 6, and 13, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of April 22

Tuesday, April 23

9:30 a.m.
Discussion of Pending Investigations (Closed—Ex. 5 & 7)

11:00 a.m.
Discussion of Diablo Canyon-2 Contested Issues (Closed—EX. 10) (tentative)

2:30 p.m.
Discussion/Possible Vote on Diablo Canyon-2 Low Power License (Public Meeting)

Thursday, April 25

2:00 p.m.
Affirmation/Discussion and Vote (Public Meeting)
a. Indian Point Order (Tentative) (Postponed from April 18)

Week of April 29—Tentative

Wednesday, May 1

10:00 a.m.
Discussion of Low Level Waste Issues (Public Meeting)

2:00 p.m.
Periodic Briefing on NTOLs (Open/Portion may be Closed—Ex. 5 & 7)

4:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Thursday, May 2

10:00 a.m.
Discussion of Modified Rule on Material False Statements (Public Meeting)

Week of May 6—Tentative

Wednesday, May 8

10:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting)

Thursday, May 9

10:00 a.m.
Briefing on Brookhaven Report on Independent Safety Organization (Public Meeting)

2:00 p.m.
Executive Branch Briefing (Closed—Ex. 1)

3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, May 10

2:00 p.m.
Periodic Meeting with Advisory Committee on Reactor Safeguards (Public Meeting)

Week of May 13

Wednesday, May 15

10:00 a.m.
Briefing on Final Rule on Backfitting (Public Meeting)

Thursday, May 16

10:00 a.m.
Mid-Year Budget and Program Review (Public Meeting)

ADDITIONAL INFORMATION: Affirmation of "*UCS* v. *NRC* (Emergency Preparedness Exercises May Not be Excluded by Rule from OL Hearings)" (Public Meeting) was held on April 18.

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Julia Corrado,

Office of the Secretary.

April 19, 1985.

[FR Doc. 85–9902 Filed 4–19–85; 4:44 pm]

BILLING CODE 7590–01–M

federal register

Wednesday
April 24, 1985

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Preparation and Certification of Cross Sections, Maps and Plans by Land Surveyors; Certification of the Design of Impoundments; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 779, 780, 783, 784, 816 and 817

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Preparation and Certification of Cross Sections, Maps and Plans by Land Surveyors; Certification of the Design of Impoundments

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

ACTION: Final rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) of the U.S. Department of the Interior (DOI) is amending its rules governing: (1) Preparation and certification of cross sections, maps and plans required in permit applications for surface and underground coal mining; (2) preparation and certification of general and detailed design plans for sedimentation ponds, water impoundments, and coal processing waste banks, dams and embankments; and (3) certification of the design of impoundments.

This final rule implements a November 4, 1983, amendment to the Surface Mining Control and Reclamation Act of 1977, and authorizes qualified, registered, professional, land surveyors to prepare and certify the cross sections, maps and plans required in an application for a surface coal mining and reclamation permit in any State which authorizes land surveyors to prepare and certify such documents. In addition, it increases the qualifications a land surveyor must have to prepare and certify detailed design plans for small structures. It also eliminates an inconsistency in the previous rules regarding the authority of land surveyors to certify the design of small impoundments.

EFFECTIVE DATE: May 24, 1985.

FOR FURTHER INFORMATION CONTACT: Stanford J. Zeccolo, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; Telephone: 202-343-5955 (Commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Background
II. Final Rule and Responses to Public Comments on Proposed Rule
III. Procedural Matters

I. Background

A. Amendment to Section 507(b)(14) of the Act

As originally enacted, section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (the Act), 30 U.S.C. 1257(b)(14), required that certain cross sections, maps and plans in an application for a surface coal mining reclamation permit be

> prepared by or under the direction of and certified by a qualified registered professional engineer, or professional geologist with assistance from experts in related fields such as land surveying and landscape architecture . . . .

This requirement was implemented in the previous OSM rules at 30 CFR 779.25, 780.14, 780.25, 783.25, 784.16 and 784.23.

Prior to the Act, land surveyors in a number of States had been authorized by State law to prepare and certify the cross sections, maps and plans required in an application for a surface coal mining and reclamation permit. Under the Act, however, only an engineer or geologist could certify these documents.

To resolve this conflict with State law, the U.S. Congress on November 4, 1983, amended the Act to authorize land surveyors to prepare and certify cross sections, maps and plans (Sec. 115, Pub. L. 98-146, 97 Stat. 938 (1983)). The amendment provides that

> [n]otwithstanding section 507(b)(14) of the Surface Mining Control and Reclamation Act of 1977 (Pub. L. 95-87), cross-sections, maps or plans of land to be affected by an application for a surface mining and reclamation permit shall be prepared by or under the direction of a qualified registered professional engineer or geologist, or qualified registered professional land surveyor in any State which authorizes land surveyors to prepare and certify such maps or plans.

On October 2, 1984 (49 FR 38958), OSM proposed a rule to implement this statutory amendment, and give qualified, registered, professional, land surveyors authority to prepare and certify cross sections, maps and plans in any State which authorizes land surveyors to prepare and certify such documents. This final rule is based on that proposal.

B. Inconsistent Rules

The previous permanent program rules contained inconsistent provisions concerning the authority of land surveyors to certify the design of small impoundments. The rules at 30 CFR 816.49(a)(2) and 817.49(a)(2), which were adopted in 1983 (48 FR 43994), did not authorize land surveyors to certify the design of any impoundments. However, the rules at 30 CFR 780.25(a)(3) and 784.16(a)(3), which were adopted in March 1979 (44 FR 15357), authorized registered land surveyors to prepare and certify detailed design plans for small impoundments not meeting the size or other criteria of 30 CFR 77.216(a). (The rule at 30 CFR 77.216(a) specifies Mine Safety and Health Administration criteria concerning the elevation, storage volume, and hazard potential of an impounding structure.)

The rule proposed by OSM on October 2, 1984, resolved this inconsistency by revising §§ 816.49(a)(2) and 817.49(a)(2) to require certification of the design of impoundments in accordance with 30 CFR 780.25(a) and 784.16(a), respectively. These cross-references to §§ 780.25(a) and 784.16(a) were intended to preserve the authority for certifying small impoundments that already had been given to land surveyors in 1979 by the referenced sections. In addition, OSM proposed to increase the qualifications required of a land surveyor in §§ 780.25(a)(3) and 784.16(a)(3) by inserting the words "qualified" and "professional" before the term "land surveyor," to correspond with the qualifications required of an engineer in the same circumstances.

C. Public Comment Period

A thirty day public comment period was announced in the proposed rule, to close on November 1, 1984. Because the affected provisions of 30 CFR Chapter VII are referenced by Federal programs, on October 29, 1984 (49 FR 43479), the comment period was extended to December 3, 1984, to provide the 60 days public notice required by 30 CFR 736.12 for revision of a Federal program. Also in accordance with 30 CFR 736.12, public notice of the proposed rule was published in newspapers in the ten Federal program states of Tennessee, North Carolina, Georgia, Massachusetts, Rhode Island, Idaho, Oregon, Washington, South Dakota and Mississippi.

OSM received pubic comments on the proposed rule from a total of fourteen individuals and organizations. Public reaction to the proposed rule overall was favorable by a margin of approximately two-to-one. No request was received for a public hearing or meeting, and none was held.

II. Final Rule and Responses to Public Comments on Proposed Rule

A. Technical Revisions

Throughout this final rule, minor technical revisions are made in spelling, punctuation and grammar. These

revisions improve the clarity of the rule, but have no effect on its substantive requirements. Because of their limited effect, these technical revisions are not discussed in specific detail.

B. Section-by-Section Analysis

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 779.25 Cross sections, maps and plans—Renumbering of Paragraphs. In § 779.25, the previous numbering of the paragraphs was incorrect. The introductory language related to paragraphs (a) through (k), but not to paragraph (l). Therefore, this rule amends § 779.25 by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraph (a)(11)(i) through (a)(11)(iii) and redesignating paragraph (l), the last paragraph, as paragraph (b).

Increased Authority of Land Surveyors. This rule revises new § 779.25(b) to authorize qualified, registered, professional, land surveyors to prepare and certify the cross sections, maps and plans required in a permit application pursuant to this section. In any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, this rule authorizes qualified, registered, professional, land surveyors to prepare and certify these documents.

In any such State, this rule gives qualified, registered, professional, land surveyors the same authority to prepare and certify cross sections, maps and plans as they are given by State law. Although the preamble to the proposed rule stated that the rule would give land surveyors the same authority as previously had been granted to engineers and geologists, this is true only to the extent such authority is given to land surveyors by State law.

The State of West Virginia, in its comments on the proposed rule, stated that it has authorized licensed land surveyors to design and certify cross sections, maps and plans since 1971, with entirely satisfactory results. Another commenter pointed out that the State of Pennsylvania currently authorizes land surveyors to prepare and certify cross sections, maps and plans.

One commenter thought the proposed rule gave equal status to engineers, geologists, and landscape architects, and thus tended to degrade professional land surveyors. Another thought it discriminated against professional land surveyors, and that it considered an engineer, geologist or landscape architect to be more competent than a land surveyor.

OSM does not intend this rule to reflect adversely on the status of any of these professions to do the work for which they are authorized by State and Federal law. This rule does not affect the authority previously granted to professional geologists. Nor does it authorize landscape architects to prepare independently or to certify cross sections, maps and plans, but limits them to assisting engineers, geologists or land surveyors as authorized by the previous rule.

Another commenter thought OSM had construed the amendment to section 507(b)(14) of the Act too broadly in proposing to authorize land surveyors to prepare and certify all of the cross sections, maps and plans covered by that section of the Act, thereby posing a threat to the public health and safety, as well as to the safety of underground miners. This commenter thought that while the wording of the amendment to the Act ostensibly went further than merely allowing land surveyors to certify maps and plans of surface features, topography and land boundaries, the intent of the Congress was more limited than a literal reading of the amendment would indicate.

This commenter wanted OSM further to limit the rule to authorize land surveyors to engage in only those activities "properly within that professional field," rather than "merely recanting the statutory amendment and leaving the individual states without guidance in the area." Notwithstanding this commenter's concerns, however, there is nothing in either the amendment to the Act or its legislative history, and the commenter cited nothing, to support additional restrictions on land surveyors who meet the requirements of § 779.25(b).

Moreover, although this commenter alluded to activities properly within the field of surveying, such activities may vary among the States. This rule authorizes surveyors only to perform those functions in a particular State for which they have authority under State law. For these reasons, OSM has declined to impose any further restrictions on properly authorized land surveyors.

One commenter noted that in many of the areas affected by this rule the hourly rate of a land surveyor is approximately fifty percent of that of an engineer, which may result in substantial savings to operators, and particularly small operators, who employ surveyors. Such savings, the commenter believed, may lead to lower coal prices and stimulate competition in the market.

Although operators may derive economic benefits from this rule, such benefits would not justify the rule if adequate environmental protection were not also assured. Because only qualified professionals are authorized to certify cross sections, maps and plans, this rule will not decrease the environmental protection provided by the Act.

Rule Authorizes Both Preparation and Certification. As was explained in the preamble to the proposed rule, while a literal reading of the amendment to section 507(b)(14) of the Act might appear to authorize land surveyors only to *prepare* cross sections, maps and plans, revised § 779.25(b) also authorizes land surveyors to *certify* these documents. In view of the legislative history of the amendment to the Act, OSM has concluded that the Congress intended the term "prepared by" in the amendment to include authority for certification.

As discussed by Senator Byrd on the floor of the Senate, 129 Cong. Rec. S12411 (daily ed. Sept. 19, 1983) (emphasis added), the purpose of the amendment was to remedy

> conflicts with State laws [where the Act] preempts registered land surveyors from a lead role in the *preparation and certification* of maps, plans, and cross-sections . . . .
>
> * * * * *
>
> The Surface Mining Control and Reclamation Act of 1977 authorizes registered professional engineers and geologists to perform design and planning work for mining projects. The act does not permit professional land surveyors to take the lead role in *preparing and certifying* mine maps and plans.

These and other references in the legislative history to both preparing and certifying strongly infer that the Congress intended to authorize qualified, registered, professional, land surveyors to perform both of these functions as lead professionals. If land surveyors were authorized merely to prepare, but not to certify, cross sections, maps and plans, their status as lead professionals would be seriously impaired, if not entirely negated. Thus, this rule authorizes qualified, registered, professional, land surveyors both to prepare and to certify these documents.

A number of commenters expressed agreement with this interpretation of the amendment to section 507(b)(14) of the Act. One pointed out that the rules in effect prior to the amendment had authorized land surveyors to prepare cross sections, maps and plans under the direction of professional engineers, but not to certify them. If the

amendment and this rule did not authorize land surveyors to certify these documents, there would be no change from their previous status. OSM concurs with this observation, and concludes that in enacting the amendment the Congress intended to authorize land surveyors both to prepare and to certify cross sections, maps and plans.

Qualifications of Professional Geologist. The proposed rule would have added the words "qualified" and "registered" to modify the term "professional geologist" in § 779.25(b), to correspond with the qualifications required of an engineer. A commenter pointed out that some States do not have a registration process for professional geologists, and thus the rule would be inconsistent with current procedures in those States. This commenter noted that in the State of Wyoming, for example, there is no registration process for geologists. To qualify as a "professional geologist" under Wyoming law a person need only have a certain level of education and experience.

This comment is consistent with the text of section 507(b)(14) of the Act, which speaks only in terms of a "professional geologist," without the added qualifications required of a professional engineer. Accordingly, in this final rule the less restrictive language of the Act is retained in § 779.25(b), and the words "qualified" and "registered" have not been added to modify the term "professional geologist." In determining whether a person qualifies as a professional geologist under this provision, OSM will apply whatever standard is used in the State where the proposed surface coal mining operation would take place.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section 780.14 Operation plan: Cross sections, maps and plans.—Increased Authority of Land Surveyors. Previous § 780.14 required that each surface mining permit application contain specified maps and plans, some of which must be certified. This rule revises § 780.14(c) to authorize qualified, registered, professional, land surveyors to prepare and certify these maps and plans in any State which grants land surveyors such authority. The effect of this revision is the same as discussed previously for § 779.25(b).

References to Exceptions and Pertinent Paragraphs. For increased specificity, the exceptions previously described verbally in § 780.14 (c)(1) and (c)(2) now are referenced by section number at the beginning of paragraph (c). The referenced provisions, 30 CFR 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c) and 816.81(c), restrict land surveyors from preparing and certifying cross sections, maps and plans in certain situations. Although referenced § 780.35(a) does not itself contain an independent certification requirement, it does incorporate by reference the requirements of 30 CFR 816.71(b) and 816.73(c). The explicit reference to § 816.73(c) in the final rule inadvertently was omitted from the proposed rule. However, § 816.73(c) was referenced indirectly in the proposed rule through the reference to § 780.35(a).

To correct an omission from the references to paragraph (b) in the previous rule, a reference to paragraph (b)(6) is added to the previous references to paragraphs (b) (4), (5), (10) and (11). As noted in the preamble to the proposed rule, the water diversion, collection, conveyance, treatment, storage and discharge facilities covered by paragraph (b)(6) clearly are within the purview of "any settling or water treatment facility . . . constructed or natural drainways and the location of any discharges to any surface body of water," as recited in section 507(b)(14) of the Act, and thus are within the purview of § 780.14(c).

Section 780.25 Reclamation plan: Impoundments and coal processing waste impounding structures.—Increased Authority of Land Surveyors. Previous § 780.25 required that each application for a surface coal mining and reclamation permit include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area. This rule revises § 780.25(a)(1)(i) to authorize qualified, registered, professional, land surveryors to prepare and certify this general plan in any State which authorizes land surveyors to prepare and certify such plans. The effect of this revision is the same as discussed previously for § 779.25(b).

Proposed § 780.25(a)(1)(i) incorrectly specified cross sections and maps as documents which a State must authorize a land surveyor covered by this section to prepare. This reference to cross sections and maps has been deleted from the final rule, which requires only that a State authorize land surveyors to prepare and certify general plans.

Additional Qualifications for Land Surveyors. Previous § 780.25(a)(3)(i) authorized a registered land surveyor to prepare and certify a detailed design plan for a structure that does not meet the size or other criteria of 30 CFR 77.216(a). This rule revises § 780.25(a)(3)(i) to increase the qualifications a land surveyor must have to prepare such plans. To correspond with what is required of an engineer, the words "qualified" and "professional" are added to modify the term "land surveyor." As stated in the preamble to the proposed rule, these increased qualifications are in keeping with the intent of the Congress in the amendment to section 507(b)(14) of the Act.

While the discussion of § 780.25 in the preamble to the proposed rule inadvertently stated only that additional qualifications would be added to the term "professional geologist," but failed to include the term "land surveyor," it is clear from the context of that discussion and from the text of the proposed rule that similar modifications of the term "land surveyor" also was intended. The preamble not only cited § 780.25(a)(3), which concerns land surveyors and not geologists, as subject to the proposed revision, but also the proposed rule itself included the increased qualifications for land surveyors.

While proposed § 780.25(a)(3)(i) conditioned the authority granted to land surveyors on a requirement that a State grant to land surveyors corresponding authority to prepare detailed design plans, it inadvertently omitted a similar condition that a State grant to land surveyors authority to certify these plans. This rule corrects this omission and requires State authorization of land surveyors both to prepare and to certify such plans. This additional condition is in keeping with similar requirements elsewhere in this rule.

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

Section 783.25 Cross sections, maps and plans.—Section 783.25 is revised in the same way and for the same reasons as discussed previously for § 779.25. The editorial note following § 783.25 is revised to reflect the renumbering of previous paragraphs (c), (h) and (i) as new paragraphs (a)(3), (a)(8) and (a)(9), respectively.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

Section 784.16 Reclamation plan: Ponds, impoundments, banks, dams and embankments.—Except for substituting references to the corresponding rules for underground mining activities in 30 CFR 817.81 and 817.84, § 784.16 is revised in

the same way and for the same reasons as discussed previously for § 780.25.

Section 784.23 Operation plan: Cross sections, maps and plans.—Except for substituting references to the corresponding rules for underground mining activities in 30 CFR 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(c) and 817.81(c), § 784.23 is revised in the same way and for the same reasons as discussed previously for § 780.14.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

Section 816.49 Impoundments.—Certification of Small Impoundments by Land Surveyors. This rule revises § 816.49(a)(2) to require the certification of impoundment designs in accordance with 30 CFR 780.25(a). Previous § 816.49(a)(2) was inconsistent with § 780.25(a)(3)(i), which authorizes land surveyors to prepare and certify the design of small impoundments that do not meet the size or other criteria of 30 CFR 77.216(a). The revision eliminates this inconsistency and preserves the certification authority previously granted to land surveyors by § 780.25(a)(3)(i), subject however to the increased qualifications for land surveyors added to § 780.25(a)(3)(i) elsewhere in this rule.

The added reference to § 780.25(a) in § 816.49(a)(2) will promote consistent interpretation and enforcement of these two related provisions. As provided in § 780.25(a)(2), only a qualified, registered, professional, engineer is authorized to certify the design of impoundments that meet or exceed the size or other criteria of 30 CFR 77.216(a). For impoundments that do not meet the size or other criteria of § 77.216(a), a qualified, registered, professional, land surveyor is authorized to certify the design in any State where land surveyors are authorized by State law to certify such designs.

One commenter maintained that registered professional engineers should be required to design and certify all impoundments and retention ponds. Another characterized "OSM's proposal to allow land surveyors to design small impoundments [as] dangerous and reckless," citing the collapse on an impoundment in Ages Creek, Kentucky in December 1981 as evidence for this concern. Another commenter cited the Ages Creek structure as the type of impoundment the proposed rule would authorize land surveyors to design and certify, and concluded that land surveyors lack the technical training and experience necessary to do such work.

OSM disagrees with these comments for several reasons. One, this rule does not increase the authority of land surveyors with respect to small impoundment design, but only with respect to certification. Two, the Ages Creek structures was a coal waste refuse dam, and significant factors other than its design contributed to the failure and resulting damage. Finally, 30 CFR 816.71(b) and 816.81(c) continue to require certification by an engineer for all excess spoil fills and mine waste disposal facilities, respectively, regardless of size.

Furthermore, the Act provides many levels of protection, of which design certification is only one. Section 816.49(a)(2) itself requires that the certifying land surveyor have previous experience in impoundment design and construction. Any design which is certified by a land surveyor must conform to the performance standards of the regulatory program and be submitted to the regulatory authority for review as part of a permit application package. Under 30 CFR 816.46(b)(3) an engineer must certify all siltation structures during construction as conforming to the approved design and to the requirements of Part 816. Under § 816.49(a)(10) impoundments are given frequent inspections. And under § 816.49(a)(11) all small impoundments are examined for structural weakness and hazardous conditions at least annually.

Thus, OSM concludes that qualified, registered, professional, land surveyors properly may be given responsibility for certifying the design of small impoundments.

Post-Construction Certification and Inspection of Impoundments. As was noted in the preamble to the proposed rule, this final rule does not affect 30 CFR 816.46(b)(3), which requires that "[s]iltation structures . . . upon construction, shall be certified by a qualified registered professional engineer to be constructed as designed and as approved in the reclamation plan." It also does not affect 30 CFR 816.49(a)(10), which requires the inspection of impoundments by a qualified, registered, professional engineer or other qualified professional specialist.

A number of commenters disagreed with OSM's interpretation that the November 4, 1983, amendment to the Act did not authorize land surveyors to certify the construction of siltation structures or to inspect impoundments, and thus did not affect the requirements of 30 CFR 816.46(b)(3) and 816.49(a)(10). They believed that the Congress intended the amendment to cover the post-construction certification and inspection of small impoundments, and found it anomalous that land surveyors were authorized to certify the designs of these structures, but not to do post-construction certification and inspection.

One commenter stated that OSM's interpretation of the amendment to the Act was "an arbitrary determination based solely upon the awkward division of SMCRA and the regulations issued thereunder into application-related sections and performance standard sections." This commenter also maintained that from the standpoint of environmental protection it is safer to allow the person who designs a small impoundment to inspect it during and after construction to determine whether it complies with the original design, than to rely on another person who is unfamiliar with the original design.

Another commenter concluded that certification of such structures during and after construction is only a matter of reading plans, performing measurements, ensuring correct construction procedures and certifying the results, and that these functions are well within the scope of professionalism of a registered professional land surveyor.

A land surveyor licensed in the State of West Virginia noted that during the past eight years he has designed numerous siltation structures, and had directly supervised and then certified their construction. This land surveyor felt that the person who designs and supervises the construction of a structure is the most qualified individual to certify its construction, and that the intent of the amendment to the Act was to reinstate the land surveyor in this capacity.

Several commenters pointed out that in the State of West Virginia licensed land surveyors have had post-construction certification authority for these structures for the past fourteen years. One of these commenters reasoned that by denying land surveyors the authority for post-construction certification and inspection of small impoundments, OSM has, in effect, declared land surveyors incompetent to design such structures. This commenter believed that OSM's interpretation of the amendment to the Act was contrary to all recognized construction policies, and evidence of obvious resistance to recognizing the abilities of land surveyors.

While OSM acknowledges that these comments have some technical merit, OSM disagrees with them as they relate to § 816.49(b)(3) because the post-construction certification requirements in § 816.46(b)(3) derive from section

515(b)(10)(B)(ii) of the Act. None of these commenters provided any evidence that the Congress in amending section 507(b)(14) of the Act also intended to amend section 515(b)(10)(B)(ii). Absent such evidence, OSM is constrained by the explicit language of section 515(b)(10)(B)(ii) to keep the existing certification requirements of § 816.46(b)(3). OSM does not intend this interpretation to reflect in any way upon the competence of qualified, registered, professional, land surveyors to prepare and certify the designs of small impoundments.

OSM agrees in principle with these comments as they relate to § 816.49(a)(10). Contrary to an incorrect statement in the proposed rule (49 FR 38959; October 2, 1984), this section is not based on section 515(b)(10)(B)(ii)) of the Act. And while section 816.49(a)(10) is not governed by the amendment to section 507(b)(14), there is nothing in the Act to preclude OSM from amending section 816.49(a)(10) to authorize qualified, registered, professional, land surveyors to inspect small impoundments. This authority for small impoundments was given to land surveyors in previous section 816.49(h) (44 FR 15395; March 13, 1979). Based on these comments OSM is considering whether to propose an amendment to section 816.49(a)(10) to restore this authority to land surveyors. With respect to amending section 816.49(a)(10) in this final rule, OSM has concluded that the proposed rule did not provide sufficient notice for such an amendment.

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

Section 817.49 Impoundments.—Except for substituting a reference to the corresponding rule for underground mining activities in 30 CFR 784.16(a), section 817.49 is revised in the same way and for the same reasons as discussed previously for section 816.49.

A commenter pointed out that proposed section 817.49(a)(2) incorrectly referenced section 784.25(a). The final rule includes the correct reference to section 784.16(a).

III. Procedural Matters

Federal Paperwork Reduction Act

This rule contains no new information collection requirements. The information collection requirements in the affected sections of the previous rules were submitted to the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance numbers 1029–0035 (§ 779.25), 1029–0036 (§§ 780.14 and 780.25), 1029–0038 (§ 783.25), 1029–0039 (§§ 784.16 and 784.23).

Executive Order 12291

The DOI has examined this rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis. Any negative economic impact on professional engineers or geologists will be offset by a corresponding positive impact on land surveyors. The estimated number of directly affected surveyors is 500, with a potential shift in income of $700,000 to $3.5 million annually. OSM disagrees with the commenter on the proposed rule who, without providing any evidence, suggested that this estimated number of surveyors was too low.

Regulatory Flexibility Act

The DOI also has determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that this rule will not have a significant econonic impact on a substantial number of small entities. While under the rule some registered professional engineers or geologists who work in small business or are self-employed may lose work to professional land surveyors, any negative economic impact on engineers or geologists should be offset by a corresponding positive impact on surveyors who are similarly employed.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) on this rule, and has made a finding that it would not significantly affect the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). The EA and finding of no significant impact are on file in the administrative record for this rule in the OSM Administrative Record Room at 1100 L Street, NW., Washington, D.C.

List of Subjects

30 CFR Part 779

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 780

Coal mining, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 783

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 784

Coal mining, Reporting and recordkeeping requirements, Underground mining.

30 CFR Part 816

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Surface mining.

30 CFR Part 817

Coal mining, Environmental protection, Reporting and recordkeeping requirements, Underground mining.

Accordingly, 30 CFR Parts 779, 780, 783, 784, 816 and 817 are amended as follows:

Dated: March 28, 1985.

J. Steven Griles,

Deputy Assistant Secretary for Land and Minerals Management.

PART 779—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

1. The authority citation for Part 779 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

2. Section 779.25 is amended by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

3. In § 779.25, new paragraph (b) is revised to read as follows:

§ 779.25 Cross sections, maps and plans.

* * * * *

(b) Cross sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture, and shall be updated as required by the regulatory authority.

PART 780—SURFACE MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

4. The authority citation for Part 780 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

5. In § 708.14, paragraph (c) is revised to read as follows:

§ 780.14 Operation plan: Cross sections, maps and plans.

* * * * *

(c) Except as provided in §§ 780.25(a)(2), 780.25(a)(3), 780.35(a), 816.71(b), 816.73(c) and 816.81(c) of this chapter, cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified registered professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture.

6. In § 780.25, paragraphs (a)(1)(i) and (a)(3)(i) are revised to read as follows:

§ 780.25 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture;

* * * * *

(3) Each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, except that all coal processing waste dams and embankments covered by §§ 816.81–816.84 of this chapter shall be certified by a qualified, registered, professional engineer;

* * * * *

PART 783—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR INFORMATION ON ENVIRONMENTAL RESOURCES

7. The authority citation of Part 783 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

8. Section 783.25 is amended by redesignating the introductory language as paragraph (a), redesignating paragraphs (a) through (k) as paragraphs (a)(1) through (a)(11), redesignating paragraphs (k)(1) through (k)(3) as paragraphs (a)(11)(i) through (a)(11)(iii), and redesignating paragraph (l), the last paragraph, as paragraph (b).

9. In 783.25, new paragraph (b) is revised to read as follows:

§ 783.25 Cross sections, maps and plans.

* * * * *

(b) Cross-sections, maps and plans included in a permit application as required by this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture, and shall be updated as required by the regulatory authority.

PART 784—UNDERGROUND MINING PERMIT APPLICATIONS—MINIMUM REQUIREMENTS FOR RECLAMATION AND OPERATION PLAN

10. The authority citation for Part 784 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

11. Section 784.16 is revised to read as follows:

§ 784.16 Reclamation plan: Ponds, impoundments, banks, dams and embankments.

(a) *General.* Each application shall include a general plan for each proposed sedimentation pond, water impoundment, and coal processing waste bank, dam or embankment within the proposed permit area.

(1) Each general plan shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor with assistance from experts in related fields such as landscape architecture;

* * * * *

(3) Each detailed design plan for a structure that does not meet the size or other criteria of § 77.216(a) of this title shall—

(i) Be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, or in any State which authorizes land surveyors to prepare and certify such plans, a qualified, registered, professional, land surveyor, except that all coal processing waste dams and embankments covered by §§ 817.81–817.84 of this chapter shall be certified by a qualified, registered, professional engineer;

* * * * *

12. In § 784.23, paragraph (c) is revised to read as follows:

§ 784.23 Operation plan: Cross sections, maps and plans.

* * * * *

(c) Except as provided in §§ 784.16(a)(2), 784.16(a)(3), 784.19, 817.71(b), 817.73(c) and 817.81(c) of this chapter, cross sections, maps and plans required under paragraphs (b)(4), (5), (6), (10) and (11) of this section shall be prepared by, or under the direction of, and certified by a qualified, registered, professional engineer, a professional geologist, or in any State which authorizes land surveyors to prepare and certify such cross sections, maps and plans, a qualified, registered, professional, land surveyor, with assistance from experts in related fields such as landscape architecture.

PART 816—PERMANENT PROGRAM PERFORMANCE STANDARDS—SURFACE MINING ACTIVITIES

13. The authority citation for Part 816 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

14. In § 816.49, paragraph (a)(2) is revised to read as follows:

§ 816.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of impoundments shall be certified in accordance with § 780.25(a) of this chapter as designed to meet the requirements of this part using current, prudent, engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered, professional, land surveyor shall be experienced in the design and construction of impoundments.

* * * * *

PART 817—PERMANENT PROGRAM PERFORMANCE STANDARDS—UNDERGROUND MINING ACTIVITIES

15. The authority citation for Part 817 is revised to read as follows:

Authority: Pub. L. 95–87, 91 Stat. 445 (30 U.S.C. 1201 *et seq.*) and sec. 115, Pub. L. 98–146, 97 Stat. 938 (30 U.S.C. 1257), unless otherwise noted.

16. In § 817.49, paragraph (a)(2) is revised to read as follows:

§ 817.49 Impoundments.

(a) * * *

(2) *Design certification.* The design of impoundments shall be certified in accordance with § 784.16(a) of this chapter as designed to meet the requirements of this part using current, prudent, engineering practices and any design criteria established by the regulatory authority. The qualified, registered, professional engineer or qualified, registered, professional, land surveyor shall be experienced in the design and construction or impoundments.

* * * * *

[FR Doc. 85–9736 Filed 4–23–85; 8:45 am]
BILLING CODE 4310-05-M

federal register

Wednesday
April 24, 1985

Part III

Department of Education

Office of Special Education and Rehabilitative Services

Centers for Independent Living; Fiscal Year 1985 Funding Priorities and Application Notice

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

Centers for Independent Living; Fiscal Year 1985 Funding Priorities

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final funding priorities for Fiscal Year 1985.

SUMMARY: The Secretary announces final funding priorities for new projects to be funded in Fiscal Year 1985 under the Centers for Independent Living program, authorized under Section 711 of the Rehabilitation Act of 1973, as amended. These final funding priorities inform potential applicants for grants and other persons interested in vocational rehabilitation services of the areas in which competition for grants will be held in Fiscal Year 1985. These funding priorities will ensure effective use of Fiscal Year 1985 program funds.

EFFECTIVE DATE: These priorities will take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. If you want to know the effective date of these priorities, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Harold F. Shay, Director, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 732–1325.

SUPPLEMENTARY INFORMATION: Grants for Centers for Independent Living are authorized by Title VII, Part B of the Rehabilitation Act of 1973, as amended (29 U.S.C. 796e). Program regulations are established at 34 CFR Part 366. The purpose of the Centers for Independent Living Program is to establish and operate Centers designed to provide a combination of services to severely handicapped individuals to enable them to live more independently in family and community or to secure and maintain appropriate employment. The Act requires that handicapped individuals be substantially involved in policy direction and management of each Center established and operated under this authority.

Two Fiscal Year 1985 priorities were proposed for public comment in the **Federal Register** on December 6, 1984 (49 FR 47650). The priorities will extend independent living services to additional groups of disabled persons and will assist severely handicapped person in making the transition from school or institution to community living or employment.

Interested persons were invited to submit comments or suggestions regarding the proposed priorities on or before January 7, 1985. Thirty-three letters were received in response to this invitation.

Summary of Comments and Responses

The comments received in response to the Notice of Proposed Funding Priorities published in the **Federal Register** on December 6, 1984 (49 FR 47650) and the Secretary's responses to these comments are summarized below:

Priority 1: Expanding Services to Additional Groups of Disabled Persons

Comment: A number of commenters suggested that more program emphasis be given to older blind persons and persons with low vision.

Response: No change has been made. Older blind persons and low vision persons constitute a sizeable segment of our disabled population. Priority 1 addresses expansion of services to additional groups of disabled persons. This priority will provide an opportunity for those Centers that have not been serving older blind persons or low vision persons in the past or who have not been emphasizing services to these groups to develop a special program focus at this time.

Comment: A number of commenters suggested certain additional groups of disabled persons for identification in the list of examples under Priority 1. These suggested groups included racial and ethnic minorities and persons residing in rural areas.

Response: No change has been made. Priority 1, as proposed, listed several examples of the types of program expansion possible under this priority. It is important to remember that these were only examples, and there was no intent to make the list all inclusive or to give preference to any listed area of program expansion. The key point to remember, when addressing this priority, is the extent to which there is a demonstrated need for expansion from a limited population served to a described broader population.

Comment: Several commenters suggested that transportation and housing services should receive special emphasis.

Response: No change has been made. One of the significant characteristics of the Centers for Independent Living Program is that the services provided are, for the most part, those services that are selected by the Centers. Centers have had, and will continue to have, an opportunity to make their own decisions on what services they feel are most needed as well as most compatible with their financial resources and staff expertise.

Comment: A commenter suggested that special funding be put aside to train center staff in servicing the needs of the additional groups of disabled persons addressed in Priority 1.

Response: No change has been made. Centers have over the years identified monies in their budgets for staff training. Title VII, Part B authorizes monies solely for the purpose of establishing Centers and does not address separate funding for staff training. Section 304 of the Rehabilitation Act of 1973, as amended, authorizes grants and contracts with States and public or non-profit agencies and organizations to pay part of the cost of projects for training, traineeships, and related activities designed to assist in increasing the number of personnel trained in providing services to handicapped individuals.

Comment: A commenter suggested that the term "deaf/blind" under Priority 1 be expanded to make clear that the priority is not restricted to those individuals who are both deaf and blind.

Response: A change has been made. The priority now cites the deaf, the blind and the deaf/blind. Again the list in Priority 1 is intended to include examples only and the reference to deaf and/or blind individuals may also include those persons with visual impairments as well as those persons with other sensory impairments.

Comment: A commenter suggested that attendant care services be included as a separate funding priority for Fiscal Year 1985.

Response: No change has been made. Attendant care services are recognized as a major element in the provision of independent living services. At the present time, however, the Medicaid Program administered by the Health Care Financing Administration, Department of Health and Human Services, has issued regulations (42 CFR 440.170f) giving States the option of covering personal care services as a separate benefit under The Medicaid Program. Since States also have the option of covering personal care services as part of a home and community-based services waiver (42 CFR 440.180), the identification of attendant care services as a separate funding priority does not appear to be appropriate under the Centers for Independent Living Program.

Priority 2: Transition From School or Institution to Community Living or Employment.

Comment: A Commenter suggested that Priority 2 Transition from School or Institution to Community Living or Employment, be redesignated as Priority 1, and Expanding Services to Additional Groups of Disabled Persons be designated Priority 2.

Response: No change has been made. There is no intent to give preference to either priority. The priorities were numbered for identification purposes only. Each priority has equal weight with respect to funding.

General Comments

Comment: A commenter suggested that local, public or private, non-profit agencies be allowed to apply directly in competition with State agencies.

Response: No change has been made. Title VII, Part B, section 711 of the Rehabilitation Act of 1973, as amended, requires the Commissioner to make grants to any designated State unit that administers the State plan under section 705 to provide for the establishment and operation of Independent Living Centers. Section 711(d) states that if, within six months after the date in each fiscal year on which the Commissioner begins to accept applications from designated State units under this section, a designated State unit in a State has not submitted an application, the Commissioner may accept applications for grants under this section from local, public agencies or private, non-profit organizations within the State.

Comment: One commenter suggested that $500,000 be earmarked for regional training workshops to be conducted by the National Council for Independent Living Programs. Additionally, this commenter suggested that small amounts of money be allocated to fund community-based, consumer controlled, non-profit organizations as seed money, and that these monies flow through the National Council for Independent Living Programs.

Response: No change has been made. Title VII, Part B authorizes grants to establish and operate Independent Living Centers; separate funding for training workshops is not authorized. Additionally, all Title VII, Part B funds must be awarded to a designated State unit or to a local, public or private, non-profit agency or organization, should the designated State unit not submit an application.

In addition, Department of Education discretionary grant programs are subject to competitive selection procedures described in the Education Department General Administrative Regulations (34 CFR Part 75).

Comment: A commenter suggested that Centers be encouraged or directed to work out cooperative arrangements through sub-contracts to existing agencies with the experience, expertise and specialized staff to meet the service needs of the additional disability populations.

Response: No change has been made. An important element of the Title VII, Part B, Independent Living Program has always been the development of cooperative relationships with other public and private non-profit community agencies to ensure that maximum use is made of available resources and to avoid duplication. Centers have accomplished this by both formal agreements (contracts) and informal agreements.

Final Priorities

The Secretary establishes the following final funding priorities for the Centers for Independent Living Program for Fiscal Year 1985. Available program funds will be divided equally between the two priority areas.

Priority 1: Expanding Services to Additional Groups of Disabled Persons

This priority is intended to enable those existing Centers for Independent Living that have focused in the past on a limited number of disabilities because of tradition, lack of resources, or lack of specially trained staff to expand services to additional disability populations with service needs which require specialized staff, techniques, equipment or other resources.

Examples of the type of program expansion to which this priority is addressed are: Programs currently serving mobility impaired persons that wish to expand coverage to persons with mental handicaps; programs currently serving orthopedically or neurologically impaired persons that wish to expand to serve persons with sensory impairments, including the deaf, the blind or the deaf/blind; programs currently serving persons with mental handicaps that wish to expand to serve physically disabled individuals; programs currently serving children that wish to expand to serve youths and adults; or programs currently serving younger populations that wish to expand to serve older persons, especially older blind persons.

Services to be developed under this priority will enable additional numbers of severely handicapped persons to live more independently in family and community or to secure and maintain employment.

Priority 2: Transition From School or Institution to Community Living or Employment

Priority will be given to proposals that will enable existing Centers for Independent Living to provide independent living services cooperatively with services of other community programs so as to enhance the abilities of severely disabled persons leaving school or institution to live more independently in the community or to seek and maintain employment. Examples of other community services which should be effectively integrated into a comprehensive approach are: Local housing and transportation authorities; State or county Medicaid agencies that can assist in the provision of personal care attendant or home based services; State vocational rehabilitation agencies; technical or vocational schools and community colleges; agricultural extension services in rural areas; as well as any other service or income maintenance program which individuals need and are eligible to receive.

Projects supported under this priority must include cooperative arrangements with existing community resources that will facilitate the transition of severely handicapped persons from school or institution to community living or employment.

It is not necessary that the cooperating community agencies support the direct costs of the project, but it is expected that they will cooperatively participate to the fullest extent possible to ensure that severely disabled persons leaving school or institution achieve their maximum independence.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79 (48 FR 29158, June 24, 1983). The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

(29 U.S.C. 796e)

(Catalog of Federal Domestic Assistance No. 84.132, Centers for Independent Living)

Dated: April 19, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-9883 Filed 4-23-85; 8:45am]

BILLING CODE 4000-01-M

Centers for Independent Living

AGENCY: Office of Special Education and Rehabilitation Services, Department of Education.

ACTION: Application Notice Establishing Closing Date for Transmittal of Fiscal Year 1985 New Awards.

Applications are invited for new projects under the Centers for Independent Living program.

Authorization for this program is contained in section 711 of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 796e).

Applications may be submitted by designated State vocational rehabilitation units. Applications may also be submitted by local public agencies or private nonprofit organizations within a State, if the designated State unit has not submitted an application within six months after the Secretary begins accepting new applications in any fiscal year. October 1, 1984 has been established as the date in Fiscal Year 1985 on which the Secretary began to accept new applications.

The purpose of this program is to establish and operate Centers for Independent Living which offer a combination of independent living services for severely handicapped individuals so that they may live more independently in family and community, or secure and maintain employment, with the maximum degree of self-direction.

Closing date for transmittal of applications: Applications for grant awards must be mailed or hand delivered by July 10, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.132, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158 *et seq.*) implementing Executive Order 12372, entitled: "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

The program in this notice is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State post-secondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within the geographic area.

The following is the current list of States which have established a process, designated a single point of contact, and have selected this program for review:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	North Carolina
Colorado	North Dakota
Connecticut	Ohio
Delaware	Oklahoma
District of Columbia	Oregon
Florida	Pennsylvania
Hawaii	Rhode Island
Illinois	South Carolina
Indiana	South Dakota
Iowa	Texas
Kansas	Utah
Kentucky	Vermont
Louisiana	Virginia
Maine	Washington
Maryland	West Virginia
Massachusetts	Wisconsin
Michigan	Wyoming
Mississippi	Guam
Missouri	Northern Mariana Islands
Montana	Puerto Rico
Nebraska	Trust Territory
Nevada	Virgin Islands
New Hampshire	

Immediately upon receipt of this notice, applicants which are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out that, and to comply with, the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should, immediately upon receipt of this notice, contact the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

In States that have not established a process or chosen this program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by September 9, 1985, to the following address: The Secretary, U.S. Department of Education, Room 4181 (CFDA No. 84.132), 400 Maryland Avenue, SW., Washington, D.C. 20202. (Proof of mailing will be determined on the same basis as applications.)

PLEASE NOTE THAT THE ABOVE ADDRESS IS NOT THE SAME ADDRESS AS THE ONE TO WHICH THE APPLICANT SUBMITS ITS APPLICATION. DO NOT SEND

APPLICATIONS TO THE ABOVE ADDRESS.

Program Information: Awards are made under this program to designated State vocational rehabilitation units. Awards may also be made to local public agencies or private nonprofit organizations within a State, if the designated State unit has not submitted an application within six months after the Secretary begins accepting new applications in any fiscal year.

Section 711(a) of the Rehabilitation Act of 1973, as amended, authorizes the award of grants to "any designated State unit which administers the State plan under section 705," which by definition is the same unit which administers the State plan under section 110 of the Title I State Vocational Rehabilitation Services Program. The Act states in section 711(d), however, that "If, within six months after the date in each fiscal year on which the Secretary begins to accept new applications from designated State units under this section, a designated State unit has not submitted such an application, the Secretary may accept applications for grants under this Section from local public agencies or private nonprofit organizations within the State."

The effect of section 711(d) is give a designated State unit priority in applying for funds under this program in any fiscal year, if that State unit elects to apply.

In those States with two designated State units, one serving the visually impaired or blind, and another State unit serving all other disabilities, if either or both fail to apply within six months after the Secretary begins to accept new applications, the Secretary may accept aplications from local public agencies or private nonprofit organizations within that State. In order to be advised of the possibility of participation in a timely manner, interested public agencies or private nonprofit organizations should contact the State rehabilitation unit(s) in their respective State to determine if the State unit(s) intends to apply during Fiscal Year 1985.

If any designated State unit submits an application after June 10, 1985, but before the closing date of July 10, 1985, the application will not preempt applications from local public agencies or private nonprofit organizations within the respective State.

Section 711(f) of the Rehabilitation Act of 1973, as added by Pub. L. 98–211, the Rehabilitation Amendments of 1984, requires the continued funding of all current grantees under this program through September 30, 1986 unless the Commissioner of the Rehabilitation Services Administration determines that there is a substantial failure to comply with the provisions of the grantee's approved application. In order to ensure full uniformity within the Title VII, Part B Centers for Independent Living program, any new projects funded in Fiscal Year 1985 under this competition will also be funded through September 30, 1986.

All new Fiscal Year 1985 projects funded under this program must support one of the two Fiscal Year 1985 Funding Priorities established by the Secretary. These Funding Priorities are designed to expand or improve services within existing Centers for Independent Living. Section 711 of the Rehabilitation Act of 1973, as amended, gives priority to the designated State vocational rehabilitation unit in applying for new awards under this program. A designated State vocational rehabilitation unit continues to have priority in applying for funds under this notice regardless of whether the designated State unit has submitted an application in the past and is currently administering a project under this program. Any designated State unit submitting a Fiscal Year 1985 application under this notice must, however, focus project activities on existing Centers for Independent Living within the State in line with the Fiscal Year 1985 Funding Priorities. If a designated State unit does not elect to submit a Fiscal Year 1985 application under this notice, local public agencies or private nonprofit organizations within that State may apply, provided that their applications focus project activities on expanding or improving services within existing Centers for Independent Living.

An applicant wishing to apply for funds under both of the Fiscal Year 1985 Funding Priorities must submit separate applications.

Available funds: The total amount of funds available under the program in Fiscal Year 1985 is $22,000,000. Of this amount approximately $1,900,000 will be available for the support of new projects. These funds will be divided equally between the two funding priority areas that have been established by the Secretary for this program in Fiscal Year 1985. These funding priorities are: Priority 1: Expanding Services to Additional Groups of Disabled Persons, and Priority 2: Transition from School or Institution to Community Living or Employment. A full description of each priority is contained in the Notice of Final Funding Priorities for Fiscal Year 1985 which is published in this issue of the **Federal Register**. Based on an estimated average grant amount of approximately $50,000, is is expected that 38 new grants will be awarded.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3329, Mary E. Switzer Building, Washington, D.C. 20202.

Each applicant is responsible for designating which of the two priority areas applies to the proposed project.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages in length. The Secretary further urges that applicants not submit information that is not requested. (Approved by the Office of Management and Budget under control number 1820–0018).

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Centers for Independent Living Program (34 CFR Part 366); and

(b) Education Department General Administrative Regulations (EDGAR) (34 CFR Parts 74, 75, 77, 78 and 79).

FOR FURTHER INFORMATION CONTACT: Harold F. Shay, Division of Special Projects, Rehabilitation Services Administration, Office of Special Education and Rehabilitative Services, U.S. Department of Education, Room 3317, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202, (MS 2312) 732–1325.

(29 U.S.C. 796e)

(Catalog of Federal Domestic Assistance No. 84.132 Centers for Independent Living)

Dated: April 19, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85–9884 Filed 4–23–85; 8:45 am]

BILLING CODE 4000–01–M

Reader Aids

Federal Register

Vol. 50, No. 79

Wednesday, April 24, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, APRIL

12761-12986	1
12987-13160	2
13161-13308	3
13309-13536	4
13537-13750	5
13751-13962	8
13963-14086	9
14087-14206	10
14207-14362	11
14363-14690	12
14691-14918	15
14919-15092	16
15093-15402	17
15403-15534	18
15535-15728	19
15729-15856	22
15857-16048	23
16049-16206	24

CFR PARTS AFFECTED DURING APRIL

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR

Proposed Rules:
Ch. III 13608

3 CFR

Executive Orders:
April 17, 1926
(Revoked in part by PLO 6599) 12804
10000 (Amended by EO 12510) 15535
12070 (Superseded by EO 12510) 15535
12509 15093
12510 15535

Proclamations:
5164 (Amended by Proc. 5313) 12987
5312 12761
5313 12987
5314 13751
5315 13753
5316 13755
5317 13757
5318 15095
5319 15403
5320 15405
5321 15857
5322 15859
5323 16049
5324 16051

Administrative Orders:
Presidential Determinations
No. 85-9 of March 29, 1985 14363
No. 85-10 of April 2, 1985 14207

4 CFR

83 13161

5 CFR

307 13172
316 13172
352 13963
930 15407
1201 ..... 13173, 15409

Proposed Rules:
293 15158
870 15428
871 15428
872 15428
873 15428

7 CFR

1a 13759
29 15537
52 15861
54 14365
272 13759
273 13759
301 ..... 12764, 13178, 13537, 13965, 14087, 15532
319 14691
353 14691
418 16053
419 16053
422 16054
427 16054
434 12764
435 12764
436 12765
905 13761
908 13309
910 ..... 13545, 14369, 15537
911 15097
989 14209
1126 12765
1407 12766
1488 13966
1491 13967
1872 ..... 12989, 15098, 16055
1910 16055
1941 16055
1942 ..... 12767, 12989, 13004, 15098
1944 16055
1945 16055
1944 ..... 12989, 15098
1951 ..... 12989, 15098
1955 ..... 12989, 15098
1962 ..... 12989, 15098
3015 ..... 14088, 16056

Proposed Rules:
Ch. X 13976
52 ..... 13042, 15160, 15568
402 16090
800 15569
915 15430
925 13609
929 12812
944 ..... 13609, 15430
1002 14110
1004 ..... 12813, 14110
1007 12817
1011 12817
1032 ..... 13976, 15432
1046 12817
1093 12817
1097 12817
1098 12817
1102 12817
1106 13977
1108 12817
1150 14390
3015 15433

8 CFR

103 ..... 13546, 15098
238 14369

9 CFR

78 ..... 13546, 15410

92 ..... 13309, 14919
327 14370

Proposed Rules:
51 14246
71 15166
78 15166
85 14931
92 13042
318 ..... 14711, 15435
381 15435

10 CFR

2 ..... 13006, 15865
30 14692
40 14692
70 14692
605 14856
1017 15818

Proposed Rules:
19 ..... 13797, 15902
20 ..... 13797, 15902
21 ..... 13797, 15902
30 ..... 13797, 15902
35 15752
39 ..... 13797, 15902
40 ..... 13797, 15902
50 13810
51 ..... 13797, 15902
70 ..... 13797, 15902
71 ..... 13797, 15902
140 13978
150 ..... 13797, 15902
430 ..... 12966, 13042

11 CFR

Proposed Rules:
110 15169

12 CFR

5 13762
204 13010
205 13180
208 ..... 13010, 16057
217 13010
225 16057
226 13181
263 16057
265 16070
325 13185
523 13968
531 16071
552 16071
563 16071
571 16071
612 15865

Proposed Rules:
Ch. III 14247
352 15453
563 16094
611 14110

13 CFR

116 14210
120 13309
121 ..... 13310, 15411
122 13309
133 12772

Proposed Rules:
120 14248

14 CFR

39 ..... 12774, 12775, 13013–13015, 13310, 13548–13554, 13766, 14088, 14370, 14919, 15098, 15099, 15538, 15539, 15865, 15866
61 15376
63 15376
65 ..... 15376, 15698
71 ..... 12776, 13186, 13767–13769, 14089–14092, 14694, 14695, 15540, 15541, 16075
73 ..... 15541, 15542
75 ..... 14092, 16075
91 15376
95 12777
97 14371
121 14373
1214 13186
1252 13311

Proposed Rules:
Ch. I 15577
21 13810
25 ..... 13226, 15038
39 ..... 13611, 13810–13815, 14390, 14391, 14716, 14717
61 15381
63 15381
71 ..... 12818, 13227, 13817–13819, 14939, 15577–15583, 15902, 15903, 16095, 16097
73 ..... 14717, 15903
91 ..... 15381, 15528
121 ..... 15038, 15528
125 15528
1261 13228
135 15528

15 CFR

30 13016
369 13187
370 15867
373 14373
399 ..... 13770, 15867
904 12781
922 12781
970 12781

16 CFR

13 ..... 13189, 13968, 13969 15412, 15413
300 15100
303 15100
305 12786
1030 13555

Proposed Rules:
13 13240
305 13820
306 13048
460 13246

17 CFR

4 15868
140 ..... 15413, 15868

Proposed Rules:
33 14718
240 ..... 13388, 13612, 14111, 15904, 15912
249 15912

18 CFR

2 ..... 14374, 16076
154 14374
157 14374
201 14374
270 ..... 14374, 15729
271 ..... 14374, 14378, 15729
272 15729
273 15729
375 15730
385 15731

Proposed Rules:
225 15176
271 14249
277 15176
410 13249

19 CFR

4 15414
10 14093
19 15884
101 13190
178 13771

Proposed Rules:
6 12819
175 14250

20 CFR

416 14211

Proposed Rules:
617 14720
635 14720

21 CFR

5 ..... 14093, 14094, 14211
71 14212
81 ..... 13017, 13018
105 13555
107 13555
170 14212
171 14212
176 14696
177 14095
178 13556
179 ..... 15415, 15417
180 14212
182 13557
184 ..... 13557, 16080
193 ..... 14096, 14097
201 14212
310 14212
312 ..... 14212, 15543
314 14212
330 14212
430 14212
431 14212
433 14212
444 15107
448 15107
510 14212
511 14212
514 14212
520 ..... 13560, 13561
558 ..... 13561–13563, 15885
561 ..... 14096, 14097
570 14212
571 14212
601 14212
812 14212
1003 14212
1010 ..... 13563, 13564, 14212
1020 15543
1030 13565

Proposed Rules:
101 ..... 13306, 15177, 15458
182 ..... 12821, 16098
184 ..... 12821, 16098
186 ..... 12821, 16098
211 13388
310 13388
330 15810
331 15810
332 15810
357 15810

22 CFR

2 14379
120 12787
121 12787
124 12787
125 12787
126 12787
127 12787
128 12787

Proposed Rules:
208 15584
501 16098

23 CFR

625 14913

Proposed Rules:
Ch. I 16103
635 ..... 14251, 14722
650 14251
658 ..... 12825, 13821

24 CFR

203 14379
204 14379
205 14921
232 12788
235 12788
570 12789
595 12789
882 15733
888 14922

Proposed Rules:
207 15754
213 15754

25 CFR

700 14379

26 CFR

1 13019
5c 13019
11 13019
301 ..... 13019, 14696, 15417
601 13020
602 ..... 13020, 13962, 14696

Proposed Rules:
1 ..... 13821, 14256, 14392, 15930
31 14392
54 14392

27 CFR

47 14380
178 14380
250 15886
275 15886

Proposed Rules:
9 15588

28 CFR

2 12789

29 CFR

Proposed Rules:
1910 ..... 14698, 15756
1926 15756
1952 14924
2619 14700
2644 12790
2674 12791
2677 12796

Proposed Rules:
19 13049
1910 ..... 12827, 15179
1928 15086

30 CFR

Ch. VII 13566

779 16194
780 16194
783 16194
784 16194
816 16194
817 16194
914 13566
916 14212
917 13567
938 13315
948 15889

Proposed Rules:
Ch. II 15590
104 13617
216 12828
700 13250
761 13250
773 13724
915 13388
935 ..... 12833, 15759
943 14256
944 12834

31 CFR

Proposed Rules:
10 15937

32 CFR

78 14383
90 15734
544 13771
706 ..... 14384, 14385
721 15891
728 15111

Proposed Rules:
62b 13985

33 CFR

45 13317
62 14213
100 ..... 12799, 14214, 14215, 14701, 15418, 15741
110 15742
117 ..... 13318, 14702, 15742
146 14215
150 14215
157 12800
165 ..... 14701, 14703, 15419, 15420, 15743, 15744

Proposed Rules:
100 ..... 14257, 14722, 15459, 15760
110 ..... 12835, 12837, 14723 14940, 15460
117 ..... 13389, 13835, 14258, 15461
165 12838

34 CFR

682 13916

36 CFR

Proposed Rules:
7 15056
Ch. XII 15722

37 CFR

Proposed Rules:
Ch. IV 13524
201 14725

38 CFR

17 14704
36 ..... 12800, 13020, 13191, 13970

Proposed Rules:
1 ..... 14393, 15848
3 15848
19 15184
21 13836

39 CFR

111 ..... 13569, 14216
255 14098

Proposed Rules:
111 ..... 12839, 13050

40 CFR

52 ..... 14925, 15144, 15421–15423, 15745, 15892
60 ..... 12801–12803, 13021, 15424, 15425, 15544, 15545, 15893
61 ..... 12802, 12803, 13021, 13022, 15386, 15425, 15545
65 13970
81 ..... 15746, 15748
117 13456
180 ..... 13194, 13195, 14104–14106, 16080–16082
260 14216
261 14216
265 16044
266 14216
302 13456

Proposed Rules:
Ch. I 15462
50 13130
51 13130
52 ..... 13130, 13250, 13390, 14396, 15190, 15761, 15943
53 13130
58 13130
60 14941
61 14941
62 15186
65 ..... 14259, 14396
81 ..... 12840, 13130, 15187, 15463, 15762, 15763
152 14115
158 14115
166 ..... 13251, 13944
180 ..... 13251, 15188, 15189 16104
220 13986
227 13986
228 ..... 13986, 14336
234 13986
250 14076
264 13253
271 14945
300 14115
302 13514
704 15943
712 13391
761 13393

41 CFR

Ch. 201 ..... 13029 13319, 14220, 14386
101–11 15722
101–20 16082
101–21 14242
101–13 15722
105–60 15722
105–61 15722
105–65 15722

Proposed Rules:
101–38 14260
101–39 14260
101–40 14260
101–41 14261

42 CFR

400 ..... 15312, 15347, 15427
405 ..... 15312, 15335, 15427
412 ..... 15312, 15427
420 15335
431 ..... 15312, 15427
433 ..... 15312, 15427
435 13196
436 13196
456 ..... 15312, 15427
460 ..... 15312, 15427
462 ..... 15312, 15427
466 ..... 15312, 15427
473 15364
474 15335
476 15347
489 15335

Proposed Rules:
435 14397

43 CFR

255 16083
2910 16083

Public Land Orders:
2650 15546
6599 12804
6600 15145

Proposed Rules:
3200 14945
3500 14512
3510 14512
3520 14512
3530 14512
3540 14512
3550 14512
3560 14512
3570 14512
3580 14512

44 CFR

Proposed Rules:
59 14904
60 14904
61 14904
64 ..... 14904, 14926, 14928
66 14904
67 15191
70 14904
72 14904
75 14904

45 CFR

1321 12942
1328 12942
1340 14878
1611 13331

Proposed Rules:
1301 13253
1340 16105

46 CFR

76 15750
95 15750
153 15895
154 15895
580 14704

Proposed Rules:
Ch. IV 14122
154 15591
175 13837
176 13837
177 13837
180 13837
181 13837
182 13837
183 13837
184 13837
185 13837
186 13837
187 13837
298 13050
516 13617
560 13617
572 ..... 13617, 14264

47 CFR

Ch. 1 15547
0 14386
2 14386
22 ..... 13332, 14386
64 13573
67 15558
69 13023
73 ..... 13031–13038, 13333–13337, 13791, 13971, 13972, 15146, 15558, 16084
76 13972
81 13974
90 ..... 13596, 14389, 15148
94 13338
95 15563
97 13792

Proposed Rules:
Ch. I 13623, 13986, 13991, 14727, 15191
1 13394
2 ..... 13255, 13394, 16109
5 13394
18 13394
21 13394
22 ..... 13255, 13394
25 13255
67 14729
73 ..... 13050, 13394, 13402, 13838, 13994, 14265–14271, 14946–14954, 15591, 16112–16114
76 15592
83 13394
90 ..... 13394, 13997
95 13394
97 ..... 15195, 15196
99 13394

48 CFR

Ch. 4 14196
Ch. 5 14243
Ch. 12 14798
Ch. 19 13200
201 13353
205 13353
206 13353
207 13353
208 13353
210 13353
213 13353
214 13353
215 13353
216 13353
217 13353
219 13353
220 13353
225 13353
235 13353
236 13353
237 13353
245 13353
247 13353
250 13353
252 13353
270 13353
501 14243

507 14243
702 ..... 16085, 16086
705 16086
706 16086
714 16086
715 16086
750 ..... 16085, 16086
752 16086
1501 14356
1503 14356
1505 14356
1506 ..... 14356, 15425
1513 14356
1514 14356
1515 ..... 14356, 15425
1517 14356
1527 14356
1533 14356
1536 14356
1552 ..... 14356, 15425
1803 13365
1804 13365
1808 13365
1812 13365
1815 13365
1819 13365
1822 13365
1827 13365
1832 13365
1844 13365
1845 13365
1847 13365
1851 13365
1852 13365

Proposed Rules:

Ch. 5 14122
52 13256
504 16115
515 15463
516 16115
522 15463
552 15943

49 CFR

25 12804
27 13039
107 16089
173 13381
192 13224
195 15895
215 13381
571 15154
1130 15900
1180 15751

Proposed Rules:

215 15593
393 ..... 14630, 15198
571 ..... 13402, 14580, 14589, 14602, 14626
572 14602
575 14400
584 14632
585 14589
1039 14122
1132 13051
1152 ..... 13256, 14401
1175 13841
1207 13053
1249 13053

50 CFR

10 13708
17 15547
216 12781
217 12806
219 12781
222 12806
246 12781
258 15901
285 12781
296 13796
301 13382
611 ..... 14107, 15425
621 12781
652 14930
671 13040
672 ..... 12809, 15426

Proposed Rules:

13 15396
17 ..... 13054, 14123, 15396, 15764
23 14402
285 13256
611 15464
646 13639
683 13405

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List April 23, 1985