5-8-85
Vol. 50 No. 89
Pages 19305-19516

federal register

Wednesday
May 8, 1985

Selected Subjects

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.

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

Contents

Federal Register
Vol. 50, No. 89
Wednesday, May 8, 1985

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.

Rules and Regulations

Federal Register
Vol. 50, No. 89
Wednesday, May 8, 1985

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 226

Child Care Food Program; Documentation and Verification of Eligibility

AGENCY: Food and Nutrition Service, NSDA.

ACTION: Final rule.

SUMMARY: This final rule amends Part 226 to implement several provisions of Section 803 of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. This regulation establishes the Department's requirements for the documentation of eligibility and for the verification of information on free and reduced-price applications submitted to institutions in the Child Care Food Program (CCFP). These actions are intended to reduce program abuse in the delivery of free and reduced-price meal benefits and to result in additional savings of Federal funds.

EFFECTIVE DATE: June 7, 1985.

FOR FURTHER INFORMATION CONTACT: Lou Pastura or James C. O'Donnell, Policy and Program Development Branch, Child Nutrition Division, FNS, USDA, Alexandria, Virginia 22302, (703) 756–3620.

SUPPLEMENTARY INFORMATION:

Classification

This final rule has been reviewed under Executive Order 12291 and has been classified not major because it will not have an annual effect on the economy of $100 million, will not cause a major increase in cost or prices for program participants, individual industries, Federal agencies, State or local government agencies or geographic regions, and will not have a significant economic impact on competition, employment, investment, productivity, innovation, or the ability of U.S. based enterprises to compete with foreign-based enterprises in domestic or foreign markets. The final rule will ensure that free and reduced-price benefits are directed to only those children from families whose income falls within the Income Eligibility Guidelines set forth by the Department by household size.

This final rule has also been reviewed with regard to the requirements of Pub. L. 96–354, the Regulatory Flexibility Act. Pursuant to that review, Robert E. Leard, the Administrator of the Food and Nutrition Service, certified that this final rule does not have a significant economic impact on a substantial number of small entities.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the reporting and recordkeeping requirements included in this rule (Sections 226.23(e)(4), 226.23(f) and 226.23(h)) have been submitted and approved by the Office of Management and Budget, under clearance 0584–0055.

Background

The CCFP is authorized by Section 17 of the National School Lunch Act (NSLA), as amended. On April 15, 1983, the Department published proposed rulemaking, CCFP Documentation and Verification of Eligibility, at 48 FR 16278–16286. The proposal was developed to implement a number of changes in the CCFP resulting from the passage of Pub. L. 97–35, the Omnibus Budget Reconciliation Act of 1981. In particular, the proposed regulation was developed in response to various amendments made in the NSLA by Section 803 of Pub. L. 97–35. The Department issued an interim rule with further opportunity for comment on August 5, 1983 (48 FR 35589–35598).

The comment period for the interim rule was 120-days to allow State agencies and institutions time to operate under these provisions and to provide comments based on their experience. The Department received 18 comments during this period from Food and Nutrition Service (FNS) regional offices, State agencies, child care institutions, advocacy groups and private citizens. The Department would like to thank all commentors who responded to the interim rule.

Comment Analysis

The Department has incorporated into this final rule commentors' suggestions which clarify or improve verification procedures and yet are consistent with the objectives of the verification and documentation requirements of the NSLA. Following is a discussion of the major issues raised by commentors. Interested parties may wish to refer to the preambles to the proposed and interim rules for a thorough discussion of the Department's reasons for adopting certain verification and documentation requirements.

I. Documentation

a. Definitions (Section 226.2)

The interim rule established eight definitions of terms. While commentors generally agreed with these definitions, one commentor suggested further clarification of the definition of "family" and another commentor felt the definition of "family" should be consistent with that used in the National School Lunch Program (NSLP).

The Department agrees that the definitions and terms used in the NSLP and CCFP should be as consistent as possible. Therefore, the definition of "family" in § 226.2 has been revised in this final rule to be consistent with § 245.2(b) of the regulations governing free and reduced-price eligibility and verification in the NSLP. This regulation defines "family" as a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

One commentor suggested that the definition of "pricing program" (an institution in which a separate charge is made for meals served to children) and "nonpricing program" (an institution in which no such separate charge is made) be clarified by inserting the word "identifiable" between the words "separate" and "charge". The Department agrees with this suggestion and has so revised both definitions in this final rule.

The definition of "verification" has been modified in this final rule to more clearly reflect that verification in a pricing program may include confirmation of income eligibility or current participation in the Food Stamp Program.

b. Application Data Requirements (Section 226.23(e)(1)(ii))

Section 226.23(e)(1)(ii) of the interim rule specified that institutions must request the following documentation on the application for free and reduced-price meals: (1) The names of all children for whom application is made; (2) the names of all other household members; (3) the social security number of all household members 21 years of age and older or an indication that a household member does not possess one; (4) the total current income of the household; and (5) the signature of an adult member of the household. Providing this documentation is a "condition of eligibility" for free or reduced-price meals. Applications which do not contain all of this data are incomplete and cannot be used to claim free or reduced-price meals.

Three commentors believed additional information should be required on the application. One commentor suggested that the birth date of all household members should be included while two commentors recommended that the application be dated by the parent or guardian at the time of completion or by the institution upon receipt. The items enumerated in the interim rule represent the documentation which the Department considers necessary for the proper determination of a child's eligibility for free or reduced-price meals. As the Department noted in the preamble to the interim rule, additional information may be requested on the application form as long as it is not required as a condition of eligibility. In such cases, moreover, the application must indicate that the additional items are not required. With respect to dating, State agencies have the authority to require institutions to date applications either at the time of receipt or at the time of the eligibility determination. The Department strongly suggests that State agencies exercise their authority to ensure the proper time frame of the application.

c. Application Information Requirements (Section 226.23(e)(ii))

In addition to the request for household documentation, § 226.23(e)(1)(ii) requires that a "Privacy Act" statement be included on the application informing individuals that disclosure of social security numbers is not mandatory but is a condition of eligibility for free or reduced-price meals, the statutory authority by which such numbers are solicited, the use to be made of the numbers and the consequences of not providing the numbers. The interim rule included standard wording for this statement and required all State agencies and institutions to include this wording on their applications for free and reduced-price meals.

Two commentors expressed concern about the language of the Privacy Act statement prescribed by the interim regulation. On commentor felt the language was offensive and suggested alternate language. The second commentor wondered why the disclosure of numbers was declared not to be mandatory if refusal to do so would result in loss of benefits to the household.

The Privacy Act statement was developed in the course of a case entitled Alcarez et al v. Block. In its decision on that case, the United States District Court for the Eastern District of California determined that the statement satisfied the requirements of the Privacy Act. That decision was recently affirmed by the United States Court of Appeals for the Ninth Circuit *(Alcarez* v. *Block,* Nos. 83–2137, 83–2149, 83–2483, (9th Cir. November 2, 1984.)) Further, the Department believes that the notice must be detailed in order to fully and accurately explain to applicants the uses which will be made of the numbers and to ensure that the technical requirements of the Privacy Act are satisfied. For these reasons, the Department has made no modification to the statement in this final rule. Nevertheless, the Department recognizes the desirability of allowing States some flexibility in this matter. Therefore, the Department is modifying § 226.23(e)(1)(ii) of this final rule allowing States to develop Privacy Act statements that are "substantially" the same as the one in the final rule. The Department notes that this change is consistent with the requirements of the Privacy Act statement adopted for NSLP

With respect to the second concern, the Department emphasizes that disclosure of social security numbers is a condition of eligibility for free or reduced-price meals in the CCFP, in order that verification activity involving these numbers can be undertaken. Since persons voluntarily submit applications for free and reduced-price meals, there is no general mandate for their submission in this program, as there is in some other areas such as State and Federal taxes. Therefore, no change has been made to this portion of the Privacy Act statement in this final rule.

One commentor also expressed concern regarding the requirement that States inform applicants of all planned uses of social security numbers and make necessary changes in the prototype notice to do so. The commentor is concerned that this provision authorizes limitless uses of social security numbers. The statement concerning other uses was included in the regulations solely to insure that States describe adequately all uses of social security numbers. The statement in context concerns only the use of social security numbers as a means of identifying applicants for the purpose of verification activities. We disagree with the commentor's assessment of the regulation as currently written. However, in order to make this more clear, the words "for CCFP verification purposes" have been added to the statement.

d. Letter To Parents (Section 226.23(e)(2))

The interim rule required parents or guardians to report to appropriate institution officials any increases in income which exceed $50 per month or $600 per year. One commentor felt this requirement was unnecessary since institutions are only required to report annually changes in the number of free, reduced-price and paid children enrolled.

It is true that States are required to obtain enrollment data only once each year for the purpose of determining the rate of reimbursement for their institutions. Nevertheless, many States require institutions to report changes in the number of enrolled children in each category as such changes occur, and the Department encourages States in this activity. In order for institutions to report such changes to the State, there must be some mechanism for ensuring that changes in the status of individual families are reported to the institutions. The Department, therefore, is retaining this requirement as set forth in the interim rule.

e. Determination of Eligibility (Section 226.23(e)(4))

Three comments were received on the requirement for determining eligibility. Two commentors were Head Start Directors who felt that the additional paperwork and staff time necessary to mail out and consider applications for free and reduced-price meals was unnecessary. These commentors were also concerned that their head start funding could be jeopardized if parents failed to provide the required information. While the Department recognizes the possiblity that some institutions could experience some additional workload, it must be reiterated that Pub. L. 97–35 mandated the Department to establish adequate

documentation of eligibility requirements for *all* free and reduced-price applications. Since this documentation is to be a condition of eligibility for free and reduced-price meals for all children, institutions must comply in order to receive CCFP benefits. As noted above, the documentation required of families is the minimum necessary to ensure proper reimbursement for CCFP institutions. Therefore, the Department has made no change in this provision in the final rule.

Another commentor asked if there was a time frame for institutions to inform parents of the original determination of eligibility in a pricing program. Section 226.23(e)(4) of the interim rule requires each family to be provided with a written notice informing them of the results of the eligibility determination. The rule, however, did not address the period of time within which this notice must be provided. While the Department agrees that such notification should be accomplished as soon as possible after the eligibility determination, the Department recognizes the need for institutions to have the flexibility to perform this notification within available staff resources. Therefore, this final rule is being changed to require institutions to "promptly" notify households of the results of the eligibility determinations. This change is consistent with the notification requirements in § 245.10(b) of the regulations governing eligibility for free and reduced-price benefits in the NSLP.

II. Verification (Section 226.23(h))

The Department received a variety of comments on the requirement that verification be conducted by the State agency rather than by institutions. Five commentors were opposed to this requirement, with one commentor maintaining that verification is more appropriately an institution, rather than a State, activity while other commentors asserted that State agency verification was contrary to Pub. 97-35 or cited inconsistencies with similar requirements for the NSLP.

Section 803 of Pub. L. 97-35 authorized the Secretary and State and local authorities to seek verification of the data contained in the application for free and reduced-price meals. In applying this provision to the CCFP, the Department felt it was necessary to modify the procedures from those used for the NSLP because the two programs differ in several respects. In schools, the information on the application for free or reduced-price meals is used not only to determine program payments to the school food authority, but also to establish the amount which the individual student must pay for his meals. This is not generally the case in the CCFP where there are two types of meal programs. They are (1) "Pricing Programs," in which a separate charge is made for meals to make up the difference between the CCFP reimbursement for meals and the actual cost of serving those meals to enrolled children and, (2) "Non-pricing Programs," in which no separate charge is made for the meals served to children. The overwhelming majority of institutions that participate in the CCFP do so as nonpricing programs, charging a general tuition fee which covers all child care services including meals. In nonpricing programs, income eligibility information is necessary solely to determine the institution's rates of program reimbursement, since enrolled children receive the same meals, at no separate charge. Eligibility determinations, therefore, do not affect the parents or guardians of enrolled children because the family does not directly benefit from the determination of free or reduced-price eligibility. This situation, in and of itself, lessens the possibility that parents would "understate" income or "overstate" family size. On the contrary, since the institution directly benefits from the eligibility determination through a higher reimbursement factor, institutions have more incentive to misrepresent the eligibility status of enrollees to the administering agency. The Department, therefore, considers that it is the institution's determinations which need to be verified in the CCFP, and only the State agency can conduct this verification. The Department, therefore, retains this provision in this final rule.

One commentor suggested that verification be conducted at the time of application approval. However, since verification is to be conducted by the State, it would not be feasible for all activity to be conducted at one time. Therefore, this suggestion was not adopted.

One commentor expressed concern regarding the requirement that a State agency must conduct a follow-up review within one year if the verification process discloses *any* problems regarding the determination of eligibility and/or the application process. This commentor felt that the requirement could potentially double the number of onsite reviews which States must conduct, since it was realistic to assume that most institutions might have at least one application which was incorrectly determined.

The Department wishes to clarify that it was not the intent of this provision to require follow-up on-site reviews for a deficiency such as the one cited by the commentor. The Department also recognizes that it would not be cost effective to require follow-up on-site reviews for insignificant deficiencies. The intent of the proposed provision was to emphasize the need for corrective action when deficiencies are found that would result in significant overpayments, since verification may be conducted at a given institution as infrequently as once every four years. Such a time frame could seriously affect the validity of an institution's reimbursement claim if serious deficiencies were not corrected within a reasonable period of time. To clarify the intent of this provision, this final rule has been changed to emphasize that the State agency must conduct follow-up reviews within one year of the date upon which the verification process was completed whenever deficiencies exceed maximum levels as determined by FNS. Instructions will be issued to establish these levels and to assist States with this determination.

One commentor questioned whether an *institution* could verify a child's eligibility for free and reduced-price meals *for cause*, since this interim rule requires the State agency to conduct verification.

Prior to the enactment of Pub. L. 97-35, verification was *limited* to those situations in which local officials had actual cause to believe that information furnished on the application was erroneous. Pub. L. 97-35 removed this *limitation*. Program regulations do not preclude officials at any level from verifying questionable eligibility information.

a. Verification Procedures for Nonpricing Programs (Section 226.23(h)(1))

The interim regulation provided that verification procedures for nonpricing programs consist of a review of the eligibility applications on file for *each* enrolled child so as to ensure that (1) The application has been correctly and completely executed by parents or guardians; (2) the institution has correctly determined and classified the eligibility of enrolled children for free or reduced-price meals or has determined that enrolled children are not eligible for free or reduced-price meals, based on the information included on the application submitted by the parents or guardians; and (3) the institution has accurately reported to the State agency the number of enrolled children meeting

the criteria for free and reduced-price meal eligibility and the number that do not meet the eligibility criteria for those meals. In addition, the interim rule allowed a State agency to conduct further verification in accordance with verification requirements prescribed for pricing programs. The Department received seven comments on this provision.

One commentor believed that the provision required all children enrolled in an institution to complete an application and expressed the opinion that denied applications should not have to be reviewed under any verification process. The Department concedes that the language of the interim regulation appears to require applications for all enrolled children, including those in the paid category. The interim regulation can also be interpeted as applying the verification requirement to disapproved applications. Such was not the Department's intent, however. Applications are required *only* for those children categorized as eligible for free or reduced-price meals, and only this eligibility needs to be verified. Social security numbers, a required element of documentation, are to be collected only as a condition of eligibility for free or reduced-price meals. The CCFP has never required applications for any children in the paid category. Therefore this final rule has been modified to clarify that only approved free and reduced-price applications be verified.

Another commentor suggested deletion of the provision which allows State agencies to conduct further verification in nonpricing programs directed at confirming the documentation on the application submitted by parents or guardians of enrolled children, since parents have no impetus for misreporting income in a nonpricing program. The Department believes that State agencies should be allowed the flexibility to pursue further verification at their option. The requirements set forth in the interim rule represent minimum verification requirements which must be conducted in the CCFP. The Department does not believe that State agencies should be prevented from exceeding these minimum requirements. This final rule, therefore, retains this provision.

Three commentors opposed the requirement that State agencies review the eligibility applications on file at the institution for *each* enrolled child in the free or reduced-price category. Commentors believed that a review of all applications would greatly increase the time and staff required to conduct reviews thus increasing administrative expenses to a level which would not be cost effective. In addition, commentors believed this requirement would be especially burdensome when applied to reviews of large sponsors of centers or day care homes. As an alternative, one commentor suggested that a review of all applications in each facility reviewed as part of the review of a sponsor of centers and all of the day care home provider applications as part of the review of a sponsor, would provide a more feasible and cost effective means of meeting the intent of Pub. L. 97–35.

The Department wishes to emphasize that, given the system of reimbursement payments to an institution which is based on the institution's determinations of program eligibility it is critical that a thorough review of an institution's methods and the results of their eligibility determinations be conducted. The Department also believes that the stipulation contained in the interim rule which allows verification reviews to be incorporated into the administrative review procedure significantly lessens the review burden on State agencies.

Given limited funds and staff resources however, the Department does recognize that a significant review burden could exist in States where sponsors of centers and outside-school-hour care centers do not maintain free and reduced-price applications in a central location. It is also recognized that efforts to have large numbers of applications transferred to a central site could prove unwieldy and could result in an inefficient and unproductive attempt to conduct verification. Therefore, to assist States facing such situations, this final rule is amended to allow State agencies to request the use of alternative approaches to the conduct of verification. FNS may approve such alternative approaches if the State can demonstrate that the results achieved meet the requirements of this final rule. With respect to sponsoring organizations of day care homes, the Department continues to believe that all applications for providers' own children must be reviewed for the following reasons. First, for the majority of sponsors, the number of such applications will not exceed the number of applications on file at a small-to-moderately sized center. Second, the sponsor submits claims to the State agency and makes payments to the provider on the basis of the eligibility of children for meals. In the case of the provider's own children, eligibility for the CCFP is contingent upon their eligibility for free or reduced-price meals. Therefore, these applications should be submitted to the sponsor for determination of eligibility and should be retained on file at the sponsoring organization. Consequently, the review of all of these applications would not impose an unreasonable burden upon the State agency. The Department also wishes to take this opportunity to remind sponsors of their liability for any overclaims that may arise if completed applications documenting the eligibility of the providers' own children for meals are not available for review by the State at the time of the review.

b. Verification Procedures for Pricing Programs (Section 226.23(h)(2))

For pricing programs, the interim rule required that, in addition to the verification procedures described for nonpricing operations, State agencies must also conduct verification of the income information provided by parents or guardians of a representative sample of no less than 3 percent of the applications for free or reduced-price meals. At State agency discretion, verification may also include confirmation of household size. The Department received several comments directed at one or another aspect of "pricing" verification.

Two commentors believed it is inappropriate for State agencies to contact parents directly and become involved in local level operation of the program. The Department recognizes that the process constitutes something of a change in the relationship between the State agency and individual families. As already explained, however, the Department considers that the State agency is best equipped to conduct verification in the CCFP. Since the State agency must verify the completeness of documentation and accuracy of classification for all applications, it is in the best position to verify household circumstances as well. The final rule, therefore, retains the requirement that States conduct all verification.

One commentor requested a clarification of whether the 3 percent requirement pertained to individual pricing programs or to all pricing programs within the State. This commentor also requested a clarification of the term "representative sample."

Since pricing programs, like nonpricing programs, are selected for verification in accordance with the review requirements of § 226.6(k), State agencies must verify 3 percent of the applications submitted by families of enrolled children in pricing institutions being reviewed. The Department's interest in the use of the term "representative

sample" was to require State agencies to select applications for review on a *random* basis rather than to target selection toward a particular group of individuals. Therefore to clarify the Department's intent, "representative sample" has been changed in this final rule to "random sample."

One commentor requested clarification of the 20-day time frame which the interim rule established for households to submit verification information, and suggested State agencies be allowed to set their own time frames. The interim regulation established this time frame to ensure that State agencies could complete their verification activities within a reasonable amount of time. Verification officials are provided flexibility to set time limits in the NSLP, and the Department believes this flexibility should be extended to officials conducting these same activities in the CCEP. This final rule, is therefore, revised to allow State agencies to determine the date by which households must submit eligibility confirmation information.

The interim rule required the State agency to require pricing institutions to terminate or reduce a household's benefits when verification efforts indicate that the household was ineligible, eligible to receive fewer benefits or refused to cooperate with verification efforts. Households must be notified in writing 10 days in advance of this action and advised that they have the right to appeal the action within that 10-day advance notification period.

One commentor recommended that this provision be clarified by stating that the 10-day period would begin upon receipt of the notification by the household, since mail can be delayed or misrouted. The Department considers, however, that such a change would not be necessary in most cases, since the notice would most likely to delivered in person to whoever is authorized to pick up the child at the center. In the event that a notice is mailed, the Department believes that the recommended change would result in a significant expense for the center, since the only way to determine the date of receipt would be to use registered mail. Finally, since any mailings would involve local deliveries only, the Department does not consider that any delays would be significant. For these reasons, this recommendation was not adopted in this final rule.

Two commentors requested that collateral contacts not be authorized as a means of verification. The Department believes, however, that the use of collateral contacts offers a viable means of verification in those situations where the household is unable to acquire written evidence or the written evidence does not confirm income eligibility for benefits. Since all efforts must be made to complete verification, this provision is retained.

Two State agency commentors raised concern regarding the appeal procedure in pricing institutions. One commentor expressed concern that appeals handled by the local agency based on verification decisions made by the State agency would create inconsistencies in program management at the local level. The other commentor believed their State did not have the program staff nor the legal staff to adequately handle an anticipated increase in appeals by households. The Department believes that the appeal procedures provided in § 226.23(h)(2)(ii) are appropriate to safeguard the household's rights. While it is true that the verification is conducted by the State, nevertheless, it is the institution which must decide whether or not charge for meals in accordance with the State's findings. This action can then be appealed by the household. If, as a result of the household's appeal, the institution determines that the State agency erred and the household is eligible for benefits, it is incumbent on the institution to continue benefits to the household. The institution should then request a State agency review of its action to adjust its reimbursement factor.

With respect to the second State agency's comment, the Department does not believe that the appeal procedure will create any significant burden on the State since the number of pricing programs nationwide is very small. Moreover, it is unlikely that many situations will arise in which a household is unable to confirm its eligibility for free or reduced-price meals for the State but can do so for the institution. Consequently, the Department does not envision that institutions will be burdened with a large number of appeals. For these reasons, the Department has not modified the appeal provision in this final rule.

III. Administrative Action (Section 226.23(f) and 226.23(h)(4)

Two commentors expressed concern regarding the correctness of the income eligibility information institutions must annually submit to State agencies. While the interim regulation requires household to submit "current" income on their applications for free and reduced-price meals, the regulation does not indicate how frequently the institution must collect these applications. Prior to the interim rule, the regulations required institutions to base the enrollment data reported to the State on family size and income information established not more than 12 months previously (section 226.23(f)). Unfortunately, this requirement was inadvertently deleted from the interim rule. Consequently the commentors were concerned that the interim rule prevented a State agency from establishing the accuracy and currency of the enrollment categories for an institution or household during reviews or audits. The Department agrees with commentor's concerns. This final rule, therefore, reinstates the requirement that the free, reducted-price and paid meal eligibility figures reported annually by institutions to State agencies be based on current family size and income information of enrolled children collected not more than 12 months prior to reporting.

Finally, one commentor suggested that the August 5 interim rule conflicted with that of the proposed rule on Claim and Report Submission published October 7, 1983 (48 FR 45779) regarding State agency adjustments or an institution's rate of reimbursement based on verification reviews.

The August 5 interim rule required a State agency to adjust an institution's rate of reimbursement if the verification results disclosed that an institution had inaccurately classified or reported the number of enrolled children eligible for free, reduced-price or paid meals. The October 7 proposed rule on Claim and Report Submission, however, provided for upward adjustments after the mandated submission deadlines only if an exception was granted by FNS. Downward adjustments, or course, did not require FNS approval.

When the Department published the final rule on Claim and Report Submission on May 4, 1984 (FR 18983–18989), the Department recognized that audits and reviews routinely reveal the need for legitimate upward adjustments and that State agencies should have the authority to make adjustments without obtaining exceptions from FNS. Thus, the final rule on Claim and Report Submission allows an FNS "authorization" rather than an FNS "exception" to make upward adjustments in claims and reports. This language enables that Department to provide both general authorization for upward adjustments in certain specific situations and case-by-case authorization in all other instances. Consequently, no conflict between the interim rule and the claim and report submission requirements exists.

As a point of explanation, the word "age" has been included in this final rule in §§ 226.6(e)(8), 226.23(e)(2)(iv) and 226.23(h). "Age" was added to the regulations as a protected class in a final rule published at FR 14077–78 on April 10, 1984. Readers will note in the preamble to this rule, that in November 1975, Congress enacted the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.). The purpose of this Act is to prohibit discrimination based on age in programs and activities receiving Federal financial assistance. This Act also contains several exceptions which limit the general prohibition against age discrimination. The exception that is of particular applicability to the CCFP is for any program or activity which provides benefits or assistance to persons based upon the age of such persons or establishes criteria for participation in age-related terms. The objective of the CCFP is to serve nutritious meals to needy *children*. Moreover, the public laws governing the program specifically limit eligibility based on age. As a result, the use of age as an eligibility factor in the CCFP is allowable, since it falls within the "statutory objective" exception to the general prohibition against age discrimination in the Age Discrimination Act of 1975. However, the nondiscrimination requirements does not apply to other aspects of the CCFP. Inserting "age" into the program regulations, does not constitute an "open" policy for participants of all ages to apply. The program by law restricts eligibility based on age with the intent of serving nutritious meals to needy children. "Children" is generally defined in the CCFP as 12 years of age and under with an age exception for the handicapped and migrant worker's children 15 years of age and under.

List of Subjects in 7 CFR Part 226

Day care, Food assistance programs, Grant programs-health, Infants and children, Surplus agricultural commodities.

PART 226—CHILD CARE FOOD PROGRAM

The following paragraphs which have not changed from the interim rule published at 48 FR 35589 are adopted as final. However, these are being set out below along with those paragraphs which are being revised for the convenience of the reader. Paragraphs 226.6(e)(8), 226.23(e)(1)(i), 226.23(e)(1)(iii), 226.23(e)(2), 226.23(e)(3), 226.23(e)(5), 226.23(h)(2)(i), 226.23(h)(2)(ii), 226.23(h)(3), 226.23(h)(4), and 226.23(h)(5).

Accordingly, Part 226 is amended as follows:

1. The authority citation for part 226 is revised to read:

Authority: Secs. 803, 810 and 820, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758, 1766) sec. 2 Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

1A. In § 226.2, the definitions of "Family", "Nonpricing program", "Pricing program" and "Verification" are revised as listed below. The definition of "Adult", "Current Income", "Documentation", and "Household" have not changed from the interim rule and are adopted as final.

§ 226.2 Definitions.

* * * * *

"Adult" means, for the purposes of the collection of social security numbers as a condition of eligibility for free or reduced-price meals, any individual 21 years of age or older.

* * * * *

"Current income" means income received during the month prior to application for free or reduced-price meals and multiplied by 12. If such income does not accurately reflect the household's annual income, income shall be based on the projected annual household income. If the prior year's income provides an accurate reflection of the household's current annual income, the prior year may be used as a base for the projected annual income.

* * * * *

"Documentation" means the completion of the following information on a free and reduced-price application: (a) Total current household income; (b) names of all household members; (c) social security numbers of all adult household members or an indication that a household member does not possess one; and (d) signature of an adult member of the household.

* * * * *

"Family" means a group of related or nonrelated individuals, who are not residents of an institution or boarding house, but who are living as one economic unit.

* * * * *

"Household" means "family", as defined in § 226.2 ("Family").

* * * * *

"Nonpricing program" means an institution in which there is no separate identifiable charge made for meals served to enrolled children.

* * * * *

"Pricing program" means an institution in which a separate identifiable charge is made for meals served to enrolled children.

* * * * *

"Verification" means: (a) A review of the information reported by institutions to the State agency regarding the eligibility of enrolled children for free or reduced-price meals; and (b) in addition, for a pricing program, confirmation of eligibility for free or reduced-price benefits under the Program. Verification for a pricing program shall include confirmation of income eligibility or current participation in the Food Stamp Program; and, at State discretion, verification may also include confirmation of household size.

2. Section 226.6(e)(8) has not changed from the interim rule and is adopted as final to read as follows:

§ 226.6 State agency administrative responsibilities.

* * * * *

(e) *Annual requirements.* * * *

(8) Perform verification of the eligibility of enrolled children for free and reduced-price meals in participating institutions in accordance with the procedures outlined in § 226.23(h). State agencies verifying the information on free and reduced-price applications shall ensure that verification activities are applied without regard to race, color, national origin, sex, age, or handicap.

* * * * *

3. In Section 226.23,

a. Paragraph (e)(1)(ii)(F) is amended by adding the words "which includes substantially the following information" between the words "that" and "section 9" in the first sentence and by adding the word "CCFP" between the words "for" and "verification" in the last sentence.

b. Paragraph (e)(4) is amended by adding the word "promptly" between the words "shall" and "provide" in the second sentence.

c. Paragraph (f) is amended by adding a new sentence after the first sentence, and

d. Introductory text of paragraphs (h) and (h)(2) and paragraph (h)(1) are revised.

The revisions read as follows:

§ 226.23 Free and reduced-price meals.

* * * * *

(e)(1) *Application for free and reduced-price meals.* (i) For the purpose of determining eligibility for free and reduced-price meals, institutions other than sponsoring organizations of day care homes shall distribute applications for free and reduced-price meals to parents or guardians of children enrolled

in the institution. Sponsoring organizations of day care homes shall distribute applications for free and reduced-price meals to day care home providers who wish to enroll their eligible children in the program. The application, and any other descriptive material distributed to such persons, shall contain only the family-size income levels for reduced-price meal eligibility with an explanation that households with incomes less than or equal to these levels are eligible for free or reduced-price meals. Such forms and descriptive materials may *not* contain the income standards for free meals.

(ii) The application shall contain a request for the following information: (A) The names of all children for whom application is made; (B) the names of all other household members; (C) the social security number of all adult household members 21 years of age or older or an indication that a household member does not possess one; (D) the total current income of the household; (E) a statement to the effect that "In certain cases, foster children are eligible for free and reduced-price meals regardless of household income. If such children are living with you and you wish to apply for such meals, please contact us."; (F) a statement which includes substantially the following information: "Sections 9 and 17 of the National School Lunch Act require that in order for your child to be eligible for free or reduced-price meals, you must provide the social security numbers of all adult members of your household. Provision of these social security numbers is not mandatory, but failure to provide the numbers will result in a denial of the application for free or reduced-price meals. This notice must be brought to the attention of all household members whose social security numbers are disclosed. The social security numbers may be used to identify household members in carrying out efforts to verify the correctness of information stated on the application. These verification efforts may be carried out through program reviews, audits, and investigations, and may include contacting employers to determine income, contacting the State employment security office to determine the amount of benefits received and checking the documentation produced by household members to prove the amount of income received. These efforts may result in loss or reduction of benefits, administrative claims or legal action if incorrect information is reported." State agencies and institutions shall ensure that the notice complies with section 7 of Pub. L. 93–579. If a State or local agency plans to use the social security numbers for CCFP verification purposes in a manner not described by this notice, the notice shall be altered to include a description of those uses; and (G) the signature of an adult member of the household.

(iii) The application may also include a question as to whether the household is currently participating in the Food Stamp Program, *provided* that applicants are informed that the provision of this information is not a condition of eligibility.

(2) *Letter to Parents.* Institutions shall distribute a letter to parents or guardians of enrolled children in order to inform them of the procedures regarding eligibility for free and reduced-price meals. The letter shall accompany the application required under paragraph (e)(1) of this section and shall contain:

(i) The income standards for reduced-price meals, with an explanation that households with incomes less than or equal to the reduced-price standards would be eligible for free or reduced-price meals (the income standards for free meals shall *not* be included in letters or notices to such applicants);

(ii) How a household may make application for free or reduced-price meals for its children;

(iii) An explanation that in order to be considered eligible for free or reduced-price meals, an application must contain complete documentation of eligibility information including the total current household income, names of all household members, social security numbers of all adult household members 21 years of age or older or an indication that a household member does not possess one, and the signature of an adult household member;

(iv) The statement: "In the operation of child feeding programs, no child will be discriminated against because of race, color, national origin, sex, age, or handicap";

(v) A statement to the effect that children having parents or guardians who become unemployed are eligible for free or reduced-price meals during the period of unemployment, provided that the loss of income causes the family income during the period of unemployment to be within the eligibility standards for those meals;

(vi) A statement to the effect that in certain cases foster children are eligible for free or reduced-price meals regardless of the income of such household with whom they reside and that households wishing to apply for such benefits for foster children should contact the institution; and

(vii) An explanation that recipients of free and reduced-price meals must notify appropriate institution officials during the year of any decreases in household size or increases in income which exceed $50 per month or $600 per year.

(3) In addition to the information listed in paragraph (e)(2) of this section pricing institutions must include in their letter to parents an explanation that indicates that: (i) The information in the application may be verified at any time during the year; and (ii) how a family may appeal a decision of the institution to deny, reduce, or terminate benefits as described under the hearing procedure set forth in paragraph (c)(4) of this section.

(4) *Determination of Eligibility.* When a completed application furnished by a family indicates that the family meets the eligibility criteria for free or reduced-price meals, the children from that family shall be determined eligible for free or reduced-price meals. Institutions that are pricing programs shall promptly provide written notice to each family informing them of the results of the eligibility determination. When the information furnished by the family is not complete or does not meet the eligibility criteria for free or reduced-price meals, institution officials must consider the children from that family as not eligible for free or reduced-price meals and must consider the children as eligible for "paid" meals. When information furnished by a family of children enrolled in a pricing program does not meet the eligibility criteria for free or reduced-price meals, pricing program officials shall provide written notice to each family denied free or reduced-price benefits. At a minimum, this notice shall include: (i) The reason for the denial of benefits, e.g. income in excess of allowable limits or incomplete application; (ii) notification of the right to appeal; (iii) instructions on how to appeal; and (iv) a statement reminding parents that they may reapply for free or reduced-price benefits at any time during the year. The reasons for ineligibility shall be properly documented and retained on file at the institution.

(5) *Appeals of denied benefits.* A family that wishes to appeal the denial of an application in a pricing program shall do so under the hearing procedures established under paragraph (c)(4) of this section. However, prior to initiating the hearing procedures, the parent or guardian may request a conference to provide all affected parties the opportunity to discuss the situation, present information and obtain an

explanation of the data submitted on the application or the decision rendered. The request for a conference shall not in any way prejudice or diminish the right to a fair hearing. The institution shall promptly schedule a fair hearing, if requested.

(f) Free, reduced-price and paid meal eligibility figures must be reported by institutions to State agencies at least once each year and shall be based on current family-size and income information of enrolled children. Such information shall be no more than 12 months old.

* * * * *

(h) *Verification of eligibility.* State agencies shall conduct verification of eligibility for free and reduced-price meals on an annual basis, in accordance with the verification procedures outlined in paragraphs (h) (1) and (2) of this section. Verification may be conducted in accordance with Program assistance requirements of paragraph (k) of this section; however, the performance of verification for individual institutions shall occur no less frequently than once every four years. Any State may, with the written approval of FNSRO, use alternative approaches in the conduct of verification, provided that the results achieved meet the requirements of this Part. If the verification process discloses deficiencies with the determination of eligibility and/or application procedures which exceed maximum levels established by FNS, State agencies shall conduct follow-up reviews for the purpose of determining that corrective action has been taken by the institution. These reviews shall be conducted within one year of the date the verification process was completed. The verification effort shall be applied without regard to race, color, national origin, sex, age, or handicap. State agencies shall maintain on file for review a description of the annual verification to be accomplished in order to demonstrate compliance with paragraphs (h) (1) and (2) of this section.

(1) *Verification procedures for nonpricing programs.* State agency verification procedures for nonpricing programs shall consist of a review of all approved free and reduced-price applications on file to ensure that: (i) The application has been correctly and completely executed by parents or guardians; (ii) the institution has correctly determined and classified the eligibility of enrolled children for free or reduced-price meals based on the information included on the application submittted by the parents or guardians; and (iii) the institution has accurately reported to the State agency the number of enrolled children meeting the criteria for free and reduced-price meal eligibility and the number of enrolled children that do not meet the eligibility criteria for those meals. In addition, the State agency may conduct further verification of the information provided by parents or guardians on the approved application for Program meal eligibility. If this effort is undertaken, the State agency shall conduct this further verification for nonpricing programs in accordance with the procedures described in paragraph (h)(2) of this section.

(2) *Verification procedures for pricing programs.* For pricing programs; in addition to the verification procedures described in paragraph (h)(1) of this section, State agencies shall also conduct verification of the income information provided by parents or guardians on the approved application for free or reduced-price meals and at State agency discretion, may also include confirmation of household size. State agencies shall perform verification on a random sample of no less than 3 percent of the approved applications submitted by families of children enrolled in an institution which is a pricing program. Households shall be informed in writing that they have been selected for verification and that they are required to submit the requested verification information to confirm eligibility for free or reduced-price benefits by such date as determined by the State agency. Those households shall be informed of the type or types of information and/or documents acceptable to the State agency and the name and phone number of an official who can answer questions and assist the household in the verification effort. Selected households shall also be informed that if they are currently participating in the Food Stamp Program they may submit proof of current eligibility for food stamp benefits in lieu of income information. All households selected for verification shall be advised that failure to cooperate with verification efforts will result in a termination of benefits. Sources of verification may include written evidence, collateral contacts, institution conferences, and systems of records. *Written evidence* shall be used as the primary source of verification. Written evidence includes written confirmation of a household's circumstances, such as wage stubs, award letters, and letters from employers. Wherever written evidence is insufficient to confirm income information on the application or current eligibility, the State agency may use collateral contacts. *Collateral contact* is a verbal confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made in person or by phone and shall be authorized by the household. The verifying official may select a collateral contact if the household fails to designate one or designates one which is unacceptable to the verifying official. If the verifying official designates a collateral contact, the contact shall not be made without providing written or oral notice to the household. At the time of this notice, the household shall be informed that it may consent to the contact or provide acceptable verification in another form. The household shall be informed that its eligibility for free or reduced-price meals shall be terminated if it refuses to choose one of these options. Termination shall be made in accordance with paragraph (h)(2)(i) of this section. Collateral contacts could include employers, social service agencies, and migrant agencies. The adult member(s) of the household may be asked to *visit the institution* for a discussion of the information on the application. Households shall be provided sufficient opportunity to schedule the conference. *Systems of records* to which the State agency may have routine access are not considered collateral contacts. Information concerning income or family size maintained by other government agencies to which the State agency can legally gain access may be used to confirm a household's income and family size. One possible source could be wage and benefit information maintained by the State unemployment agency, if that information is available. The use of any information derived from other agencies must be used with applicable safeguards concerning disclosure. Verification by State agencies for recipients of *food stamp benefits* that choose to provide evidence of food stamp participation in lieu of income information shall be limited to a review to determine that the period of eligibility for *food stamp benefits* is current. If the household chooses to provide income information or the food stamp certification period is found to have expired, the household shall be subject to routine verification of eligibility. The State agency may work with the institution to acquire the information necessary to verify the documentation submitted by the household on the application; however, the responsibility to complete the verification process may not be delegated to the institution.

(i) If a household refuses to cooperate with efforts to verify, or the verification effort indicates that the household is ineligible to receive benefits or is eligible to receive reduced benefits, the State agency shall require the pricing program institution to terminate or adjust eligibility in accordance with the following procedures. Institution officials shall immediately notify families of the denial of benefits in accordance with paragraph (e) (4) and (5) of this section. Advance notification shall be provided to families which receive a reduction or termination of benefits 10 calendar days prior to the actual reduction or termination. The 10-day period shall begin the day the notice is transmitted to the family. The notice shall advise the household of: (A) The change; (B) the reasons for the change; (C) notification of the right to appeal the action and the date by which the appeal must be requested in order to avoid a reduction or termination of benefits; (D) instructions on how to appeal and (E) the right to reapply at any time during the year. The reasons for ineligibility shall be properly documented and retained on file at the institution.

(ii) When a household disagrees with an adverse action which affects its benefits and requests a fair hearing, benefits shall be continued as follows while the household awaits the hearing: (A) Households which have been approved for benefits and which are subject to a reduction or termination of benefits later in the same year shall receive continued benefits if they appeal the adverse action within the 10 day advance notice period; and (B) Households which are denied benefits upon application shall not recieve benefits.

(3) State agencies shall inform institution officials of the results of the verification effort and the action which will be taken in response to the verification findings. This notification shall be made in accordance with the procedures outlined in paragraph (a) of this section.

(4) If the verification results disclose that an institution has inaccurately classified or reported the number of enrolled children eligible for free, reduced-price or paid meals, the State agency shall adjust institution rates of reimbursement retroactive to the month in which the incorrect eligibility figures were reported by the institution to the State agency.

(5) If the verification results disclose that a household has not reported accurate documentation on the application which would support continued eligibility for free or reduced-price meals, the State agency shall immediately adjust institution rates of reimbursement. However, this rate adjustment shall not become effective until the affected households have been notified in accordance with the procedures of paragraph (h)(2)(i) of this section and any ensuing appeals have been heard as specified in paragraph (h)(2)(ii) of this section.

(The information collection requirements contained in paragraph (e)(4)(f), and (h) were approved by the Office of Management and Budget under control number 0584-0055)

Dated: May 2, 1985.

Robert E. Leard,

Administrator, Food and Nutrition Service.

[FR Doc. 85-11032 Filed 5-7-85; 8:45 am]

BILLING CODE 3410-30-M

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 85-3241]

Mediterranean Fruit Fly

AGENCY: Animal and Plant Health Inspection Service USDA.

ACTION: Interim rule.

SUMMARY: This document amends the "Domestic Quarantine Notices" by adding a new subpart, captioned "Mediterranean Fruit Fly." The subpart quarantines the State of Florida and establishes regulations restricting the interstate movement of regulated articles out of a regulated area in Dade County, Florida. This document is necessary on an emergency basis to prevent the artificial spread of Mediterranean fruit fly into noninfested areas of the United States.

DATES: Effective date of this amendment May 8, 1985. Written comments concerning this interim rule must be received or on before July 8, 1985.

ADDRESSES: Written comments should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, 6505 Belcrest Road, Room 728 Federal Building, Hyattsville, MD 20782. Written comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: B. Glen Lee, Assistant Director, Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-6365.

SUPPLEMENTARY INFORMATION:

Emergency Action

Harvey L. Ford, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists which warrants publication without prior opportunity for a public comment period on this interim rule. Due to the possibility that Mediterranean fruit fly could be spread artificially to certain noninfested areas of the United States, a situation exists requiring immediate action to better control the spread of this pest.

Further, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective less than 30 days after publication of this document in the **Federal Register.** Comments will be solicited for 60 days after publication of this document, and a final document discussing comments received and any amendments required will be published in the **Federal Register** as soon as possible.

This document amends the "Domestic Quarantine Regulations" in Part 301 of Title 7, Code of Federal Regulations (7 CFR Part 301) by adding a new § 301.78, captioned "Mediterranean Fruit Fly." Subpart 301.78 quarantines the State of Florida, designates an area in Florida as a "regulated area", designates certain articles as "regulated articles", and imposes conditions on the interstate movement of regulated articles from regulated areas.

Background

The Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), is one of the world's most destructive pests of numerous fruits and vegetables, especially citrus fruits. The Mediterranean fruit fly can cause serious economic losses. Heavy infestations can cause complete loss of crops, and losses of 25 to 50 percent are not uncommon. Its short life cycle permits the rapid development of serious outbreaks.

Recent trapping surveys by inspectors of Plant Protection and Quarantine (PPQ), a unit within the Animal Plant Health Inspection Service (APHIS), U.S. Department of Agriculture (USDA), reveal that a portion of Miami, Florida, in Dade County, is infested with the

Mediterranean fruit fly. Specifically, on February 25, 1985, 1 unmated female Mediterranean fruit flies was collected in a Jackson trap on a property in the city of Miami. In addition, on April 9, 1985, inspectors collected from a Jackson trap in a Calamondin tree 2 additional specimens which were later confirmed to be male Mediterranean fruit flies. The Mediterranean fruit fly is not known to occur anywhere else in the United States, except for infestations in Hawaii.

Officials of USDA and State agencies of Florida have begun an intensive Mediterranean fruit fly eradication program in the regulated area in Florida. Also, as explained below, Florida has taken action to impose restrictions on the intrastate movement of certain articles from the regulated area in order to prevent the artificial spread of the Mediterranean fruit fly within Florida. However, it is also necessary to impose restrictions on the interstate movement of certain articles from the regulated area in order to prevent the artificial spread of the Mediterranean fruit fly to noninfested areas in other States. Accordingly, it is necessary as an emergency measure to establish Federal regulations for the purpose of preventing the artificial spread of the Mediterranean fruit fly. These regulations are described below by section.

Quarantine and Regulations

Section 301.78

Section 301.78(a) of Subpart 301.78 reflects a finding by the Secretary of Agriculture that it is necessary to quarantine the State of Florida and impose regulations on the interstate movement of certain articles designated as regulated articles in order to prevent the artificial spread of Mediterranean fruit fly. Section 301.78(b) prohibits any common carrier or other person from moving interstate from any regulated area any regulated article except in accordance with conditions prescribed in § 301.78–4. A footnote has been added for informational purposes. This footnote (footnote 1) references the authority of an inspector to stop and inspect, seize, quarantine, treat and otherwise dispose of regulated articles in accordance with the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff) and the Plant Quarantine Act (7 U.S.C. 164a).

Definitions

Section 301.78–1

Section 301.78–1 contains, for informational purposes, definitions of the following terms: "Certificate," "Compliance Agreement," "Deputy Administrator," "Infestation," "Inspector," "Interstate," "Limited permit," "Mediterranean fruit fly," "Moved," "Person," "Plant Protection and Quarantine," "Regulated area," "Regulated article" and "State." These terms are defined in accordance with definitions and authority set forth in the Plant Quarantine Act (7 U.S.C. 161, 162) and the Federal Plant Pest Act (7 U.S.C. 150dd, 150ee).

Regulated Articles

Section 301.78–2

The regulations impose conditions on the interstate movement of articles which present a significant risk of spreading Mediterranean fruit fly if moved without restrictions from areas regulated for Mediterranean fruit fly into or through noninfested areas. These conditions are necessary to prevent the artificial spread interstate of Mediterranean fruit fly by the movement of these articles. Such articles are designated as regulated articles and are prohibited from moving interstate from regulated areas, except in accordance with conditions specified in sections 301.78–4 through 301.78–10.

Section 301.78–2 designates the following articles as regulated articles:

(a) The following fruits, nuts, vegetables, and berries:

Akee (*Blighia sapida*)
Almond with husk (*Prunus dulcis (P. amygdalus)*)
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Argan tree (*Argania sideroxylon=A. spinosa*)
Avocado (*Persea americana*)
Barbados cherry, W.I. cherry (*Malpighia glabra, & punicifolia*)
Bourbon orange (*Ochrosia elliptica*)
Calamondin orange (*Citrus mitis* & *C. japonica*)
Canistel (*Pouteria campechiana*)
Cattley guava (*Psidium cattleianum*)
Ceylon-gooseberry (*Dovyalis hebecarpa*)
Chanar (*Geoffroea decorticans*)
Cherimoya (*Annona cherimola*)
Cherries (*sweet and sour*) (*Prunus avium, Prunus cerasus*)
Citrus citron (*Citrus medica*)
Coffee (*Coffea arabica*)
Custard apple (*Annona reticulata*)
Date (*Phoenix dactylifera*)
Dwarf papaya (*Carica quercifolia*)
Fig (*Ficus carica*)
Golden plum (*Prunus americana* x *P. salicina*)
Gourka (*Garcinia xanthochymus*)
Grape (*Vitis vinifera*)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*)
Hawthorne (*Crataegus* spp.)
Hog plum (*Spondias mombin*)
Japanese persimmon (*Diospyros kaki*)
Japanese plum (*Prunus salicina*)
Jocote (*Spondias purpurea*)
Kei apple (*Dovyalis caffra*)
Kiwi (*Actinidia chinensis*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)
Lime (*Citrus aurantiifolia*)
Litchi (*Lychee*) (*Litchi chinensis*)
Longan (*Dimocarpus longan*)
Loquat (*Eribotrya japonica*)
Mammee, sapote (*Pouteria sapota*)
Mandarin orange (*tangerine*) (*Citrus reticulata*)
Mango (*Mangifera indica*)
Mock orange (*Murraya paniculata*)
Mombin (*Spondias* spp.)
Mountain apple (*Syzygium malaccense* (*Eugenia malaccensis*))
Myrobalan nut (*Terminalia chebula*)
Natal plum (*Carissa macrocarpa=C. grandiflora* and *Terminalia chebula*)
Nectarine (*Prunus persica*)
Olive (*Olea europea*)
Opuntia cactus (*Opuntia* spp.)
Papaya (*Carica papaya*)
Passion fruit (*Passiflora edulis*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepper (*Capsicum annuum* and *Capsicum frutescens*)
Pineapple guave (*Feijoa sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Pomiform guajava (*Psidium guajava 'Pomiform'*)
Pond apple (*Annona glabra*)
Prune (*Prunus domestica*)
Pummelo (Shaddock) (*Citrus maxima*)
Pyriform guajava (*Psidium guajava 'Pyriform'*)
Quince (*Cydonia oblonga*)
Red mombin (*Spondias purpurea*)
Rose apple (*Syzygium jambos* (*Eugenia jambos*)
Sapodilla (*Manilkara zapota*)
Sour orange (*Citrus aurantium*)
Soursop (*Annona Muricata*)
Spanish cherry Medlar (*Mimusops elengi*)
Spanish cherry (Brazilian plum) (*Eugenia dombeyi* (*E. brasiliensis*))
Spanish plum (*Spondias mombin*)
Star-apple (*Chrysophyllum* spp.)
Strawberry guava (*Psidium cattleianum*)
Sugar apple *Annona squamosa*)
Sugarplum (*Arenga pinnata*)
Surinam cherry (*Eugenia uniflora*)
Sweet orange (*Citrus sinensis*)
Tomato (pink and red ripe) (*Lycopersicon esculentum*)
Tree tomato (*Cyphomandra betacea*)
Tropical almond (*Terminalia catappa*)
Walnut with husk (*Juglans* spp.)
White sapote (*Casimiroa edulis*)
Yellow oleander (Bestill) (*Thevetia peruviana*);

Except that the list does not include any fruits, nuts, vegetables, or berries which have been canned, or frozen below −17.8 °C. (0 °F.);

(b) soil within the drip line of plants which produce the fruits, nuts, vegetables, or berries listed in paragraph (a); and

(c) any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs

(a) or (b), when it is determined by an inspector that it presents a risk of spread of the Mediterranean fruit fly and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the restrictions in the regulations.

Articles that are canned, or frozen below −17.8° C. (0 °F.) are not included as regulated articles since the Mediterranean fruit fly could not survive under such conditions. Otherwise, based on research and experience, the articles listed in § 301.78–2 (a) and (b) as regulated articles are articles that are likely to cause the artificial spread of the Mediterranean fruit fly. In addition, since other products, articles, or means of conveyance could, under certain circumstances, be found to present a risk of spreading the Mediterranean fruit fly, these articles are regulated by paragraph (c). These articles would have to be determined to present a risk by an inspector on a case-by-case basis since it cannot be anticipated specifically which other products, articles, or means of conveyance, if any, would present such a risk. There is authority to regulate nonlisted products, articles, or means of conveyance as set forth in § 301.78–2(c) on an emergency basis in sections 105 and 106 of the Federal Plant Pest Act. If it appears that these additional products, articles, or means of conveyance generally present a risk of spreading Mediterranean fruit fly, an amendment to this rule to include such items in the list of regulated articles will be considered.

Regulated Areas

Section 301.78–3

An infestation of Mediterranean fruit fly was determined to exist in Miami, Florida, on April 9, 1985. This area in Dade County remains infested at this time. The area to be regulated because of this infestation is specifically described in § 301.78–3 and is designated as a "regulated area". The area in Dade County designated as a regulated area is described as follows:

That part of Dade County beginning at a point 200 feet east of the intersection of the Broward-Dade County line and U.S. Highway 1; then south along an imaginary line 200 feet east of U.S. Highway 1 to a point 200 feet north of 192nd Street Causeway; then east along an imaginary line 200 feet north of the 192nd Street Causeway to State Highway A1A; then southerly along an imaginary line 200 feet east of State Highway A1A to a point 200 feet south of 71st Street; then westerly along an imaginary line 200 feet south of 71st Street and State Highway 828 (which starts on 71st Street) to the intersection of the west shore of Biscayne Bay; then southerly along said shore line to a point 200 feet south of Northeast 61st Street; then west along an imaginary line 200 feet south of Northeast 61st Street to its intersection with the East Coast Railroad; then across the East Coast Railroad to a point 200 feet south of Northeast 62nd Street (which becomes Northwest 62nd Street); then west along an imaginary line 200 feet south of Northwest 62nd Street to its intersection with U.S. Highway 27 (Okeechobee Road); then northwesterly along U.S. Highway 27 to its intersection with Red Road; then north along Red Road to a point 200 feet north of Northwest 183rd Street (Miami Gardens Drive); then east along an imaginary line 200 feet north of Miami Gardens Drive to a point 200 feet west of Northwest 37th Avenue; then north along an imaginary line 200 feet west of Northwest 37th Avenue to Snake Creek Canal; then east along Snake Creek Canal to its intersection with Sunshine State Parkway; then north along Sunshine State Parkway to its intersection with Broward-Dade County line; then east along the Broward-Dade County line to the point of beginning.

It is necessary to designate the above described portion of Dade County as a regulated area because it is an area in which the Mediterranean fruit fly has been found, or in which the Deputy Administrator has reason to believe the Mediterranean fruit fly is present or an area deemed necessary to regulate because of its proximity to the Mediterranean fruit fly or its inseparability for quarantine enforcement purposes from localities where Mediterranean fruit fly has been found.

Conditions Governing the Interstate Movement of Regulated Articles From Regulated Areas

Sections 301.78–4 Through 301.78–10

Section 301.78–4

Section 301.78–4(a) requires regulated articles moved interstate from regulated areas to be accompanied by a certificate or limited permit issued and attached as prescribed by §§ 301.78–5 through 301.78–10 or unless moved as prescribed in § 301.78–4(b).

Specifically, § 301.78–4(b) allows a regulated article to move interstate without a certificate or limited permit if the article originates outside of a regulated area, if it is moved directly through the regulated area, if the point of origin is clearly indicated by shipping documents, and if the identity of the article is maintained.

In § 301.78–4, a footnote (number 2) is added to remind persons of other applicable domestic plant quarantine and regulation requirements that need to be met during an interstate movement.

Section 301.78–5

Under Federal domestic plant quarantine programs there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by the Department that, because of certain conditions (e.g. the article is free of Mediterranean fruit fly), there is an absence of a pest risk prior to movement. Regulated articles accompanied by a certificate can be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when the Department has determined that, because of a possible pest risk, such articles may be safely moved interstate only subject to further restrictions, e.g., movement to limited areas and movement for limited purposes. Section 301.78–5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.78–5(a) provides that a certificate shall be issued by an inspector for the movement of a regulated article if: (1) The inspector determines that the article has been treated under direction of an inspector in accordance with § 301.78–10, or if it comes from a premise of origin which is free from Mediterranean fruit fly or the inspector determines that the regulated article is free of Mediterranean fruit fly; and (2) the inspector determines that it will be moved in compliance with any additional emergency conditions deemed necessary to prevent the spread of Mediterranean fruit fly pursuant to section 105 of the Federal Plant Pest Act; and (3) the inspector determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

A footnote (number 3) is added which explains that USDA can, pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), take emergency actions against any article moving into or through the United States or interstate which is believed to be infested or infected by plant pests.

Section 301.78–5(b) provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for movement of a regulated article if, after consultation with the Deputy Administrator, it is determined that such article is to be moved to a specified destination for specified handling, utilization or processing, and upon evaluation of all of the circumstances involved, the movement will not result in the spread of Mediterranean fruit fly.

Section 301.78–5(c) allows any person who has entered into and is operating under a compliance agreement to execute and issue a certificate or limited

permit for the interstate movement of a regulated article once an inspector has made an initial determination that such article is eligible for a certificate or limited permit in accordance with § 301.78–5 (a) or (b). These initial determinations concerning the eligibility for issuance of a certificate or limited permit are limited to inspectors because of their nature and complexity.

Also, § 301.78–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector upon a determination that the holder thereof has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact.

Section 301.78–6

Section 301.78–6 provides for the issuance and cancellation of compliance agreements. Specifically, compliance agreements can be entered into by any person engaged in the business of growing, handling, or moving of regulated articles who agrees in writing to comply with the provisions of subpart 301.78 and any conditions imposed pursuant thereto. Compliance agreements are provided for the convenience of persons who, because of their business, are involved in frequent shipments of regulated articles from regulated areas and are designated to insure that persons issuing certificates and limited permits are knowledgeable with respect to the requirements of Subpart 301.78 and have agreed to comply with them.

Section 301.78–6 also provides that a compliance agreement may be cancelled by an inspector supervising its enforcement whenever the inspector finds that a person who has entered into such an agreement has failed to comply with any of the provisions of the regulations. The holder of the compliance agreement shall be notified of the reasons for cancellation and shall be given an opportunity for a hearing to resolve a conflict as to any material fact. A footnote (number 5) is added to explain where compliance agreement forms can be obtained.

Sections 301.78–7, 301.78–8 and 301.78–9

Section 301.78–7 provides that any person who desires a certificate or limited permit to move regulated articles should request inspection by an inspector as far in advance as possible (no less than 48 hours before the desired movement). A footnote (number 4) is added for informational purposes to indicate how to contract the inspectors for inspection or how to obtain additional information from offices of Plant Protection and Quarantine.

Section 301.78–8 requires the certificate or limited permit issued for the movement of the regulated article to be attached to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can obtain them before the intended movement date.

Section 301.78–9 explains the Department's policy that services of an inspector needed in order for a person to comply with the provisions of the quarantine and regulations in Subpart 301.78 are provided without cost during normal business hours, but that any other incidental costs or charges shall not be the responsibility of the Department.

Section 301.78–10

Section 301.78–10 sets forth treatment schedules for certain regulated articles that must be met if such articles are to be certified prior to movement as provided in § 301.78–4. These treatments are recommended because research has determined that these treatments would be adequate to destroy the Mediterranean fruit fly with little or no effect on the regulated article. Treatment schedules have not been developed for all regulated articles. However, § 301.78–10 provides alternatives to treatment by cold storage, methyl bromide or diazinon that can be used if an individual wishes to obtain a certificate or limited permit for the interstate movement of the regulated article from a regulated area.

The treatment schedules for regulated articles in section 301.78–10 are as follows:

(a) Avocado: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 2½ hours at 21 °C. (70 °F.) or above followed by refrigeration for 7 days at 7.22 °C. (45°F.) or below. The 7 day period may include up to 24 hours precooling time. Time between fumigation and start of cooling not to exceed 24 hours, but must include at least 30 minutes aeration.

(b) Tomato: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

(c) Bell pepper and tomato: Heat the article by saturated water vapor at 44 °C. (112 °F.) until approximate center of article reaches 44.44 °C. (112 °F.), and maintain at 44.44 °C. (112 °F.) for 8¾ hours, then immediately cool.

Note.—Commodities should be tested by the shipper at the 44.44 °C. (112 °F.) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning.

(d) Apple, apricot, cherry, grape, peach, pear, and plum: Fumigation with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above (chamber load not to exceed 80 percent of volume), and at normal atmospheric pressure, followed by refrigeration, as set forth below.

Fumigation exposure time	Refrigeration
2 hours	4 days at 0.55 to 2.7 °C. (33 to 37 °F.); or 11 days at 6.11 to 8.3 °C. (43 to 47 °F.)
2½ hours	4 days at 3.33 to 4.44 °C. (38 to 40 °F.); or 6 days at 5.0 to 8.33 °C. (41 to 47 °F.); or 10 days at 8.88 to 13.33 °C. (48 to 56 °F.)
3 hours	3 days at 6.11 to 8.33 °C. (43 to 47 °F.); or 6 days at 8.88 to 13.33 °C. (48 to 56 °F.)

Minimum concentrations for above fumigations.

(25 g minimum gas concentration at ½ hr.)

(18 g minimum gas concentration at 2 or 2½ hrs.)

(17 g minimum gas concentration at 3 hrs.)

Aerate all fruit at least 2 hours following fumigation. Time lapse between fumigation and start of cooling not to exceed 24 hours.

Note.—Some varieties of fruit may be injured by the 3-hour exposure. Shippers should test treat before making commercial shipments.

(e) Bell peppers: Fumigation with methyl bromide at normal atmospheric pressure with 32g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

Note.—Bell peppers have been found marginally tolerant to methyl bromide fumigation. Shelf life after treatment is reduced to between 5 to 7 days. Injury may appear as pitting on the skin of the pepper, darkening of the seed and placental material, and internal decay resulting from killing of the stem calyx.

(f) Apple, apricot, Calamondin orange, cherry, citrus citron, grape, grapefruit, kiwi, mandarian orange, nectarine, peach, pear, plum, prune, sour orange, and sweet orange: Cold treat the article according to one of the following:

10 days at 0 °C. (32 °F.) or below
11 days at 0.55 °C. (33 °F.) or below
12 days at 1.11 °C. (34 °F.) or below
14 days at 1.66 °C. (35 °F.) or below
16 days at 2.22 °C. (36 °F.) or below.

(g) Almond with husk, grape, kiwi, opuntia cactus, and walnut with husk. Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

Minimum concentration for above fumigations:

26 g minimum gas concentration at first ½ hour
22 g minimum gas concentration at 2 or 2½ hours
21 g minimum gas concentration at 3½ hours.

(h) Grape: Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 4 hours at 18 °C. (65 °F.) or above.

Minimum concentration for above fumigations:

26 g minimum gas concentration at first ½ hour
22 g minimum gas concentration at 2 or 2½ hours
19 g minimum gas concentration at 4 hours.

(i) Soil: Soil within the drip line of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in § 301.78–2(a):

Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip line of host plants. The diazinon is to be mixed with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour on treatment procedures are acceptable. Soil treated with diazinon shall be eligible for certification only during the first 7 days following treatment.

Executive Order 12291 and Regulatory Flexibility Act

This rule is issued in conformance with Executive Order 12291 and has been determined to be not a "major rule." Based on information compiled by the Department, it has been determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities. This amendment affects the interstate movement of regulated articles from a portion of Dade County, Florida, which is about 90 square miles in size. It appears that there is very little commercial activity that occurs in the regulated area. Specifically, the regulated area is comprised of private residences and small shops. The small entities in the regulated area that may be affected by this regulation appear to consist of approximately 75 nurseries, 70 retail stores, 125 street vendors and open fruit stands, and fewer than 10 premises with orchards and vegetable plots (ranging in size from ½ acre to 15 acres). Although these are small entities, they sell regulated articles primarily for local intrastate, not interstate, movement. Also, many of the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, that this regulation will have on these entities appears to be minimal. Further, the number of affected entitites mentioned above compares with thousands of small entities that move such articles interstate from nonregulated areas in Florida and many more thousands of small entities that move such articles interstate from other States.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Mediterranean Fruit Fly.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, the Mediterranean Fruit Fly Quarantine and Regulations in 7 CFR Part 301, a new Subpart (7 CFR 301.78 *et. seq.*) is added to read as follows:

Subpart—Mediterranean Fruit Fly

Quarantine and Regulations

Sec.

Authority: 7 U.S.C. 150dd, 150ee, 16, 162; 7 CFR 2.17, 2.51, and 371.2(c).

* * * * *

Subpart—Mediterranean Fruit Fly

Quarantine and Regulations

§ 301.78 Quarantine and regulations; restrictions on interstate movement of regulated articles.[1]

(a) *Quarantine and regulations.* The Secretary of Agriculture hereby quarantines the State of Florida in order to prevent the artificial spread of the Mediterranean fruit fly, a dangerous plant pest not heretofore widely prevalent or distributed within and throughout the United States; and hereby establishes regulations governing the interstate movement of regulated articles specified in § 301.78–2.

(b) *Restrictions on interstate movement of regulated articles.* No common carrier or other person shall move interstate from any regulated area any regulated article except in accordance with the conditons prescribed in this subpart.

§ 301.78–1 Definitions.

Terms used in the singular form in this subpart shall be construed as the plural and vice versa, as the case may demand. The following terms, when used in this subpart, shall be construed, respectively, to mean:

(a) *Certificate.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such article is eligible for interstate movement in accordance with § 301.78–5(c).

(b) *Compliance agreement.* A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(c) *Deputy Administrator.* The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Protection and Quarantine, or any officer or employee of the Department to whom authority to act in his/her stead has been or may hereafter be delegated.

(d) *Infestation.* The presence of the Mediterranean fruit fly or the existence of circumstances that make it reasonable to believe that the Mediterranean fruit fly is present.

(e) *Inspector.* Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, or other person, authorized by the Deputy Administrator in accordance with law to enforce the provisions of the quarantines and regulations in this subpart.

(f) *Interstate.* From any State into or through any other State.

(g) *Limited permit.* A document which is issued for a regulated article by an inspector or by a person operating under a compliance agreement, and which represents that such regulated article is eligible for interstate movement in accordance with § 301.78–5(b).

(h) *Mediterranean fruit fly.* The insect known as Mediterranean fruit fly (*Ceratitis capitata* (Wiedemann)) in any stage of development.

(i) *Moved.* Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

(j) *Movement or move.* The act of shipping, offering for shipment to a common carrier, receiving for transportation or transporting by a common carrier, or carrying, transporting, moving, or allowing to be moved by any means.

(k) *Person.* Any individual, partnership, corporation, company, society, association, or other organized group.

(l) *Plant Protection and Quarantine.* The organizational unit within the Animal and Plant Health Inspection Service, U.S. Department of Agriculture, delegated responsibility for enforcing provisions of the Plant Quarantine Act, the Federal Plant Pest Act, and related legislation, and quarantines and regulations promulgated thereunder.

(m) *Regulated area.* Any State, or any portion thereof, listed in § 301.78–3(c) or otherwise designated as a regulated area in accordance with § 301.78–3(b).

(n) *Regulated article.* Any article listed in § 301.78–2 or otherwise designated as a regulated article in accordance with § 301.78–2(c).

(o) *State.* Each of the several States of the United States, the District of Columbia, Guam, Northern Mariana Islands, Puerto Rico, the Virgin Islands of the United States and all other Territories and Possessions of the United States.

§ 301.78–2 Regulated articles.

(a) The following fruits, nuts, vegetables, and berries are regulated articles:

Akee (*Blighia sapida*)
Almond with husk (*Prunus dulcis* (*P. amygdalus*))
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Argan tree (*Argania sideroxylon* = *A. spinosa*)
Avocado (*Persea americana*)
Barbados cherry, W.I. cherry (*Malpighia glabra, & punicifolia*)
Bourbon orange (*Ochrosia elliptica*)
Calamondin orange (*Citrus mitis* & *C. japonica*)
Canistel (*Pouteria campechiana*)
Cattley guava (*Psidium cattleianum*)
Ceylon-gooseberry (*Dovyalis hebecarpa*)
Chanar (*Geoffroea decorticans*)
Cherimoya (*Annona cherimola*)
Cherries (sweet and sour) (*Prunus avium, Prunus cerasus*)
Citrus citron (*Citrus medica*)
Coffee (*Coffea arabica*)
Custard apple (*Annona reticulata*)
Date (*Phoenix dactylifera*)
Dwarf papaya (*Carica quercifolia*)
Fig (*Ficus carica*)
Golden plum (*Prunus americana* x *P. salicina*)
Gourka (*Garcinia xanthochymus*)
Grape (*Vitis vinifera*)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*)
Hawthorne (*Crataegus spp.*)
Hog plum (*Spondias mombin*)
Japanese persimmon (*Diospyros kaki*)
Japanese plum (*Prunus salicina*)
Jocote (*Spondias purpurea*)
Kei apple (*Dovyalis caffra*)
Kiwi (*Actinidia chinensis*)
Kumquat (*Fortunella japonica*)
Lemon (*Citrus limon*) except Eureka, Lisbon, and Villa Franca cultivars (smooth-skinned sour lemon)
Lime (*Citrus aurantiifolia*)
Litchi (Lychee) (*Litchi chinensis*)
Longan (*Dimocropus longan*)
Loquat (*Eribotrya joponica*)
Mammee, sapote (*Pouteria sapota*)
Mandarin orange (tangerine) (*Citrus reticulata*)
Mango (*Mangifera indica*)
Mock orange (*Murraya paniculata*)
Mombin (*Spondias spp.*)
Mountain apple (*Syzygium malaccense* (*Eugenia malaccensis*))
Myrobalan nut (*Terminalia chebula*)
Natal plum (*Carissa macrocarpa* = *C. grandiflora* and *Terminalia chebula*)
Nectarine (*Prunus persica*)
Olive (*Olea europea*)
Opuntia cactus (*Opuntia* spp.)
Papaya (*Carica papaya*)
Passion fruit (*Passiflora edulis*)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepper (*Capsicum annuum* and *Capsicum frutescens*)
Pineapple guava (*Feijoa sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Pomiform guajava (*Psidium guajava 'Pomiform'*)
Pond apple (*Annona glabra*)
Prune (*Prunus domestica*)
Pummelo (Shaddock) (*Citrus maxima*)
Pyriform guajava (*Psidium guajava 'Pyriform'*)
Quince (*Cydonia oblonga*)
Red mombin (*Spondias purpurea*)
Rose apple (*Syzygium jambos Eugenia jambos*))
Sapodilla (*Manilkara zapota*)
Sour orange (*Citrus aurantium*)
Soursop (*Annona Muricata*)
Spanish cherry Medlar (*Mimusops elengi*)
Spanish cherry (Brazilian plum) (*Eugenia dombeyi* (*E. brasiliensis*))
Spanish plum (*Spondias mombin*)
Star-apple (*Chrysophyllum* spp.)
Strawberry guava (*Psidium cattleianum*)
Sugar apple (*Annona squamosa*)
Sugarplum (*Arenga pinnata*)
Surinam cherry (*Eugenia uniflora*)
Sweet orange (*Citrus sinensis*)
Tomato (pink and red ripe) (*Lycopersicon esculentum*)
Tree tomato (*Cyphomandra betacea*)
Tropical almond (*Terminalia catappa*)
Walnut with husk (*Juglans* spp.)
White sapote (*Casimiroa edulis*)
Yellow oleander (Bestill) (*Thevetia peruviana*);

Except that the list does not include any fruits which have been canned, or frozen below −17.8 °C (0 °F);

(b) Soil within the drip line of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in paragraph (a) of this section, and

(c) Any other product, article, or means of conveyance, of any character whatsoever, not covered by paragraphs (a) or (b) of this section, when it is determined by an inspector that it presents a risk of spread of the Mediterranean fruit fly and the person in possession thereof has actual notice that the product, article or means of conveyance is subject to the restrictions of this section.

§ 301.78–3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which the Mediterranean fruit fly has been found by an inspector or in which the Deputy Administrator has reason to believe that the Mediterranean fruit fly is present, or each portion of the quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to the Mediterranean fruit fly or its inseparability for quarantine

enforcement purposes from localities in which the Mediterranean fruit fly occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of the Mediterranean fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such area. Written notice of such designation shall be given to the owner or person in possession of such nonregulated area, and, thereafter, the interstate movement of any regulated article from such area shall be subject to the applicable provisions of this subpart. As soon as practicable, such area shall be added to the list in paragraph (c) of this section or such designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas:

Florida

Dade County

The part of Dade County beginning at a point 200 feet east of the intersection of the Broward-Dade County line and U.S. Highway 1; then south along an imaginary line 200 feet east of U.S. Highway 1 to a point 200 feet north of 192nd Street Causeway; then east along an imaginary line 200 feet north of the 192nd Street Causeway to State Highway A1A; then southerly along an imaginary line 200 feet east of State Highway A1A to a point 200 feet south of 71st Street; then westerly along an imaginary line 200 feet south of 71st Street and State Highway 828 (which starts on 71st Street) to the intersection of the west shore of Biscayne Bay; then southerly along said shore line to a point 200 feet south of Northeast 61st Street; then west along an imaginary line 200 feet south of Northeast 61st Street to its intersection with the East Coast Railroad; then across the East Coast Railroad to a point 200 feet south of Northeast 62nd Street (which becomes Northwest 62nd Street); then west along an imaginary line 200 feet south of Northwest 62nd Street to its intersection with U.S. Highway 27 (Okeechobee Road); then northwesterly along U.S. Highway 27 to its intersection with Red Road; then north along Red Road to a point 200 feet north of Northwest 183rd Street (Miami Gardens Drive); then east along an imaginary line 200 feet north of Miami Gardens Drive to a point 200 feet west of Northwest 37th Avenue; then north along as imaginary line 200 feet west of Northwest 37th Avenue to Snake Creek Canal; then east along Snake Creek Canal to its intersection with Sunshine State Parkway; then north along Sunshine State Parkway to its intersection with Broward-Dade County line; then east along the Broward-Dade County line to the point of beginning.

§ 301.78–4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.[2]

Any regulated article may be moved interstate from any regulated area in a quarantined State only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.78–5 and 301.78–8;

(b) Without a certificate or limited permit, if

(1)(i) Moved directly through (moved without stopping except under normal traffic conditions, such as for traffic lights or stop signs) any regulated area in an enclosed vehicle or completely enclosed by a covering adequate to prevent the introduction of the Mediterranean fruit fly (such as canvas, plastic, or closely woven cloth), and

(ii) The article originated outside of any regulated area, and

(iii) The point of origin of the article is clearly indicated by shipping documents and its identity has been maintained.

§ 301.78–5 Issuance and cancellation of certificates and limited permits.

(a) A certificate shall be issued by an inspector for the movement of a regulated article of such inspector:

(1) (i) Determines that it has been treated under the direction of an inspector [3] in accordance with § 301.78–10; or

(ii) Determines based on inspection of the premises of origin that the premises are free from the Mediterranean fruit fly and the article has not been exposed to Mediterranean fruit fly; or

(iii) Determines based on inspection of the article that it is free from Mediterranean fruit fly; and

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread of the Mediterranean fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd);[4] and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if such inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved to a specified destination for specified handling, utilization, processing, or for treatment in accordance with § 301.78–10 (such destination and other conditions to be specified on the limited permit), when, upon evaluation of all of the circumstances involved in each case, it is determined that such movement will not result in the spread of the Mediterranean fruit fly because life stages of the pest will be destroyed by such specified handling, utilization, processing, or treatment;

(2) Determines that it is to be moved in compliance with any additional emergency conditions necessary to prevent the spread to the Mediterranean fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [4] and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines and regulations applicable to such article.

(c) Certificates and limited permits for use for movement of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if such person has treated such regulated article to destroy infestation in accordance with the provisions in § 301.87–10 and the inspector has made the determination that such article is otherwise eligible for a certificate in accordance with paragraph (a) or this section; or if the inspector has made the determination

[2] Requirement under all other applicable Federal domestic plant quarantines and regulations must also be met.

[3] Treatments shall be monitored by inspectors in order to assure compliance with the requirements in this subpart.

[4] Section 105 of the Federal Plant Pest Act (7 U.S.C 150dd) provides among other things, that the Secretary of Agriculture may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial meaures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest.

that such article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment. Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that such article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if such inspector determines that the holder thereof has not complied with any conditions under the regulations for the use of such document. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances permit. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten (10) days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.78-6 Compliance agreement and cancellation thereof.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.[5] The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, wherein the person agrees to comply with the provisions of this subpart and any conditions imposed pursuant thereto.

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that such person has failed to comply with the provisions of this subpart or any conditions imposed pursuant thereto. If the cancellation is oral, the decision and the reasons therefore shall be confirmed in writing, as promptly as circumstances permit. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten (10) days after receiving written notification of the cancellation. The appeal shall state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. The Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for such decision, as promptly as circumstances permit. If there is a conflict as to any material fact, a hearing shall be held to resolve such conflict. Rules of Practice concerning such a hearing will be adopted by the Deputy Administrator.

§ 301.78-7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.78-5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance as possible (should be no less than 48 hours before the desired movement), request an inspector [6] to take any necessary action under this subpart prior to movement of the regulated article.

(b) Such article shall be assembled at such point and in such manner as the inspector designates as necessary to comply with the requirements of this subpart.

§ 301.78-8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at the times during such movement, shall be securely attached to the outside of the containers containing the regulated article, securely attached to the article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however,* that the requirements of this section may be met by attaching the certificate or limited permit to the consignee's copy of the waybill or other shipping documents only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify such article.

(b) The certificate or limited permit for the movement of a regulated article shall be furnished by the carrier to the consignee at the destination of the shipment.

§ 301.78-9 Cost and charges.

The service of the inspector shall be furnished without cost. The U.S. Department of Agriculture will not be responsible for any costs or charges incident to inspections or compliance with the provisions of the quarantine and regulations in this subpart, other than for the services of the inspector.

§ 301.78-10 Treatments.

Treatments for regulated articles shall be as follows:

(a) *Avocado:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 2½ hours at 21 °C. (70 °F.) or above followed by refrigeration for 7 days at 7.22 °C. (45 °F.) or below. The 7 days period may include up to 24 hours precooling time. Time between fumigation and start of cooling not to exceed 24 hours, but must include at least 30 minutes aeration.

(b) *Tomato:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C. (70 °F.) or above.

(c) *Bell pepper and tomato:* Heat the article by saturated water vapor at 44.44 °C. (112 °F.) until approximate center of article reaches 44.44 °C. (112 °F.), and maintain at 44.44 °C. (112 °F.) for 8¾ hours, then immediately cool.

Note.—Commodities should be tested by the shipper at the 44.44 °C. (112 °F.) temperature to determine each commodity's tolerance to the treatment before commercial treatments are attempted. Pretreatment conditioning is optional. Such conditioning is the responsibility of the shipper and would be conducted in accordance with procedures the shipper believes necessary. It is common to perform pretreatment conditioning.

(d) *Apple, apricot, cherry, grape, peach, pear, and plum:* Fumigation with 32 g/m³ methyl bromide at 21 °C. (70 °F.) or above (chamber load not to exceed 80 percent of volume), and at normal atmospheric pressure, followed by refrigeration, as set forth below.

Fumigation exposure time	Refrigeration
2 hours	4 days at 0.55 to 2.7 °C. (33 to 37 °F.); or 11 days at 6.11 to 8.3 °C. (43 to 47 °F.)
2½ hours	4 days at 3.30 to 4.44 °C. (38 to 40 °F.); or 6 days at 5.0 to 8.33 °C. (41 to 47 °F.); or 10 days at 8.88 to 13.33 °C. (48 to 56 °F.)
3 hours	3 days at 6.11 to 8.33 °C. (43 to 47 °F.); or 6 days at 8.88 to 13.33 °C. (48 to 56 °F.)

[5] Compliance Agreement forms are available without charge from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine. (Local offices are listed in telephone directories).

[6] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782.

Minimun concentrations for above fumigations.

(25 g minimum gas concentration at ½ hr.)

(18 g minimum gas concentration at 2 or 2½ hrs.)

(17 g minimum gas concentration at 3 hrs.)

Aerate all fruit at least 2 hours following fumigation. Time lapse between fumigation and start of cooling not to exceed 24 hours.

Note.—Some varieties of fruit may be injured by the 3-hour exposure. Shippers should test treat before making commercial shipments.

(e) *Bell peppers:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C (70 °F) or above.

Note.—Bell peppers have been found marginally tolerant to methyl bromide fumigation. Shelf life after treatment is reduced to between 5 to 7 days. Injury may appear as pitting on the skin of the pepper, darkening of the seed and placental material, and internal decay resulting from killing of the stem calyx.

(f) *Apple, apricot, Calamondin orange, cherry, citrus citron, grape, grapefruit, kiwi, mandarin orange, nectarine, peach, pear, plum, prune, sour orange, and sweet orange:* Cold treat the article according to one of the following:

10 days at 0 °C. (32 °F.) or below
11 days at 0.55 °C. (33 °F.) or below
12 days at 1.11 °C. (34 °F.) or below
14 days at 1.66 °C. (35 °F.) or below
16 days at 2.22 °C. (36 °F.) or below.

(g) *Almond with husk, grape, kiwi, opuntia cactus, and walnut with husk.* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 3½ hours at 21 °C (70 °F) or above.

Minimum concentration for above fumigations:

26 g minimum gas concentration at first ½ hour
22 g minimum gas concentration at 2 or 2½ hours
21 g minimum gas concentration at 3½ hours.

(h) *Grape:* Fumigation with methyl bromide at normal atmospheric pressure with 32 g/m³ for 4 hours at 18 °C (65 °F) or above

Minimum concentration for above fumigations:

26 g minimum gas concentration at first ½ hour
22 g minimum gas concentration at 2 or 2½ hours
19 g minimum gas concentration at 4 hours.

(i) *Soil:* Soil within the drip line of plants which are producing or have produced the fruits, nuts, vegetables, and berries listed in § 301.78–2(a):

Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip line with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are acceptable. Soil treated with diazinon shall be eligible for certification only during the first 7 days following treatment.

Done at Washington, D.C., this 2nd day of May 1985.

Harvey L. Ford,

Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 85–10995 Filed 5–7–85; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Marketing Service

7 CFR Part 918

[Georgia Peach Reg. 3, Amdt. 2]

Fresh Peaches Grown in Georgia; Amendment of Quality and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment of final rule.

SUMMARY: This amendment relaxes quality regulations for shipments of Georgia peaches by deleting minimum grade requirements, except for requiring that such peaches be mature, and by lowering the minimum diameter requirement from 1⅞ inches to 1⅝ inches. Such action recognizes the composition of the crop and current and prospective marketing conditions for Georgia peaches and is in the interest of producers and consumers.

EFFECTIVE DATE: On and after May 1, 1985.

FOR FURTHER INFORMATION CONTACT: William J. Doyle, Chief, Fruit Branch, F&V, AMS, USDA, Washington, D.C. 20250, telephone 202–447–5975.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1512–1 and Executive Order 12291 and has been designated a "non-major" rule. William T. Manley, Deputy Administrator, Agricultural Marketing Service, has certified that this action will not have a significant economic impact on a substantial number of small entities.

This final rule is issued under the marketing agreement, as amended, and Order No. 918, as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). This action is based on information submitted by the Industry Committee established under this marketing order, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

Shipments of Georgia peaches, except peaches in bulk to adjacent markets (The States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and that portion of Louisiana which is east of the Mississippi River) are currently required to grade at least 85 percent U.S. No. 1 quality with additional allowances for split pits, damage and decay, and be at least 1⅞ inches in diameter, except peaches shipped to adjacent markets can be as small as 1¾ inches in diameter if they meet specified conditions. All peaches must be inspected and certified as meeting such requirements. Sections 918.54 and 918.400 require such peaches to be mature.

The committee met on April 16, 1985, to consider supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1985 season Georgia peach crop. The committee recommended that for the 1985 season peaches shipped to all markets be mature and measure at least 1⅝ inches in diameter. The committee also recommended that bulk shipments to adjacent markets be exempt from these maturity, minimum size, and inspection and certification requirements. The committee recommended this action based on an appraisal of the current and prospective supply and demand conditions for this season's Georgia peach crop. The Georgia peach production area is one of the first each season to market an appreciable amount of fresh peaches. During the early weeks of the season there is a tendency to ship immature and smaller size fruit. Shipment of such fruit at this item tends to adversely affect consumer demand, with resultant depressing effects on grower returns. The 1985 crop of Georgia

peaches is expected to total 1,227 equivalent trailer loads (based on 788 bushels per load) as compared to 2,035 equivalent trailer loads in 1984. The sharp reduction in crop prospects is due to the January freeze and March frost in the production area. Much smaller peach crops are also expected in other Southeast peach producing states because of unfavorable weather. Shipments of Georgia peaches compete with peach shipments from adjoining states. Specification of minimum size and maturity requirements for shipments of Georgia peaches is necessary to provide consumers with suitable quality peaches and promote orderly marketing of shipments from the 1985 crop. The committee unanimously adopted and has submitted to the Secretary a marketing policy for the 1985 season Georgia peach crop including an analysis of supply and demand factors having a bearing on the marketing of the crop.

The regulation currently in effect (Peach Regulation 3, Amendment 1) was issued September 7, 1984 on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. These less restrictive regulations for Georgia peaches will continue to be in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. The issuance of seasonal regulations which continue in effect from marketing season to marketing season reflects the fact that such regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, this action could result in a reduction in operational costs to the committee and the government. Although the seasonal regulations will be effective for an indefinite period, the committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Georgia peaches. Prior to making any such recommendations, the committee would submit to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the **Federal Register** (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this final rule is based and the effective date necessary to effectuate the declared purposes of the act. Interested persons were given an opportunity to submit information and views on the revisions of the quality and size requirements at an open meeting, at which the committee, unanimously recommended implementation of the requirements specified in this final rule. This final rule relieves restrictions on the handling of peaches, and handlers have been apprised of such provisions and the effective date.

List of Subjects in 7 CFR Part 918

Marketing agreements and order, Peaches, Georgia.

PART 918—[AMENDED]

1. The authority citation for 7 CFR Part 918 continues to read as follows:

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

2. § 918.325 is revised to read as follows:

§ 918.325 Peach Regulation 3.

On and after May 1, 1985, no handler shall ship peaches unless such peaches are mature as provided in § 918.400, and are not smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter: *Provided*, That peaches shipped to adjacent markets in bulk are exempt from such maturity and size requirements, and the inspection requirement in § 918.64 shall not apply.

Dated: May 1, 1985.

Thomas R. Clark,

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

[FR Doc. 85–10993 Filed 5–7–85; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 238

Contracts With Transportation Lines; Addition of Pro Air Services

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Final rule.

SUMMARY: This rule adds Pro Air Services to the list of carriers which have entered into agreements with the Service to guarantee the passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

EFFECTIVE DATE: April 24, 1985.

FOR FURTHER INFORMATION CONTACT: Loretta J. Shogren, Director, Policy Directives and Instructions, Immigration and Naturalizaton Service, 425 I Street NW., Washington, DC 20536, Telephone: (202) 633–3048.

SUPPLEMENTARY INFORMATION: The Commissioner of Immigration and Naturalization entered into an agreement with Pro Air Services on April 24, 1985 to guarantee passage through the United States in immediate and continuous transit of aliens destined to foreign countries.

The agreement provides for the waiver of certain documentary requirements and facilities the air travel of passengers on international flights while passing through the United States.

Compliance with 5 U.S.C. 553 as to notice of proposed rulemaking and delayed effective date is unnecessary because the amendment merely makes an editorial change to the listing of transportation lines.

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

This order constitutes a notice to the public under 5 U.S.C. 552 and is not a rule within the definition of section 1(a) of E.O. 12291.

List of Subjects in 8 CFR Part 238

Airlines, Aliens, Government contracts, Travel, Travel restriction.

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

PART 238—CONTRACTS WITH TRANSPORTATION LINES

1. The authority citation for Part 238 continues to read as follows:

Authority: Secs. 103 and 238 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103 and 1228).

§ 238.3 [Amended]

In § 238.3, Aliens in immediate and continuous transit, the listing of transportation lines in paragraph (b) *Signatory lines* is amended by adding in alphabetical sequence, Pro Air Services.

* * * * *

Dated: May 2, 1985.

Andrew J. Carmichael, Jr.,

Associate Commissioner, Examinations Immigration and Naturalization Service.

[FR Doc. 85-11126 Filed 5-7-85; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 85-004]

Semen of Ruminants or Swine From Countries Where Rinderpest or Foot-and-Mouth Disease Exists

Correction

In FR Doc. 85-10030 beginning on page 16458 in the issue of Friday, April 26, 1985, make the following correction:

On page 16459, third column, third line, insert "2.17," between "7 CFR" and "2.51".

BILLING CODE 1505-01-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 50

Emergency Planning and Preparedness

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: In response to a decision by the United States Court of Appeals for the District of Columbia Circuit, the Nuclear Regulatory Commission is revising its emergency planning and preparedness regulations for nuclear power reactors. The decision requires that the NRC remove the provision stating that emergency preparedness exercises are not required for any initial licensing decision.

EFFECTIVE DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Theresa W. Hajost, Attorney, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone: (202) 634-1493.

SUPPLEMENTARY INFORMATION: In *Union of Concerned Scientists* v. *NRC*, 735 F.2d 1437 (D.C. Cir. 1984), the U.S. Court of Appeals for the District of Columbia Circuit vacated the NRC's 1982 amendment (47 FR 30232, July 13, 1982) to its emergency planning and preparedness regulations, 10 CFR 50.47(a)(2) (1984), which stated that emergency preparedness exercises were part of the operational inspection process and thus were not required for any initial licensing hearing or decision. The court held that "Congress did not grant the Commission discretion to remove so material an issue as the results of offsite emergency preparedness from reqauired section 189(a) hearings." 735 F. 2d at 1451. On January 7, 1985, the Supreme Court denied a petition for *certiorari* filed by several Utility-Intervenors in the case, and on January 30, 1985, the Court of Appeals formally vacated the 1982 amendment.

The basic effect of the court's decision and of the rule change which follows is that the results of pre-licensing emergency preparedness exercises may be subject to litigation before the Licensing Board. The revision does not change the general predictive nature of the Commission's findings on emergency planning and preparedness issues.

Because the D.C. Circuit held that the Commission did not have the statutory authority to promulgate the 1982 amendment, it is unnecessary to provide notice and an opportunity to comment on this revision, which should be viewed as an outgrowth of the 1982 rulemaking proceeding. For the same reason the Commission finds good cause for making the revision effective on publication in the **Federal Register.** The revision is an administrative change to conform the text of 10 CFR 50.47(a)(2) to the result in the case.

The court specifically focused on the last sentence added to 10 CFR 50.47(a)(2) by the 1982 Amendment. Thus, this sentence is being deleted from 10 CFR 50.47(a)(2).

Paperwork Reduction Act Statement

This revised rule contains no information collection reuirements and therefore is not subject to the requirements of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Environmental Impact: Categorical Exclusion

The NRC has determined that this revised regulation is the type of action described in categorical exclusion 10 CFR 51.22(c)(3). Therefore, neither an environmental impact statement nor an environmental assessment has been prepared for this revised regulation. Moreover, when promulgating the original emergency planning and preparedness regulations in 1980, the NRC prepared an "Environmental Assessment for Final Changes to 10 CFR Part 50 and Appendix E of 10 CFR Part 50, Emergency Planning Requirements for Nuclear Power Plants" (NUREG-0685, June 1980), and concluded that under the criteria of 10 CFR Part 51 an environmental impact statement was not required for the Commission's emergency planning and preparedness regulations, which included 10 CFR 50.47(a)(2) as hereby revised.

List of Subjects in 10 CFR Part 2

Antitrust, Classified information, Fire prevention, Incorporation by reference, Intergovernmental relations, Nuclear power plants and reactors, Penalty, Radiation protection, Reactor siting criteria, Reporting and recordkeeping requirements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 553 of Title 5 of the United States Code, the NRC is adopting the following revisions to 10 CFR Part 50.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

1. The authority citation for Part 50 continues to read as follows:

Authority: Secs. 103, 104, 161, 182, 183, 186, 189, 68 Stat. 936, 937, 948, 953, 954, 955, 956, as amended, sec. 234, 83 Stat. 1244, as amended (42 U.S.C. 2133, 2134, 2201, 2232, 2233, 2236, 2239, 2282); secs. 201, 202, 206, 68 Stat. 1242, 1244, 1246, as amended (42 U.S.C. 5841, 5842, 5846), unless otherwise noted.

Section 50.7 also issued under Pub. L. 95-601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851). Sections 50.57(d), 50.58, 50.91, and 50.92 also issued under Pub. L. 97-415, 96 Stat. 2071, 2073 (42 U.S.C. 2133, 2239). Section 50.78 also issued under sec. 122, 68 Stat. 939 (42 U.S.C. 2152). Sections 50.80-50.81 also issued under sec. 184, 68 Stat. 954, as amended (42 U.S.C. 2234). Sections 50.100-50.102 also issued under sec. 186, 68 Stat. 955 (42 U.S.C. 2236).

For the purposes of sec. 223, 68 Stat 958, as amended (42 U.S.C. 2273), §§ 50.10 (a), (b), and (c), 50.44, 50.46, 50.48, 50.54, and 50.80(a) are issued under sec. 161b, 68 Stat. 948, as

amended (42 U.S.C. 2201(b)); §§ 50.10 (b) and (c) and 50.54 are issued under sec. 161i, 68 Stat. 949, as amended (42 U.S.C. 2201(i)); and §§ 50.55(e), 50.59(b), 50.70, 50.71, 50.72, 50.73, and 50.78 are issued under sec. 161o, 68 Stat. 950, as amended (42 U.S.C. 2201(o)).

2. In § 50.47, paragraph (a)(2) is revised to read as follows:

§ 50.47 Emergency plans.

(a) * * *

(2) The NRC will base its finding on a review of the Federal Emergency Management Agency [FEMA] findings and determinations as to whether State and local emergency plans are adequate and whether there is reasonable assurance that they can be implemented, and on the NRC assessment as to whether the applicant's onsite emergency plans are adequate and whether there is reasonable assurance that they can be implemented. A FEMA finding will primarily be based on a review of the plans. Any other information already available to FEMA may be considered in assessing whether there is reasonable assurance that the plans can be implemented. In any NRC licensing proceeding, a FEMA finding will constitute a rebuttable presumption on questions of adequacy and implementation capability.

* * * * *

Dated at Washington, D.C., this 3rd day of May 1985.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Assistant Secretary of the Commission.

[FR Doc. 85-11162 Filed 5-7-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

12 CFR Part 7

[Docket No. 85-7]

Charitable Foundations and Charitable Contributions

AGENCY: Comptroller of the Currency, Treasury.

ACTION: Final rule.

SUMMARY: The Office of the Comptroller of the Currency (Office) is rescinding its interpretive rulings on charitable foundations and charitable contributions, 12 CFR 7.7445 and 7.7479, respectively. Additionally, the Office is clarifying that a national bank may establish Clifford trusts without seeking prior approval. This final rule is intended to eliminate unnecessary limitations on a national bank's charitable contributions.

EFFECTIVE DATE: June 7, 1985.

FOR FURTHER INFORMATION CONTACT: Ford Barrett, Assistant Director, Legislative and Regulatory Analysis Division, Office of the Comptroller of the Currency, 490 L'Enfant Plaza East, SW., Washington, D.C. 20219, (202) 447-1177.

SUPPLEMENTARY INFORMATION:

Background

Twelve U.S.C. 24 (Eighth) provides that national banks may "contribute to community funds or to charitable, philanthropic, or benevolent instrumentalities conducive to public welfare." The Office interprets the statute as authorizing national banks to make charitable contributions and to establish charitable foundations. The statute does not limit charitable contributions except as the "board of directors may deem expedient and in the interests of the association . . . ."

In 1957, the Office issued Interpretive Ruling 7220 concerning the establishment of charitable foundations. The ruling limited contributions by the bank to a charitable foundation to "the amount permitted by federal law as a deduction from income for the purpose of the federal tax on corporate income." In 1963, the ruling was renumbered as Interpretive Ruling 7445, and in 1971, it was codified at 12 CFR 7.7445 without substantive change. In 1971, the Office also issued the charitable contributions ruling, 12 CFR 7.7479. The latter ruling stated that a national bank's contributions should "not exceed that which is allowed by the Internal Revenue Service as a deduction from income."

In 1978, the Office amended both interpretive rulings to include more specific limitations on a national bank's contributions to charity or to its charitable foundation. As a result, since 1978 a national bank has been limited to contributing each half-year "five percent of the sum of 'income before income taxes and securities gains or losses' and 'Securities gains (losses), Gross' registered during the preceding calendar half-year." The Office imposed the five percent limitation to "prevent management of closely-held banks from contributing excessive sums to charities or foundations in which the bank's controlling stockholders had a personal interest." 43 FR 19831, 19832.

Following the 1978 amendments, several banks have applied for exemptions from the limitations on the amount of their contributions to charity and to foundations. The Office usually approved these applications after determining that the contributions were consistent with safe and sound banking practices and the applicant was financially sound.

Rescission of the Rulings

Over the years, there have been few violations of the limitations. Additionally, the Office believes it is no longer necessary to place specific limits on the amounts a national bank may contribute to charity or to its own charitable foundation. The deductible limitations in section 170(b) of the Internal Revenue Code (10% of taxable income) should adequately restrain a bank's charitable activities. Accordingly, §§ 7.7445 and 7.7479 are unnecessary.

The Office assumes that a national bank will generally limit its contributions to the amount allowed as a deduction under the Internal Revenue Code. If a bank exceeds the Code's deductible amount, the board of directors should justify the action in its minutes. Such an action must be, in the language of 12 U.S.C. 24 (Eighth), "in the interests of the association." In these infrequent cases, the board of directors should take into account the bank's financial condition before exceeding the deductible amount.

Use of a Clifford Trust

In addition to rescinding 12 CFR 7.7445 and 12 CFR 7.7479, the Office wants to clarify its policy on a national bank's use of Clifford trusts for charitable purposes. A Clifford trust is a trust that is irrevocable for a period slightly longer than ten years after its creation. This length of time is necessary for the trust to qualify for certain tax benefits under the Internal Revenue Code. During the life of the trust, the trust income is given to a beneficiary. The principal reverts to the donor at the expiration of the trust's term. National banks sometimes use a Clifford trust to make charitable contributions, and such trust are an acceptable charitable activity under 12 U.S.C. 24 (Eighth).

In the past, the Office has required that a national bank obtain prior approval before establishing such a Clifford trust for charitable purposes. The Office's main concern has been that the trust not be used to hold assets not permitted by the banking laws. In the future, the Office will continue to review Clifford trusts during its regular examining process, but will not require a national bank to obtain prior approval to establish the trust.

Regulatory Flexibility Act

Since interpretive rulings are not subject to notice and comment

procedures under 5 U.S.C. 553, preparation of a regulatory flexibility analysis is not required. This final rule is deregulatory, and both small and large entities are expected to benefit equally.

Executive Order 12291

The Office has determined that this final rule does not constitute a "major rule" and, therefore, does not require a regulatory impact analysis. This final rule is deregulatory and beneficial in nature.

List of Subjects in 12 CFR Part 7

National banks, Charitable contributions, Charitable foundations, Clifford trusts.

Authority and Issuance

PART 7—[AMENDED]

For the reasons set out in the preamble, 12 CFR Part 7 is amended as set forth below.

1. The authority cite for Part 7 reads as follows:

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

§ 7.7445 [Removed]

2. Section 7.7445 is removed.

§ 7.7479 [Removed]

3. Section 7.7479 is removed.

Dated: April 18, 1985.

C.T. Conover,

Comptroller of the Currency.

[FR Doc. 85-11186 Filed 5-7-85; 8:45 am]

BILLING CODE 4810-33-M

FEDERAL HOME LOAN BANK BOARD

12 CFR Part 535

[No. 85-323]

Consumer Protections; Unfair or Deceptive Credit Practices

Dated: April 30, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board is statutorily required, with certain exceptions, to promulgate rules similar to the consumer protection rules adopted by the Federal Trade Commission. The Federal Trade Commission adopted such a rule pertaining to consumer credit practices, which became effective on March 1, 1985. That rule prohibits the use of four contract provisions and the pyramiding of late charges, and requires a notice to be given to potential cosigners of consumer credit obligations. The Board proposed for comment a substantially similar rule on January 14, 1985, and has now adopted a final rule on this subject.

EFFECTIVE DATE: January 1, 1986.

FOR FURTHER INFORMATION CONTACT: Ben F. Dixon, Office of Community Investment, Division of Consumer and Civil Rights (202-377-6830), or Nancy Feldman, Associate General Counsel for Regulatory Review, Office of General Counsel, Federal Home Loan Bank Board, 1700 G Street NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION:

Background

The Federal Trade Commission ("FTC") has issued a rule on consumer credit practices ("credit practices rule") (49 FR 7740, March 1, 1984; to be codified at 16 CFR 444.1-444.5), which became effective on March 1, 1985. Under section 18 of the FTC Act ("Act")(15 U.S.C. 57a (1982)), the FTC is given authority to issue regulations to protect consumers from unfair or deceptive trade practices. The only entities which may not be subject to such a rule are federally regulated financial institutions. Under the Act at section 57a(f)), the Federal Reserve Board ("FRB") and the Federal Home Loan Bank Board ("Board") have enforcement and rulemaking authority for the institutions that each regulates. The section of the Act giving the Board authority to promulgate consumer protection rules similar to those of the FTC, covers all associations and savings banks that are members of the Federal Home Loan Bank System ("member institutions"). The Board has 60 days after the effective date of an FTC rule (in this case, March 1, 1985) to (1) promulgate the FTC rule, (2) adopt a substantially similar rule, or (3) decline to adopt such a rule on a finding that the practices being regulated do not constitute unfair or deceptive practices in regard to consumers who are customers of the regulated financial institutions.

The credit practices rule prohibits the following types of loan contract clauses:

1. *Confessions of Judgment*—a "cognovit", which is a type of contract clause providing for a waiver of a debtor's right to notice and the opportunity to be heard in the event of a suit or other process as a result of a debtor's default, and for the entry a judgment against the debtor resulting therefrom.

2. *Wage Assignments*—a contract clause that provides, at the creditor's option, for a transfer of a debtor's wages to the creditor upon default without notice or hearing.

3. *Security Interest in Household Goods*—a contract clause giving a creditor a non-possessory lien on personal property; specifically, the rule is a prohibition against taking a security interest in a debtor's household goods.

4. *Waivers of Exemption*—a contract clause containing a waiver or limitation of exemption from attachment, execution, or other process on a debtor's real or personal property.

The rule also prohibits a lender from engaging in any practice (including any accounting method) which would result in "pyramiding" late charges, that is, charging multiple late charges for one late payment. Finally, the rule requires lenders to disclose in writing to potential cosigners that they will have to repay the loan if the debtor does not.

On January 14, 1985, the Board published for public comment a proposed rule substantially similar to that adopted by the FTC. *See* 50 FR 1863; January 14, 1985. In connection with its proposal, the Board sought comment on issues relevant to whether the practices prohibited or required by the FTC are unfair or deceptive in relation to the activities of member institutions. The Board received 31 comments, from member institutions, law firms public-interest groups, and consumers. Seventeen commenters generally opposed the proposal, 11 supported it, and 22 suggested modifications for specific provisions. No contrary evidence was offered to show that the practices proposed to be banned by the rule are not unfair or deceptive when engaged in by member institutions. Therefore, after reviewing the comments and other available information, the Board has determined to promulgate a final rule very similar to the proposal, with the changes discussed below.

Scope of the Final Rule

A number of questions were raised concerning the types of credit obligations to be covered by the rule. As proposed, the final rule covers all consumer loans as defined in the Board's "Consumer credit" regulation at § 561.38 (12 CFR 561.38 (1984)). That definition is as follows:

> Credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes and leases of personal property to consumers that may be considered the functional equivalent of loans on personal security: *Provided*, the association relies substantially upon other factors, such as the general credit standing of the borrower, guarantees, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to

demonstrate justification for such reliance should be retained in an association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

Thus, consumer loans secured in part by real estate, where the institution relies primarily on factors such as general creditworthiness as security for repayment, are covered by the rule. Similarly, loans secured by mobile homes (also called manufactured homes) and other chattel loans are covered by the rule. However, loans on a combination of mobile homes and the underlying land have, under longstanding Board interpretations, been considered real estate loans, as have mobile-home loans considered real-property loans under state law. The Board has chosen to apply this test for loan coverage because it is consistent with the Board's consumer credit rules and, therefore, familiar to most member institutions, and because it is commonly used by thrifts which have investment "baskets." The incorporation of the "consumer credit" definition has been moved to the "consumer" definition section of new Part 535 for ease of reference.

The Board had proposed to apply the rule to all member institutions. The question has arisen, however, whether this coverage would extend to member institutions' service corporations. It has been the longstanding position of the Board's legal staff that service corporations wholly owned by one or more member institutions are subject to the Board's enforcement authority in the area of federal consumer protection law, if such authority is statutorily granted to the Board. The Federal Trade Commission Act clearly gives such authority to the Board. *See* 15 U.S.C. 45(a)(2), and the Financial Institutions Regulations and Interest Control Act of 1978, Pub. L. 95-630, 92 Stat. 3641, 3650, 3651 (granting the Board increased enforcement authority over such service corporations). The final rule has been clarified accordingly.

A question was also raised regarding the coverage of state-chartered savings banks that converted to a federal charter but retained FDIC insurance. *See* section 112 of the Depository Institutions Act of 1982, 42 U.S.C. 1464(c)(1) *et seq.* Such institutions would be subject to the Board's regulatory authority including the Board's consumer protection rule.

Applicability of the Rule to Member Institutions' Business

The rule applies to only a small portion of most member institutions' current loan portfolios. However, consumer loans, as a result of the Depository Institutions Act of 1982 ("DIA") (Pub. L. 97-320, 96 Stat. 1469), are becoming more prevalent in federal institutions' loan mixes. The DIA gave federal savings and loan associations and savings banks more authority to lend funds outside the traditional area of home finance. As a result, the provisions in the Board's rule are relevant to federal institutions which avail themselves of their new powers to lend. Other members of the Federal Home Loan Banks may be more affected by the rule, depending upon their portfolio mix.

Thrifts are, however, generally increasing their involvement in consumer installment credit. Comments and other information available to the Board indicate that practices addressed by the FTC credit practices rule are used in a number of member institutions' consumer loan contracts. *See* the preamble of the proposal, 50 FR 1864 (January 14, 1985), for extensive discussions of two surveys conducted by the Board.

While the practices were not found to be widespread, no comment letter or other information established that such practices, if used, would not be used by member institutions in a manner that would be unfair or deceptive to their customers. One commenter argued that the Board could not rely on the FTC's evidence since the nature of consumer lending by member institutions is not similar to that of finance corporations, citing differences in "lender types" and the clientele of these lenders. These points do not, however, refute the assumption that the use of these practices would have the same effect upon consumers irrespective of what type of lender made use of them.

Therefore, in furtherance of its statutory responsibility, the Board is relying on the comprehensive evidence developed in the FTC proceedings which addressed consumer lending generally. The Board notes that the final regulatory provisions adopted by the FTC reflected, in part, suggestions made by financial depository institution commenters.

The evidence collected by the Board's staff indicates that the rule will be more in the nature of prospective or preventive regulation rather than a rule substantially limiting current practices. Therefore, the rule should not constitute an appreciable burden on member institutions.

Cosigner Notice

The Board's proposal would have required cosigner notices to contain specific language. As a result of a number of comments pointing out that various parts of the notice could be inconsistent with state law, the Board has determined to include the language of the cosigner notice in the final rule as model language rather than as a required format. Member institutions must, therefore, devise notices which are consistent with both the rule and state law. However, if the Board's model notice is not used, a substantially similar notice must contain the following:

(1) A paragraph indicating the obligation the cosigner is entering into (as in paragraph one of the model notice);

(2) A paragraph indicating the extent to which a cosigner is obligated (as in paragraph two of the model notice);

(3) A paragraph indicating the types of remedies available to the creditor against the debtor and cosigner (as in paragraph three of the model notice).

The proposal would have required that a separate cosigner document be used. In response to comments, the Board has decided to give member institutions a choice in this matter. If the cosigner notice is contained within other documents, it must be set forth in a clear and conspicuous manner and must be located immediately above the place reserved for the consumer and cosigner to sign obligating themselves for the debt. If the notice is a separate document, it may only contain the following additional information: the name and address of the member institution, an identification of the debt to be cosigned (e.g., a loan identification number), the date, and the statement, "This notice is not the contract that makes you liable for the debt."

In response to comments, language in proposed § 535.3(b) referring to the "execution" of an agreement obligating the co-signer has been deleted, and a simpler reference to the time the co-signer becomes obligated has been inserted in its stead. The intent of the provision, to require a creditor to inform cosigners of their obligations *before* they become liable for the debt, is unchanged. For example, if an application for a credit card (open-ended credit) is made, the consumer and cosigner become obligated at the point the consumer is able to use the card to incur debt, that is, at the time he or she has the contractual right to obtain extensions of credit. In such a case, a cosigner notice would need to be given

(if a cosigner is involved) only at the point immediately before the card is activated.

Many commenters objected to the definition of cosigner as being variously too narrow, too broad, or too imprecise under state law. The Board finds that a cosigner should be defined in transactional terms. In situations under state law where an additional signatory is required but where that additional person *does* receive compensation (such as a spouse in community property states or where the spouse's signature is required to perfect the security interest), the additional person would not be considered a "cosigner" under this rule.

Cognovits

A number of commenters took issue with the discussion of this prohibition in the proposal preamble. The Board is taking this opportunity to clarify that a notice of presentment, dishonor, and protest is not considered a cognovit or confession of judgment under this rule. On the contrary, the test is whether a consumer has been denied procedural due process rights of notice and hearing that would otherwise be available under state or federal law.

Pyramiding of Late Charges

Several commenters requested a clarification of the term "pyramiding" which was used in the proposal preamble to graphically describe an abusive situation. The practice intended to be prohibited is one in which late charges are subtracted from later installment payments so that the latter are incomplete and the borrower is assessed new late charges each month. For example, a consumer makes a payment late enough to warrant a late charge, and consequently, the late charge is subtracted from the payment. The next month, the consumer makes a timely payment, but is assessed another late charge because a part of that payment was applied to the previous month's debt. On the other hand, under the rule if the second payment were also late, a second late charge could be levied against the borrower.

Security Interest in Household Goods

Eight commenters specifically opposed the proposed prohibition on security interests in household goods, arguing chiefly that credit availability would be adversely affected. However, no convincing evidence to support this conclusion was offered. The Board, noting the FTC's findings in this matter, has therefore determined to adopt the provisions as proposed.

Only the items specified in the rule are included in the term "household goods." Thus, items such as fixtures, automobiles, and so on are excluded.

Waiver of Exemption

This provision prohibits the contractual waiver of the property exemption that is provided to consumers under state law. However, a waiver is permitted if it relates to property which is specifically given as security in connection with the obligation.

Assignment of Wages

This provision specifically excludes payroll deduction plans, and revocable assignments.

State Exemptions

A number of commenters requested that the Board apply a uniform rule to all regulatees without the possibility of state-law substitutions in order to avoid disruption of nationwide lending activities. While the Board recognises the merit of this suggestion, it has determined at this time to follow the regulatory practices of the FTC and the FRB in providing an opportunity for state-law exemptions in this area.

Competent state agencies may, therefore, apply to the Board for a determination on a case-by-case basis if state law is substantially equivalent to this Part.

Application of Rule to Purchased Contracts

The proposal would have prohibited member institutions' purchase of consumer credit obligations containing the cited contract provisions. Upon reconsideration, the Board has determined that making such provisions unenforceable will achieve the purpose of the rule without imposing undue compliance burdens on member institutions, and has modified the provision accordingly. Since all creditors will be prohibited from originating contracts containing these provisions, purchases of contracts containing provisions should become increasingly rare occurrences.

Effective Date

While the FTC gave its regulatees a full year to comply with the credit practices rule, the Board notes that publication of the FTC's rule and the knowledge of the Board's responsibilities under the Act effectively notified member institutions that the Board would be initiating rulemaking proceedings pursuant to section 18(f). The subsequent publication of the Board's proposed rule was further evidence of the Board's intent to consider adoption of a substantially equivalent rule. The Board has therefor determined to apply the rule as of January 1, 1986.

Final Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following final regulatory flexibility analysis.

1. *Reasons, objectives, and legal bases underlying the proposed rules.* These elements have been discussed elsewhere in the supplementary information regarding the proposal.

2. *Small entities to which the rules will apply.* This rule would apply to members of Federal Home Loan Banks.

3. *Impact of the proposed rules on small institutions.* To the extent that the rule would affect small institutions, this has been discussed elsewhere in the proposal.

4. *Overlapping or conflicting federal rules.* At present, the Board has no regulations for non-real estate loans either limiting or allowing the practices to be prohibited by the FTC credit practices rule. Board regulations governing late charges on real-estate-secured loans, and on loans secured by mobile homes, are not in conflict with the FTC late-charge rule.

5. *Alternatives to the proposed rules.* No alternative rules would impose a lesser burden while complying with the Board's statutory mandate.

List of Subjects in 12 CFR Part 535

Federal Home Loan banks.

Accordingly, the Board hereby adds a new Part 535, Subchapter B, Chapter V, Title 12 of the Code of Federal Regulations, as set forth below.

SUBCHAPTER B—FEDERAL HOME LOAN BANK SYSTEM

Amend Subchapter B by adding at the end thereof a new Part 535, as follows:

PART 535—PROHIBITED CONSUMER CREDIT PRACTICES

Sec.

Authority: Sec. 45, as amended, Pub. L. 93-637, 88 Stat. 2193, 2200, as amended, Pub. L. 96-37, 93 Stat. 95; Sec. 57a, Pub. L. 93-637, 88 Stat. 2193, as amended, Pub. L. 96-37, 93 Stat. 95; Sec 17, 47 Stat. 736, as amended; 12 U.S.C. 1437, Reorg. Plan No. 3 of 1947, 3 CFR 1943-1948 Comp.

§ 535.1 Definitions.

(a) *Act.* For the purposes of this part, the Federal Trade Commission Act, 15 U.S.C. 41 *et seq.*

(b) *Consumer.* A natural person who seeks or acquires goods, services, or money for personal, family, or household purposes, and who applies for or is extended "consumer credit" as defined in § 561.38 of this chapter.

(c) *Cosigner.* A natural person who assumes liability for the obligation of a consumer without receiving goods, services, or money in return for the obligation, or in the case of an open-end credit obligation, without receiving the contractual right to obtain extensions of credit under the account. The term shall include any person whose signature is requested as a condition to granting credit to a consumer, or as a condition for forbearance on collection of a consumer's obligation that is in default. The term shall not include a spouse or other person whose signature is required on a credit obligation to perfect a security interest pursuant to state law. A person is a cosigner within the meaning of this definition whether or not he or she is designated as such on a credit obligation.

(d) *Creditor.* A member institution.

(e) *Debt.* Money that is due or alleged to be due from one to another.

(f) *Earnings.* Compensation paid or payable to an individual or for his or her account for personal services rendered or to be rendered by him or her, whether denominated as wages, salary, commission, bonus, or otherwise, including periodic payments pursuant to a pension, retirement, or disability program.

(g) *Household goods.* Clothing, furniture, appliances, linens, china, crockery, kitchenware, and personal effects of the consumer and his or her dependents, provided that the following are not included within the scope of the term "household goods":

(1) Works of art;

(2) Electronic entertainment equipment (except one television and one radio);

(3) Antiques, i.e., any item over one hundred years of age, including such items that have been repaired or renovated without changing their original form or character, and

(4) Jewelry (other than wedding rings).

(h) *Member institution.* A person who engages in the business of providing credit to consumers, and who is a member of a Federal Home Loan Bank, including, for purposes of this part, service corporation subsidiaries which are wholly owned by one or more member institutions.

(i) *Obligation.* An agreement between a consumer and a creditor.

(j) *Person.* An individual, corporation, or other business organization.

§ 535.2 Unfair credit contract provisions.

(a) In connection with the extension of credit to consumers after January 1, 1986, it is an unfair act or practice within the meaning of Section 5 of the Act for a member institution directly or indirectly to enter into a consumer credit obligation that constitutes or contains, or to enforce in a consumer credit obligation purchased by a member institution, any of the following provisions:

(1) A cognovit or confession of judgment (for purposes other than executory process in the State of Louisiana), warrant of attorney, or other waiver of the right to notice and the opportunity to be heard in the event of suit or process thereon;

(2) An executory waiver or a limitation of exemption from attachment, execution, or other process on real or personal property held, owned by, or due to the consumer, unless the waiver applies solely to property subject to a security interest executed in connection with the obligation;

(3) An assignment of wages or other earnings, unless:

(i) The assignment by its terms is revocable at the will of the debtor,

(ii) The assignment is a payroll deduction plan or preauthorized payment plan, commencing at the time of the transaction, in which the consumer authorizes a series of wage deductions as a method of making each payment, or

(iii) The assignment applies only to wages or other earnings already earned at the time of the assignment.

(4) A nonpossessory security interest in household goods other than a purchase-money security interest.

§ 535.3 Unfair or deceptive cosigner practices.

(a) *General.* In connection with the extension of credit to consumers after January 1, 1986, it is:

(1) A deceptive act or practice within the meaning of Section 5 of the Act for a member institution, directly or indirectly, to misrepresent the nature or extent of cosigner liability to any person.

(2) An unfair act or practice within the meaning of Section 5 of the Act for a member institution, directly or indirectly, to obligate a cosigner unless the cosigner is informed, prior to becoming obligated, of the nature of his or her liability as cosigner.

(b) *Disclosure requirement.* (1) A clear and conspicuous document that shall contain the following statement or one which is substantially equivalent, shall be given to the consigner prior to becoming obligated (which, in the case of open-end credit, shall mean prior to the time that the cosigner becomes obligated for any fees or transaction on the account):

Notice of Cosigner

You are being asked to guarantee this debt. Think carefully before you do. If the borrower doesn't pay the debt, you will have to. Be sure you can afford to pay if you have to, and that you want to accept this responsibility.

You may have to pay up to the full amount of the debt if the borrower does not pay. You may also have to pay late fees or collection costs, which increase this amount.

The creditor can collect this debt from you without first trying to collect from the borrower. The creditor can use the same collection methods against you that can be used against the borrower, such as suing you, garnishing your wages, etc. If this debt is ever in default, that fact may become a part of *your* credit record.

(2) Compliance with the disclosure requirement under paragraph (b)(1) of this section shall constitute compliance with the consumer information requirement of paragraph (a)(2) of this section.

(3) If the notice is a separate document, nothing other than the following items may appear with the notice:

(i) The name and address of the member institution;

(ii) An identification of the debt to be cosigned (e.g., a loan identification number);

(iii) The date; and

(iv) The statement, "This notice is not the contract that makes you liable for the debt.".

§ 535.4 Late charges.

(a) In connection with collecting a debt arising out of an extension of credit to a consumer after January 1, 1986, it is an unfair act or practice within the meaning of Section 5 of the Act for a member institution, directly or indirectly, to levy or collect any delinquency charge on a payment, which payment is otherwise a full payment for the applicable period and is paid on its due date or within an applicable grace period, when the only delinquency is attributable to late fee(s) or delinquency charge(s) assessed on earlier installment(s).

(b) For the purposes of this Part, "collecting a debt" means any activity, other than the use of judicial process, that is intended to bring about or does bring about repayment of all or part of a consumer debt.

§ 535.5 State exemptions.

(a) Upon application to the Board by an appropriate state agency, the Board shall determine if:

(1) There is a state requirement or prohibition in effect that applies to any transaction to which a provision of this rule applies; and

(2) The state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by this rule.

(b) If the Board makes a determination as specified under paragraph (a) of this section, then that provision of this section will not be in effect in that state to the extent specified by the Board in its determination, for as long as the state administers and enforces the state requirement or prohibition effectively, as determined by the Board.

(c) The Director of the Office of Community Investment in consultation with the General Counsel shall have delegated authority to make such determinations as are required under this Part.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-11123 Filed 5-7-85; 8:45 am]

BILLING CODE 6720-01-M

---

12 CFR Part 584

[No. 85-324]

Holding Company Indebtedness

Dated: April 30, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Federal Home Loan Bank Board ("Board"), as operating head of the Federal Savings and Loan Insurance Corporation ("FSLIC" or "Corporation"), is amending its regulations on holding company indebtedness by clarifying the provisions that preapprove debt incurred by bank subsidiaries of nondiversified savings and loan holding companies and service corporation subsidiaries of insured institution subsidiaries of savings and loan holding companies. The effect of the amendments is to require prior Board approval for any debt incurred by a subsidiary bank unless the debt, together with the aggregate indebtedness of the holding company and all of its affiliates, is within the limitations of 12 CFR 584.6(a)(2) or unless the subsidiary meets the definition of a bank or a savings bank in either the Bank Holding Company Act ("BHC Act") or the Federal Deposit Insurance Act, respectively, or is limited by its charter to providing fiduciary services. The amendments further provide that a subsidiary bank (other than one that meets the applicable definitions) of an insured institution is excluded from the Board's preapproval for debt incurred by a service corporation of an insured institution subsidiary of a nondiversified holding company. The Board is adopting these amendments in order that it may make the findings that are required to be made by 12 U.S.C. 1730a(g) prior to approving any nonexempt debt transaction. In this regard, the Board notes that certain matters of concern pertaining to bank subsidiaries—the degree to which the risks associated with debt incurred by banking subsidiaries owned by an entity not subject to the BHC Act differ from those associated with debt transactions by bank subsidiaries of a bank holding company, and the possibility that the forced divestiture of "nonbank banks" by Congress could ultimately prove injurious to the subsidiary insured institution—had not been considered in granting the prior regulatory approvals. The amendments also adopt a grandfather date of July 1, 1983, which allows a subsidiary bank that had been acquired and in operation prior to that date to continue to incur debt on a preapproved basis.

EFFECTIVE DATE: June 6, 1985.

FOR FURTHER INFORMATION CONTACT: Neil Crowley, Attroney, Corporate and Securities Division, Office of General Counsel, (202-377-6451), Federal Home Loan Board, 1700 G Street, NW., Washington, D.C. 20552.

SUPPLEMENTARY INFORMATION: By Resolution No. 84-716, dated December 10, 1984, 49 FR 48564 (December 13, 1984), the Board proposed to amend its regulations on holding company indebtedness by clarifying the circumstances in which a debt application would be required from a subsidiary bank of a nondiversified savings and loan holding company or of its subsidiary insured institution. The debt of a savings and loan holding company is subject to review by the Board pursuant to Section 408(g)(1) of the National Housing Act ("NHA"), which provides that no savings and loan holding company or any subsidiary thereof, other than an insured institution, may incur debt without the prior written approval of the FSLIC. 12 U.S.C. 1730a(g)(1). That statute further provides, however, that prior approval is not required for debt incurred by a diversified savings and loan holding company or any subsidiary thereof, nor, with respect to any other holding company, for debt incurred by a holding company or subsidiary thereof, which, together with all other debt of the group, aggregates less than 15 percent of the consolidated net worth of the holding company or of such subsidiary, at the end of the preceding fiscal year. 12 U.S.C. 1730a(g)(2). Pursuant to its statutory authority, the Board had previously approved, by means of an "interim" regulation and without requiring submission of an application, the issuance, sale, renewal, guaranty, or assumption of any debt incurred "[b]y a savings and loan holding company's subsidiary bank which is an insured bank of the Federal Deposit Insurance Corporation." 12 CFR 584.6(b)(4). In a similar manner, the Board, by regulation, had approved, without application, and exempted from the computation of the 15-percent limitation, any debt incurred "[b]y a service corporation subsidiary of an insured institution subsidiary of a savings and loan holding company." 12 CFR 584.6(c)(1).

In Resolution 84-716, the Board proposed to amend each of those provisions by excluding from the preapprovals granted therein debt incurred by a bank subsidiary of either a nondiversified holding company or of its subsidiary insured institution if that bank did not fall within the definitions noted in the regulation. The proposal would have amended 12 CFR 584.6(b)(4) to make clear that the preapproval for debt incurred by a nondiversified savings and loan holding company's subsidiary bank would extend only to a bank that fell within either the definition of a bank in section 2(c) of the BHC Act, 12 U.S.C. 1841(c), or the definition of a savings bank in 3(g) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(g). The proposal also would have amended 12 CFR 584.6(c)(1) to provide that the prior approval and the exemption from the 15-percent limitation granted by that paragraph for debt incurred by a service corporation of an insured institution subsidiary of a nondiversified holding company would not extend to any FDIC-insured bank, other than one that met the above definitions, that was operated as a subsidiary of the insured institution. The effect of the proposed amendments would have been to require a bank subsidiary that did not meet the requirements specified in the regulations to apply to the Board for permission to incur debt, rather than to incur such debt on the basis of the preapprovals in the regulations. To the extent that any proposed debt plus the aggregate outstanding debt of the holding

company and its non-insured institution subsidiaries would be less than 15 percent of the consolidated net worth of the holding company, a subsidiary bank would not have needed to obtain prior Board approval. *See* 12 U.S.C. 1730a(g)(2)(B) and 12 CFR 584.6(a)(2).

Comments

In response to the proposed amendments, the Board received nine comment letters, six of which opposed the amendments and three of which generally favored them. The letters in opposition to the proposal were submitted by two savings and loan holding companies, an insured institution, a thrift trade association, a bankers' association and the Chief Counsel of the Comptroller of the Currency. The bankers' association did not address the particulars of the proposal, but expressed generally its opposition to the expansion of "nonbank banks"—institutions that are chartered as a bank but that are not a bank for purposes of the BHC Act because they do not either accept demand deposits or make commercial loans—into its state. The principal issues raised by the comments were that the proposed amendments would exceed the authority of the FSLIC under 408(g) and that they would allow the FSLIC to usurp the authority of the Comptroller of the Currency and the Federal Deposit Insurance Corporation ("FDIC"). These issues are discussed below.

Authority

One commenter contended that the amendments would grant the FSLIC control over a "nonbank bank" subsidiary's access to those funds, including deposits, that are essential for it to conduct its business and that the effect of requiring prior approval for such debt transactions would be tantamount to precluding a nondiversified holding company from acquiring a "nonbank bank." That commenter further contended that adopting the amendments would consititute an improper use of the debt provisions of 408(g) to achieve a policy objective that was unrelated to concerns about the debt structure of a holding company or its subsidiaries and which the Board could not achieve directly under the NHA, namely prohibiting the acquisition of a "nonbank bank" by a nondiversified unitary holding company. In support of that contention, the commenter argued that the reasons proffered in support of the proposal—that the existing preapprovals were granted on the assumption that the subsidiary bank would be subject to the BHC Act and that the forced divestiture of a "nonbank bank" subsidiary could financially burden a holding company—are illusory and do not justify amending the existing debt preapprovals.

After carefully considering those contentions, the Board believes that the commenter has misperceived both the intent of the Board in proposing the amendments, as well as the authority of the Board to oversee the nonexempt debt of all subsidiaries, including a "nonbank bank" subsidiary, or a nondiversified savings and loan holding company. As was discussed in the proposed amendments, the authority conferred on the Corporation by 408(g) of the NHA to oversee the debt of nondiversified holding companies is clear. Section 408(g)(1) provides that "[n]o savings and loan holding company or any subsidiary thereof which is not an insured institution shall" incur debt without the prior written approval of the Corporation. Section 408(g)(2) exempts from the prior-approval requirement any debt incurred by a diversified holding company or any subsidiary thereof, as well as that portion of the debt of a nondiversified holding company or its subsidiaries that does not exceed 15 percent of the consolidated net worth of the holding company of the subsidiary. There are no further statutory exemptions from the requirement that debt transactions be approved in advance by the Board, as operating head of the Corporation. Moreover, Congress was aware of the breadth of authority conferred by 408(g), and chose not to diminish it. Instead, Congress enacted section 408(g) with the understanding that the Corporation later would preapprove by regulation those obligations that typically were incurred in the ordinary course of business, such as employment contracts, leases, or purchases, and which were not expected to impose a burdensome debt structure. The Board preapproved such obligations in 12 CFR 584.6(g)(1) shortly after the statutory amendments were enacted. *See* 33 FR 3322 (February 22, 1968). In addition, the Board preapproved certain other types of debt transactions by regulation, including debt incurred by a holding company's subsidiary bank whose accounts are insured by the FDIC, as well as debt incurred by a service corporation of a subsidiary insured institution of a holding company, 12 CFR 584.6 (b)(4) and (c)(1).

In those instances in which the Corporation approves debt transactions of a nondiversified holding company or its subsidiaries, either on a preapproval basis by regulation or on an individual basis, it must do so in conformance with the standards of section 408(g)(3), which require a determination that a proposed debt transaction would not be injurious to the subsidiary insured institution in light of its financial condition and prospects. At the time that the Corporation preapproved debt to be incurred by an FDIC-insured subsidiary bank, it did so on the assumption that such a bank would engage in the business of banking as that business was conducted at the time and that it would operate within the regulatory framework as it was perceived at that date. In February 1968, however, when § 584.6(b)(4) was adopted, "nonbank banks"—institutions chartered as banks that are not considered banks for purposes of the BHC Act—were essentially unknown, and the Board therefore could not have considered whether debt incurred by such institutions would be consistent with the standards of section 408(g). In proposing to amend the preapproval provisions, the Board expressed its belief that it would be inappropriate to preapprove debt transactions by a type of institution that the Board had not considered in light of the standards of section 408(g). Accordingly, the proposal sought to clarify that the preapproval provisions, § 584.6 (b)(4) and (c)(1), should not be construed to include an institution such as a "nonbank bank," which, in the Board's view, must submit an application for debt in order for the FSLIC to make the determinations required by section 408(g). The Board believes that the review of individual debt applications represents the best means of ensuring that the debt incurred by such institutions is consistent with section 408(g). It continues to be the Board's opinion that the amendments adopted by this resolution are fully within the authority of the FSLIC under section 408 of the NHA, for the reasons stated above.

With regard to the assertion that the amendments would constitute an improper use of section 408(g), the Board believes that its discussion of the authority conferred by section 408(g) adequately addresses that matter. The Board acknowledges that it has substantial concerns about the implications of a proliferation of "nonbank banks" and believes that Congress should act to close the so-called "nonbank bank loophole" in the BHC Act. Apart from this concern, however, the Board is obliged to review nonexempt holding company debt transactions pursuant to the standards of section 408(g) and, as has been fully discussed above, the Board believes that the amendments as adopted provide an appropriate mechanism to do so.

One commenter argued that in the Board's original adoption of the preapproval for debt incurred by an FDIC-insured subsidiary bank, the Board could not have assumed that such a subsidiary would have been subject to the BHC Act because that Act applies only to a company that controls a bank and to its non-banking subsidiaries, but not to the subsidiary bank itself. The Board is aware of the regulatory system within which banks and their holding companies operate, and did not intend to convey the impression that the Board had preapproved debt of a subsidiary insured bank because it believed that the debt of the bank would be regulated under the BHC Act. What was referred to was that the Board, in preapproving debt for subsidiary insured banks, had assumed that such banks would engage in the business of banking as that business was conducted in 1968. The Board was not relying on the nature of regulation of a bank itself under the BHC Act, since among other things, one-bank holding companies were not subject to the BHC Act in 1968. To the extent that the business of banking has changed since that time, however, the Board must consider those changes insofar as they have a bearing on the debt transactions of a nondiversified holding company or its noninsured institution subsidiaries. Thus, the Board believes that institutions such as "nonbank banks," which have only recently appeared, should not be incorporated into the preapproval provisions, and has amended its regulations accordingly.

Regulatory Overlap

As mentioned previously, one commenter asserted that the proposed amendments, if adopted, would usurp the authority of the Comptroller of the Currency and the FDIC to oversee the debt structure of Banks. The Chief Counsel of the Comptroller also noted that "nonbank banks" are chartered and supervised pursuant to the same standards as apply to full-service banks. He further contended that the proposed amendments would discriminate against federally chartered "nonbank banks" and unnecessarily duplicate the review of the Comptroller. The Board acknowledges that one effect of these amendments could be to subject a "nonbank bank" subsidiary of a nondiversified holding company to an additional layer of regulatory review. The Board also must enphasize, however, that the grant of authority over such subsidiaries is clearly provided by section 408(g) of the NHA. Moreover, any resulting regulatory overlap that may arise is a consequence principally of the decision of a savings and loan holding company to acquire and operate subsidiaries that are subject to separate regulatory systems. There is nothing in the NHA that exempts from its debt-control provisions a subsidiary of a nondiversified savings and loan holding company solely because that subsidiary is subject to regulation by another agency pursuant to a different statute. It is the Board's view that to the extent that a company chooses to acquire subsidiaries that operate in separate regulatory environments, it must accept additional systems of regulation as a necessary consequence of its decision.

Persons commenting on the proposed amendments also complained that the amendments lacked guidelines as to what matters the Board would consider in reviewing a debt application from a subsidiary "nonbank bank." The Board wishes to make clear that the amendments are not intended to establish special standards applicable only to a debt application from a subsidiary "nonbank bank." Such applications will be processed by the Board in the same manner as all other debt applications and reviewed in light of the standards of section 408(g) of the NHA. Thus, "nonbank bank" subsidiaries seeking approval for debt transactions would do so by submitting a form H-(g) pursuant to 12 CFR 584.6, as is required by 12 CFR 589.10(e).

After having considered the comments, the Board has determined to adopt the amendments substantially as proposed, but with two additional provisions suggested by commenters. As proposed, a debt application would have been required from a subsidiary bank that was engaged only in trust or other fiduciary activities. Because the Board believes that such an institution is among those intended to be included within the initial preapproval provision adopted in 1968, it has decided not to exclude such institutions from the preapproval provisions. Accordingly, the final amendments provide that a subsidiary bank of a nondiversified holding company or of an insured-institution subsidiary of a nondiversified holding company may incur debt on a preapproved basis if it meets the definition of a bank in section 2(c) of the BHC Act or the definition of a savings bank in section 3(g) of the Federal Deposit Insurance Act, or if its charter specifically limits it to providing only trust or other fiduciary services. If a subsidiary bank of either a holding company or its subsidiary insured institution does not fall within one of those three categories, it must apply to the Board for permission to incur any debt that, when aggregated with all other debt of the holding company and its subsidiaries, exceeds 15 percent of the consolidated net worth of the holding company.

As part of the process of reviewing a debt application from a "nonbank bank" subsidiary of a nondiversified holding company, the Board will weigh its concerns about the risks associated with such institutions along with the other information submitted in the form H-(g). The Board's principal concerns, which were discussed in the proposal, are that a subsidiary "nonbank bank" may be exposed to different types of risks than is a bank that is controlled by a bank holding company, and that the possibility of forced divestiture of "nonbank banks" could create undue financial burden for the parent company. By requiring the submission of debt applications, the Board will be able to assess those concerns in light of the condition of the institutions involved and determine whether particular debt transactions would be likely to cause any financial injury to the insured institution.

As was discussed in the proposal, the Board is concerned with the unresolved questions pertaining to the status and continued existence of "nonbank banks" under existing law, and the likelihood that entities acquiring a "nonbank bank" will suffer adverse financial consequences if Congress amends the banking statutes to force the divesture of all nonbank banks. During 1984, Congress considered, but did not enact, several bills that were intended to treat "nonbank banks" substantially the same as other banks for purposes of the BHC Act. Notwithstanding the inability of Congress to enact such legislation during its last session, the Chairmen of both the House and Senate Banking Committees have stated, in response to the increasing numbers of charters that have been issued for "nonbank banks," that legislative action to close the so-called "nonbank-bank loophole" under the BHC Act would be a matter of high priority for the 99th Congress. Moreover, the Chairmen have stated that it is the current intention of Congress to require the divestiture of all "nonbank banks" established after July 1, 1983, regardless of the costs of divestiture to entities that have acquired such banks after that date. *Joint Statement on Banking Legislation by Chairman St Germain and Chairman Garn*, October 4, 1984.

In view of the uncertainties surrounding the status of "nonbank banks," the Board is concerned that the forced divestiture of a "nonbank bank" could cause a savings and loan holding

company to incur financial losses or otherwise impair its ability to support its subsidiary insured institution, notwithstanding any grace period within which it may be permitted to divest. The Board believes that until such time that the uncertainties surrounding nonbank banks are resolved, it can best minimize the likelihood of financial injury to the insured institution by actively reviewing the debt to be incurred by a particular "nonbank bank" subsidiaries of a holding company. For that reason, the Board also is amending its delegation of authority in 12 CFR 584.6(f)(2) by excluding from the delegation applications of subsidiary banks, other than those described in the proposed § 584.6(b)(4), to incur debt. In the event of future developments concerning the status of "nonbank banks," the Board would, of course, consider whether it would be appropriate to revisit this issue and would consider further amending its regulations to permit those institutions to incur debt on a preapproved basis.

The final amendments apply only to a subsidiary bank, as defined, of either a nondiversified holding company or its insured institution subsidiary. Diversified savings and loan holding companies and their subsidiaries are not affected. The Board believes that such differing treatment is warranted and is consistent with the statutory distinction between the two types of companies. Congress created that distinction in recognition of the differing composition and earnings base of such firms. A diversified holding company, by definition, engages in substantial business activities that are unrelated to the operation of a savings and loan association and that may be less likely to be affected by conditions that adversely affect depository institutions. By comparison, a nondiversified holding company does not have access to such independent sources of revenue.

Notwithstanding the concerns described above, the Board has further determined, in response to comments, that subsidiaries that would otherwise be subject to the rule, but which were acquired prior to July 1, 1983, should not be excluded from debt preapproval for the reason that the likelihood of harm from forced divestiture is absent for such institutions because Congressional leaders have indicated that only "nonbank bank" subsidiaries acquired after the date will be required to be divested.

Regulatory Flexibility Analysis

Pursuant to Section 3 of the Regulatory Flexibility Act, Pub. L. 96-354, 94 Stat. 1164 (Sept. 19, 1980), the Board is providing the following regulatory flexibility analysis:

1. *Reasons, objectives, and legal bases underlying the rules.* These elements have been discussed elsewhere in the supplementary information regarding the amendments.

2. *Small entities to which the rules would apply.* The rules would apply to all subsidiary banks, as described herein, of a nondiversified savings and loan holding company and of its subsidiary insured institutions.

3. *Impact of the rules on small institutions.* To the extent that the rules would affect small institutions, this has been discussed elsewhere in the resolution.

4. *Overlapping or conflicting federal rules.* The amendments allow the Board to review the debt structure of "nonbank bank" subsidiaries of a diversified holding company, which also may be subject to review by other banking agencies. Such overlap, however, results from the acquisition of depository institutions that operate in separate regulatory environments. Section 408(g) of the NHA provides no exemption for such institutions from the requirement that their debt transactions must be reviewed in advance by the Board.

5. *Alternatives to the rule.* Other alternatives, such as allowing "nonbank bank" subsidiaries to incur debt on a preapproved basis, may pose certain risks to insured institutions and may be inconsistent with the Board's obligation to determine that such transactions are not injurious to such insured institutions.

List of Subjects in 12 CFR Part 584

Holding companies, Savings and loan associations, Savings and loan holding companies.

Accordingly, the Board hereby amends Part 584, Subchapter F, Chapter V of Title 12, Code of Federal Regulations, as set forth below.

SUBCHAPTER F—REGULATIONS FOR SAVINGS AND LOAN HOLDING COMPANIES

1. The authority for Part 584 would continue to read:

Authority: Sec. 108, 82 Stat. 5 (12 U.S.C. 1730a *et seq.*); Reorg. Plan No. 3 of 1947, 12 FR 4981; 3 CFR 1943-1948 Comp., p. 1071.

PART 584—REGULATED ACTIVITIES

2. Amend § 584.6 by revising paragraphs (b)(4) and (c)(1) and adding a sentence at the end of paragraph (f)(2), as follows:

§ 584.6 Holding company indebtedness.

* * * * *

(b) *Approval by the Corporation.* * * *

(4) By a savings and loan holding company's subsidiary bank which is a bank as defined in Section 2(c) of the Bank Holding Company Act of 1956 (12 U.S.C. § 1841(c)), or which is a savings bank as defined in Section 3(g) of the Federal Deposit Insurance Act (12 U.S.C. § 1813(g)), or which is specifically limited by its charter to providing only trust or other fiduciary services, or which is an insured bank of the Federal Deposit Insurance Corporation and had been acquired by the holding company and was in operation prior to July 1, 1983.

* * * * *

(c) *Exemptions from computation of 15-percent limitation.* * * *

(1) By a service corporation subsidiary of an insured institution subsidiary of a savings and loan holding company, including any wholly owned subsidiary or such service corporation: *Provided*, that this paragraph (c)(1) does not apply to any service corporation subsidiary or subsidiary of such service corporation that is a bank, other than a bank described in paragraph (b)(4) of this section.

* * * * *

(f) *Approval by Supervisory Agent.* * * *

(2) * * * The delegation of authority conferred by this paragraph (f)(2) shall not apply to any application for a subsidiary bank of a holding company or of its insured institution subsidiary to incur debt, unless the subsidiary bank is a bank described in paragraph (b)(4) of this section.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-11125; Filed 5-7-85; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84-NM-120-AD; Amdt. 39-5058]

Airworthiness Directives; British Aerospace Model HS/BH/DH 125 Service Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment amends an existing airworthiness directive (AD) applicable to British Aerospace Model HS/BH/DH 125 series airplanes which

requires a visual inspection for flap nose rib cracks. After the AD was issued, the manufacturer released a new revision to the pertinent service bulletin which specifies a modification which the FAA has determined that, if accomplished, will make the inspection no longer necessary. This amendment incorporates this change.

EFFECTIVE DATE: June 17, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041, or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S; telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA issued Amendment 39-4392 (47 FR 23694; June 1, 1982) AD 82-12-02 which requires visual inspection of the flap outboard hinge nose ribs for cracks. AD 82-12-02 makes reference to Revision 2 of British Aerospace 125 Service Bulletin 57-58. The manufacturer has since issued Revision 3 to this service bulletin, which introduces Modification 252772. This modification deletes the flap nose ribs and introduces a revised flap vane hinge fitting. Incorporation of this modification on replacement flaps makes the inspection required in AD 82-12-02 unnecessary.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which requires the action mentioned above was published in the **Federal Register** on January 30, 1985 (50 FR 428), and interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received; the commenter had no objection to the proposal.

This document amends an existing AD by deleting a requirement for inspection of the flaps if Modification 252772 is incorporated. This revision imposes no additional regulatory or economic burden on any person

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, British Aerospace Model HS/BH/DH 125 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by amending Airworthiness Directive 82-12-02, Amendment 39-4392 (47 FR 23694; June 1, 1982) as follows:

1. Revise the first sentence to read as follows:

"Applies to British Aerospace Model HS/BH/DH 125 up to and including series 700 airplanes certificated in all categories except those airplanes incorporating Modification 252772."

2. Change the reference to the service bulletin revision and date in paragraph 1. of the AD to read, "Revision 3, dated September 1, 1983."

This amendment becomes effective June 17, 1985.

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

Issued in Seattle, Washington, on May 1, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-11076 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 84-NM-121-AD; Amdt. 39-5059]

Airworthiness Directives; British Aerospace Model BAC 1-11 200 and 400 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This document revises an existing airworthiness directive (AD) applicable to British Aerospace Model BAC 1-11 200 and 400 series airplanes which requires repetitive inspections and repairs, as necessary, of the flap drive screwjacks. This action increases the time interval between repetitive inspections. In addition, reference is made to the latest service bulletin revision.

EFFECTIVE DATE: June 17, 1985.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace Inc., Box 17414, Dulles International Airport, Washington, D.C. 20041 or may be examined at the Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Sulmo Mariano, Foreign Aircraft Certification Branch, ANM-150S; telephone (206) 431-2979. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The FAA issued AD 67-25-02, on September 20, 1967, to detect wear and prevent failure of the flap screwjack assemblies on British Aerospace BAC 1-11 airplanes. Since then, the manufacturer has conducted tests and evaluated service history. This led to the issuance of Alert Service Bulletin 27-A-PM-2992, Issue 4, which allows an increase from 600 to 800 hours time in service for the visual inspection intervals, and from 2800 to 4800 hours time in service for measurement of the nut-to-screw backlash. The United Kingdom Civil Aviation Authority (CAA) concurs with this action and has classified Issue 4 as mandatory.

A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive which amends AD 67-23-02 by extending the repetitive inspection intervals was published in the **Federal Register** on February 14, 1985 (50 FR 6190) and interested persons have been afforded an opportunity to participate in the making of this amendment. Only one comment was received; the commenter had no objection to the proposal.

This document revises an existing AD to the format currently used and amends the existing AD by extending the repetitive inspection intervals. These changes impose no additional regulatory or economic burden on any person.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant

economic effect on a substantial number of small entities because few, if any, British Aerospace Model BAC 1-11 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

Therefore, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by revising Airworthiness Directive 67-25-02, Amendment 39-477 (32 FR 12911; September 9, 1967), as amended by Amendments 39-485 (32 FR 13269; September 20, 1967) and 39-909 (35 FR 13805; December 9, 1969), to read as follows:

British Aerospace: Applies to BAC 1-11 200 and 400 series airplanes certificated in all categories. Compliance required as indicated unless previously accomplished. To prevent serious deterioration and failure of the flap drive screwjacks, accomplish the following:

A. Perform a visual inspection of the flap drive screwjacks for evidence of unusual wear in accordance with paragraph 2.1.1 of British Aerospace BAC 1-11 Alert Service Bulletin 27-A-PM2992, Issue 4, dated November 30, 1979, prior to the accumulation of 750 landings or 800 hours time in service from the last inspection, whichever occurs earlier. Repeat the inspection at intervals not to exceed 800 hours time in service thereafter.

B. Measure the nut-to-screw in accordance with paragraph 2.2 of the service bulletin prior to the accumulation of 3,000 landings or 4,800 hours time in service from the last check, whichever occurs earlier, and thereafter at intervals not to exceed 4800 hours time in service or 3000 landings, whichever occurs first. If the nut-to-screw backlash exceeds 0.03-inch, the screwjack assembly must be replaced with serviceable parts.

C. Incorporation of modification PM2992, which introduces a new seal for the ball nut, constitutes terminating action for this AD.

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

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

F. Upon request of an operator, an FAA Maintenance Inspector, subject to prior approval of the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator, if the request contains substantiating data to justify the increase for that operator.

This amendment becomes effective June 17, 1985.

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

Issued in Seattle, Washington, on May 1, 1985.

Wayne J. Barlow,

Acting Director, Northwest Mountain Region.

[FR Doc. 85-11077 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 84-AWA-3]

Alteration and Revocation of VOR Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: This amendment alters the descriptions of several Federal Airways located in the vicinity of Birmingham, AL. The revised Federal Airway V-311 inadvertently cited "Wiregrass, GA" in the description rather than "Wiregrass, AL." This action corrects that mistake. Also, a segment of the airway was inadvertently omitted between Columbia, SC, and Charleston, SC, and is added at this time.

EFFECTIVE DATE: 0901 GMT, June 6, 1985.

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

SUPPLEMENTARY INFORMATION:

History

Federal Register Document 85-7028 published on March 26, 1985, altered the descriptions of several VOR Federal Airways located in the vicinity of Birmingham, AL, by deleting some alternate airway segments and renumbered other airway segments (50 FR 11846). An error was found in the description of V-311. The description of V-311 stated in part "Wiregrass, GA" and it should have been "Wiregrass, AL" and this action corrects that description. Also, the segment of V-311 between Columbia, SC, and Charleston, SC, was inadvertently omitted and is added.

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 significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

VOR Federal airways, Aviation safety.

Adoption of the Correction

PART 71—[CORRECTED]

Accordingly, pursuant to the authority delegated to me, Federal Register Document 85-7028, as published in the Federal Register on March 26, 1985 (50 FR 11846), is corrected under V-311 by removing the words "From Wiregrass, GA," and substituting the words "From Wiregrass, AL," and by removing the words "to Columbia, SC." and substituting the words "Columbia, SC, to INT Columbia 153° and Charleston, SC, 296° radials; Charleston."

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

Issued in Washington, D.C., on May 2, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-11075 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket C-2967]

California Medical Association; Prohibited Trade Practices, and Affirmative Corrective Actions

AGENCY: Federal Trade Commission.

ACTION: Modifying Order.

SUMMARY: In response to a petition filed by the California Medical Association ("CMA"), this Order reopens the proceeding in Docket C–2967, and modifies the consent order entered April 17, 1979, 93 F.T.C. 519, 44 FR 32365, by deleting Paragraph II(C), which prohibits the association from advising in favor of or against any relative value scale developed by third parties, and inserting a provision that permits CMA more freedom to discuss issues relating to reimbursement with governmental entities and third-party payers. Such modification is consistent with the Commission's decision in Docket 9219, *Michigan State Medical Society (Michigan State)*, 48 FR 8997, and its modified order in Docket C–2855, *American College of Obstetricians and Gynecologists*, 49 FR 36366. The Commission, however, denied the other modifications requested by CMA, holding that CMA had failed to show that changed circumstances or the public interest warranted further modification of the Order.

DATES: Consent Order issued April 17, 1979; Modifying Order issued April 19, 1985.

FOR FURTHER INFORMATION CONTACT: Elliot Feinberg, FTC/L 301–1, Washington, D.C. 20580. (202) 634–4604.

SUPPLEMENTARY INFORMATION: In the Matter of California Medical Association, an unincorporated association. Codification appearing at 44 FR 31949 remains unchanged.

List of Subjects in 16 CFR Part 13

Fee schedules, Trade practices.

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

Before Federal Trade Commission

[Docket No. C–2967]

Order Reopening and Modifying Final Order in Docket No. C–2967

In the matter of CALIFORNIA MEDICAL ASSOCIATION, an unincorporated association.

Commissioners: James C. Miller III, Chairman, Patricia P. Bailey, George W. Douglas, Terry Calvani, Mary L. Azcuenaga.

By petition filed October 1, 1984, the California Medical Association ("CMA") asked the Commission to reopen and modify the Commission order in Docket No. C–2967 ("Order") entered with CMA's consent on April 17, 1979. CMA requested that the Commission modify the Order by (a) deleting Paragraph II(C) of the Order, which prohibits CMA from advising in favor of or against any relative value scale developed by third parties (except that CMA is permitted to provide historical data), and (b) inserting a provision identical to a provision contained in the Commission's Order *Michigan State Medical Society*, Docket No. 9129, 101 F.T.C. 191 (1983) ("*Michigan State*") that would allow CMA more freedom to discuss issues relating to reimbursement with third-party payers and governmental entities. CMA also requested that the Commission modify the order so that it would no longer prohibit CMA from developing and disseminating a relative value scale. CMA's petition was placed on the public record for comment, and none of the comments received specifically related to the modification of Paragraph II(C).

Upon consideration of CMA's petition and other relevant information, the Commission finds that the public interest would be served by deleting Paragraph II(C) of the Order and by inserting the relevant provision contained in the order in *Michigan State*. Modification is consistent with both the Commission's decision in *Michigan State* and its modification of the Order in *American College of Obstetricians and Gynecologists*, Docket No. C–2855, August 28, 1984.

The Commission has denied the other modifications requested by CMA because CMA failed to show that changed circumstances or the public interest requires such modifications of the order. Therefore, the Order continues to prohibit CMA from developing or circulating its own relative value guide for use by its members.

Relative value studies may have anticompetitive consequences in several ways. First, they establish price relationships that may become stable without regard to quality or efficiency differences. Second, they may result in new and separate billing categories that are fragmented from others, thereby resulting in higher prices simply because charges are made for more numerous services. Third, if medical associations were permitted to publish RVS's it could lead to concerted or interdependent adherence to an RVS by physicians. Fourth, RVS's may facilitate an actual agreement by physicians to fix prices by providing a "starting point" from which collusion may occur. Given these possibilities of competitive harm and the absence of a convincing showing of the need for CMA to develop an RVS, we believe the public interest lies in the continuation of the prohibition against CMA.

In addition, although the Order no longer will prohibit CMA from discussing relative value scales with governmental entities and third-party payers, serious antitrust concerns would arise were CMA to negotiate or attempt to negotiate an agreement with any such party or engage in any type of coercive activity to effect such an agreement.

Accordingly,

It is ordered, that this matter be, and it hereby is, reopened and that the Order in Docket No. C–2967 be modified (1) to delete Paragraph II(C) and to redesignate Paragraphs II(D) and II(F) of the Order as Paragraphs II(C) and II(D) respectively; (2) to renumber Paragraphs III, IV, and V of the Order as Paragraphs IV, V, and VI respectively; and (3) to insert the following:

III

It is further ordered that this order shall not be construed to prevent CMA from:

A. Exercising rights permitted under the First Amendment to the United States Constitution to petition any federal or state government, executive agency, or legislative body concerning legislation, rules or procedures, or to participate in any federal or state administrative or judicial proceeding.

B. Providing information or views, on its own behalf or on behalf of its members, to third-party payers concerning any issue, including reimbursement.

Issued: April 19, 1985.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85–11093 Filed 5–7–85; 8:45 am]

BILLING CODE 6750–01–M

16 CFR Part 444

Credit Practices; Staff Guidelines for Exemption Proceedings

AGENCY: Federal Trade Commission.

ACTION: Notice of Staff Guidelines for Exemption Proceedings Under the Credit Practices Rule.

SUMMARY: The Federal Trade Commission hereby publishes staff guidelines, prepared by the Bureau of Consumer Protection. These guidelines have not been formally approved or adopted by the Commission. They represent the views of the Bureau of Consumer Protection and do not necessarily represent the views of the Commission or any individual Commissioner.

These staff guidelines explain the procedures that staff will follow in handling requests for state exemptions from the Commission's trade regulation

rule in Credit Practices, 16 CFR Part 444 (1984) (Credit Practices rule), and the procedures that staff will recommend that the Commission follow in granting, denying, or revoking such exemptions. The Credit Practices rule provides [1] that if a state applies for an exemption from a provision of the rule, such exemption will be granted if the Commission determines that: (1) There is in effect a state requirement or prohibition that applies to any transaction to which a provision of the Credit Practices rule applies, and (2) the state requirement or prohibition affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the rule's provision. Such an exemption will continue for so long as the state effectively administers and enforces its law. The result of the exemption is that the exempted provision of the Credit Practices rule is not in effect in that state.

These guidelines explain what material states should submit as part of a complete exemption application, what procedures are required by current Commission rules for considering exemption applications, and what specific procedures staff will recommend that the Commission use in granting, denying, or revoking exemptions under the Credit Practices rule. Thus, the guidelines are intended to give states and other interested parties as much advance guidance as possible regarding how the exemption procedures will be handled. Interested persons should understand that, insofar as these guidelines discuss the procedures that staff intends to recommend, the Commission remains free to adopt different procedures.

Call for Comment. Although these guidelines have been tentatively adopted and will be effective immediately, staff invites comments on any aspect of the guidelines. Staff will carefully review and consider all comments received, and will recommend that the Commission authorize the publication of revised guidelines if staff believes that this is warranted in light of the comments received. If not changes to the guidelines are made as a result of public comments, the Commission will publish a notice that these guidelines have become final.

DATE: These guidelines have been tentatively adopted. Comments are invited and must be received on or before June 7, 1985.

[1] Rule § 444.5, 16 CFR 444.5.

ADDRESS: Comments on the Guidelines should be sent to: Secretary, Federal Trade Commission, Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Ruth R. Amberg, Division of Credit Practices, Bureau of Consumer Protection, Federal Trade Commission, Washington, D.C. 20580, (202) 724–1187.

SUPPLEMENTARY INFORMATION:

List of Subjects in 16 CFR Part 444

Consumer credit contracts, Cosigner disclosures, Trade practices.

Staff Guidelines

Criteria for Determination

These guidelines are not intended to set forth substantive criteria for determining whether a state's law or prohibition provides a level of protection that is substantially equivalent to, or greater than, the protection afforded by the Credit Practices rule. Rather, the Commission will make a case-by-case evaluation to determine whether the level of protection afforded by the state is substantially equivalent to the Commission's rule and whether the state law is administered and enforced effectively. The Commission, however, has indicated in the Statement of Basis and Purpose for the rule that the "substantially equivalent" requirement does not require that the state provision mirror the Commission's provision exactly.[2] But, the Commission also indicated that any difference should be minor so that consumers are not deprived of the level of protection ensured by the Commission's rule and so that compliance by interstate creditors is not significantly complicated.[3] In addition to examining the "substantial equivalency" of a state provision to determine whether an exeption is warranted, the Commission will consider the resources committed by the state to enforce its provisions, and the existence of any private rights of action by an aggrieved consumer.

Elements of a Complete Application

States should submit the following information and material as part of a complete application for an exemption. Items (1) and (2) may be submitted by the state agency having primary enforcement responsibility for the law that is the subject of the exemption application, by the state attorney general, or by the state governor.

(1) The application should include a copy of all relevant state statutes, regulations and court cases, and a statement comparing the state law with the relevant provision(s) of the Credit Practices rule, on a provision-by-provision basis, explaining how the state law applies to the same transaction(s) as the rule and how it affords a level of protection to consumers that is substantially equivalent to, or greater than, the protection afforded by the rule. This comparison should be made for each provision of the Credit Practices rule for which an exemption is being sought.

(2) The application should provide sufficient information to show the state's willingness and ability effectively to administer and enforce its law. Staff believes that the following information may be relevant to this determination:

(a) A description of the fiscal arrangements and funding of the state agency (or agencies) that are, or will be, enforcing the state law, or other information showing that the state agency has adequate funding properly to enforce the law.

(b) A description of the number and qualifications of persons engaged in the enforcement and administration of the state law, or other information indicating that the state has adequate qualified personnel to administer and enforce the law. In describing the qualifications of personnel, states need not provide detailed resumes, but may indicate the general background and training of the personnel, *e.g.*, whether they are attorneys, accountants, trained investigators, etc.

(c) A description of the state's enforcement procedures and policies, current or planned.

(d) A summary of the state's past history of enforcement of any statutes or regulations governing the practices that are the subject of the rule.

(e) Information regarding the level of compliance with any such state statutes or regulations may also be relevant to the state's enforcement history.

Staff recognizes that some of the information described in items (a)–(e) may not be relevant or available in certain states and that each state application must be tailored to the individual circumstances of that state. States may submit whatever material they believe to be relevant to the issue of their willingness and ability to enforce their laws. However, the Commission's Statement of Basis and

[2] Statement of Basis and Purpose, 49 FR 7783.

[3] The standard is analogous to that applied by the Federal Reserve Board in determining state exemptions from requirements of the Truth in Lending Act. *See* Board of Governors of the Federal Reserve System, Consumer Leasing, Truth in Lending; Exemption Application * * *, 47 FR 16210, April 15, 1982.

Purpose states that the Commission will consider resources committed by the state to enforce its provisions. The relevance of past enforcement data, in particular, may differ from state to state. For example, some states may have made extensive changes in their law or enforcement policies just prior to filing an exemption, in which case past enforcement data would be less relevant. Other states may have a significant history of enforcing laws comparable to the rule, in which case enforcement data might be highly relevant. These guidelines allow states to decide to submit only such data as is relevant under their circumstances. Once staff has reviewed a state's submission, staff may request additional information that it believes to be relevant.

(3) In addition to the above, a complete application for an exemption must also include a statement from the state attorney general, or from the attorney for the relevant enforcement agency if this agency has independent legal counsel and is not represented by the state attorney general in court, that state law provides adequate authority to support the regulations, conclusions, interpretations, policies and procedures described in the statements submitted pursuant to items (1) and (2) above. Where appropriate, this statement should include citations to the specific statutes, regulations, and judicial decisions that demonstrate adequate authority. The statement should also summarize legal interpretations of the state statutes or regulations, with appropriate citations, and discuss any pending legal challenges to the statutes, regulations, conclusions, interpretations, policies and procedures described in the statements submitted pursuant to items (1) and (2).

Procedures for Public Participation

As stated in the credit practices rule Statement of Basis and Purpose (49 FR 7783), the Commission will follow the procedures of section 1.16 of the Commission's Rules of Practice, 16 CFR 1.16, in considering requests for state exemptions. This section states that any person to whom a rule would otherwise apply may petition the Commission for an exemption from such rule and that the procedures for determining such a petition shall be those of Subpart C of the Commission's rules.

Subpart C of the Commission's Rules of Practice, 16 CFR 1.21—1.26, prescribes the procedures that govern proceedings for exemptions from trade regulation rules. These rules require the Commission, in general, to publish notice of a proposed exemption in the **Federal Register**, and to allow a period of time for interested parties to submit written comments concerning the application.[4] The rules also provide that an oral hearing on a proposed exemption may be held within the discretion of the Commission.[5]

Thus, staff anticipates that once the Commission has received a complete application for an exemption, as described above, the Commission will publish notice of its receipt in the **Federal Register** and allow a period of time for interested persons to submit written comments. During the comment period, staff will specifically solicit the views of the state governor and attorney general to ensure that the Commission becomes aware of the complete views of these officials. While the Commission's rules provide that oral hearings may be held within the Commission's discretion, staff anticipates that in most instances such a period for written comments will be sufficient for a full and fair presentation of significant issues and that there will be no need to schedule oral hearings or additional comment periods.

Staff plans to recommend that the Commission schedule an oral evidentiary hearing only if there are significant factual issues that can be adequately presented only through such a hearing. Staff anticipates that this will usually be true only where cross-examination is necessary to present significant factual issues fully and fairly. Staff does not consider that oral evidentiary hearings should be held routinely or for the purpose of allowing parties to state opinions and facts that could be presented through written comments, and will recommend against evidentiary hearings under such circumstances.[6]

Staff will also recommend that oral presentations before the Commission generally not be allowed, absent unusual and compelling circumstances. Staff considers that, under most circumstances, interested parties will be able to present their views and evidence fully and fairly during the written comment period and any evidentiary hearings or rebuttal comment periods that are scheduled. However, oral presentations may be allowed in limited instances, within the discretion of the Commission.

Subpart C of the Commission's rules does not mention the scheduling of rebuttal comment periods; however the scheduling of such comment periods is within the Commission's discretion. Staff plans to recommend that a period for rebuttal comments be scheduled only if this is necessary for a full and fair presentation of significant issues.

Interested parties may request that the Commission schedule an evidentiary hearing, an oral presentation, or a period for rebuttal comments. (The Commission can also schedule such proceedings on it own initiative, absent a request by interested parties.) Such requests should give specific reasons for scheduling such proceedings and should discuss the criteria that will guide the staff recommendation, discussed above. Staff anticipates that the need for oral evidentiary hearings will generally be determined after the initial comment period. The need for rebuttal comment period could also be determined at that time.[7] The **Federal Register** Notice announcing an exemption proceeding will give specific details regarding how interested parties may file requests for an oral hearing and/or rebuttal comment period.[8]

Grant of Exemption: Notice and Reporting Requirements

As required by § 1.26(d) of the Commission's Rules of Practice,[9] if the Commission decides to grant an exemption after it has considered all the relevant information on the record (including information presented by interested persons in the proceeding), the Commission will publish notice of its decision in the **Federal Register**.

If the Commission grants an exemption, the exemption will continue only for so long as the state effectively administers and enforces its law. To ensure that the conditions for an exemption continue to be met, staff plans to recommend that the Commission require an exempted state to provide notice to the Commission of any changes in its law, policies, or procedures that would significantly

[4] 16 CFR 1.26(b). Public notice and comment may be omitted if the Commission for good cause finds that notice and public comment are impractical, unnecessary or contrary to the public interest and incorporates such findings and a brief statement of the reasons therefor in its final decision. 16 CFR 1.26(b).

[5] 16 CFR 1.26(c).

[6] Staff will recommend that any evidentiary hearings that are scheduled be strictly limited to specific factual issues designated by the Commission.

[7] If, at the time staff receives an exemption application, staff anticipates that a rebuttal period will be necessary, it will recommend at that time that one be scheduled. In many instances, however, it will not be clear whether a rebuttal comment period is necessary until after the initial written comments have been received.

[8] States could also include requests for such proceedings with their exemption application, citing specific reasons why they would be necessary.

[9] 16 CFR 1.26(d).

affect whether the state law provides a level of protection that is substantially equivalent to, or greater than, that afforded by the rule or whether the state is effectively enforcing its law.

Staff also plans to recommend that the Commission require an exempt state to submit such reports regarding its enforcement activities as are necessary or desirable to ensure that the state is effectively enforcing and administering its law. Staff anticipates that the Commission will decide, at the time of granting an exemption, the nature and frequency of any such reports. Staff may also recommend that the Commission change the reporting requirements at a later date, if circumstances warrant, or recommend that the Commission request additional information from a state if the Commission determines that this is needed. Staff anticipates that reporting requirements may vary from state to state (if the Commission determines that different reporting requirements are warranted).

Under extraordinary circumstances, staff may recommend that the Commission grant a conditional exemption, subject to Commission review of the exemption after a prescribed period of time. If such a recommendation were adopted by the Commission, the state would be required to reapply for an exemption at the end of the period by updating its original application and submitting evidence demonstrating effective enforcement activity during the exempted period. After a period for written comments, and possibly oral hearings and a period for rebuttal comments, the Commission would review this material, to determine whether to approve the state's exemption application. The conditional exemption would expire when the Commission issued its decision on the matter.

Staff anticipates that a conditional exemption might be appropriate when a state has little or no history of effective enforcement of laws similar to the rule and yet has presented some evidence of its willingness and ability to enforce its law effectively. Under such circumstances, and perhaps in other situations as well, the staff may recommend that the Commission consider granting an exemption conditioned upon Commission review after a prescribed period of time.

Denial of Exemption

Staff anticipates that if the Commission believes that an exemption should be denied, after considering the evidence submitted during the public proceeding, the Commission may, under some circumstances, want to give the state an opportunity to revise or supplement its application before making a final decision. Thus, under some circumstances, staff will recommend that the Commission give a state an opportunity to make changes in its law, policies or procedures in order to meet the requirements for an exemption. This would occur after the public comments had been received and considered.

Factors that staff believes may be relevant in deciding whether to grant such an opportunity include the nature and extent of any revisions or supplements that may be necessary, the time period needed to implement such revision and the state's intent with regard to implementing the revision. Staff believes that where the time period needed by the state to implement the revisions is extensive or where there is doubt about whether the revisions can or will be made, such a period should not be granted. Rather, under such circumstances, staff believes that it may be preferable to deny the exemption. The state can then submit a new exemption application if and when the revisions have been made. On the other hand, if the necessary revisions can be made fairly quickly and easily, staff believes that it may be desirable to grant a period for revision rather than denying the exemption.

During any period of time granted a state to make revisions, the Commission's rule will remain in effect in such state, until the Commission publishes a notice in the **Federal Register** stating that it has granted an exemption.

If the Commission decides to deny an exemption, after considering all relevant material on the record, and after allowing the state such opportunity for revisions as the Commission decides is desirable, the Commission will publish notice of its decision in the **Federal Register**, along with a concise statement of its reasons, as required by § 1.26(d) of the Commission's rules, 16 CFR 1.26(d).

Revocation of Exemptions

If staff has reason to believe that an exemption that has been granted may no longer be warranted, staff will recommend that the Commission initiate proceedings to revoke the exemption.[10] Interested persons may also file a petition stating reasonable grounds for revoking an exemption, as provided by § 1.25 of the Commission's Rules of Practice, 16 CFR 1.25.

Before recommending that the Commission initiate procedures to revoke an exemption, staff will notify the state of the alleged facts or conduct that staff believes may warrant revocation and will afford the state a reasonable period of time to reply to the allegations or make any changes the state may decide to make.

Staff anticipates that the procedures for revocation proceedings will be similar to those used in the exemption proceeding. Public notice and a period of time for interested parties to submit written comments are generally required by § 1.26(b) of the Commission's Rules of Practice,[11] and oral evidentiary hearings or oral presentations may be held within the discretion of the Commission. Staff plans to recommend that oral hearings or presentations and rebuttal comment periods be scheduled only where necessary for a full and fair presentation of significant issues.

Consultation With Staff

Commission staff will be available to consult informally with state officials and any other interested parties on both procedural and substantive questions that may arise concerning requests for exemptions. State officials should be aware, however, that the Commission may not have ruled on some issues that may arise, and under such circumstances staff may be unable to provide definitive guidance. Also, staff advice will not be binding on the Commission.

After an exemption proceeding has begun, staff intends to place on the public record all correspondence received regarding the proceeding. The staff will also place on the public record any factual information it receives orally after the exemption proceeding has begun and upon which it relies in making its recommendation to the Commission.

Moreover, under the procedures the Commission indicated that it would follow in the Statement of Basis and Purpose for the rule, exemption proceedings will be subject to the restrictions on *ex parte* communications applicable to a Section 18 rulemaking proceeding "adapted in such form as may be appropriate to the circumstances

[10] Subpart C of the Commission's Rules of Practice deals with revocation proceedings only by stating that procedures for the amendment or repeal of a rule are the same as for the issuance thereof. 16 CFR 1.25.

[11] Public notice and written comment need not be provided if the Commission for good cause finds that notice and public comment are impractical, unnecessary or contrary to the public interest and incorporates such findings and a brief statement of the reasons therefor in its final decision. 16 CFR 1.26(b).

of the particular proceeding." [12] The restrictions on *ex parte* communications in a Section 18 rulemaking proceeding are set forth in § 1.18(c) of the Commission's Rules of Practice, 16 CFR 1.18(c). In brief, they require that a communication on the merits to a Commissioner from a person outside the Commission be placed in the record of the proceeding if timely, and on the public record if untimely, and that a communication on the merits to a Commissioner from the rulemaking staff be disclosed on the record to the extent it contains any fact not already on the record.

By direction of the Commission.

Emily H. Rock,

Secretary.

[FR Doc. 85-11094 Filed 5-7-85; 8:45 am]

BILLING CODE 8750-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 271 and 276

[Release Nos. IC-14492, IAA-969]

Commission Policy and Guidelines for Filing of Applications for Exemption

AGENCY: Securities and Exchange Commission.

ACTION: Statement of Position of Commission's Division of Investment Management.

SUMMARY: The Securities and Exchange Commission has authorized this release to facilitate the review of exemptive applications by the Division of Investment Management and to streamline the process by which such applications are considered. The Commission's Division of Investment Management advises any prospective applicant contemplating filing an application for exemption from some or all of the provisions of the Investment Company Act of 1940 or the Investment Advisers Act of 1940 to follow certain procedures and guidelines. (Where applicable, the procedures and guidelines also should be followed by persons submitting request for no-action or interpretative advice or by persons filing disclosure documents under those Acts.)

EFFECTIVE DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Glen A. Payne, Assistant Director (202) 272-3018, Mary A. Cole, Special Counsel (202) 272-3023, or Meryl Dewey, Staff Attorney (202) 272-3032, Division of Investment Management, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549.

SUPPLEMENTARY INFORMATION: The Division of Investment Management (the "Division") requires the cooperation of the mutual fund and investment advisory industries and the securities bar to assist it in the processing of exemptive applications and other filings under the Investment Company Act of 1940 (the "Act") and the Investment Advisers Act of 1940 (the "Advisors Act") (Collectively, the "Acts"). For the reasons stated below, the Division believes that improvements can be made in processing these filings.

Background

Recent years have seen an increase in both the number and complexity of applications requesting exemptions from some or all of the provisions of the Acts. During each of the last three years, the Division has received more than 300 exemptive applications, and this number continues to grow. While the Commission has codified routinely granted exemptions into rules of general applicability wherever possible, the time saved thereby has been more than offset by the time spent processing the increased number of novel applications involving new and sophisticated financial products. In addition, in many instances, the Division's staff must spend more time processing certain exemptive applications than should be necessary because applications have often been filed before the proposed transaction or arrangement has been finalized. Further, applicants have often decided not to effect the proposed transaction or arrangement and have simply withdrawn their applications, thereby wasting the staff time spent reviewing them. Multiple amendments have also been needed where the original application did not comply with the Commission's procedural rules and/or where the applicant misstated or omitted crucial facts or legal analyses needed to justify the request for relief. Consequently, too much staff time has been spent on clearly deficient or repetitive filings to attempt to bring them within the standards of the Acts. Inevitably, these situations have led to processing delays and to an increase in the Division's backlog of pending applications.

Discussion

The Division has taken various internal steps to ensure that all exemptive applications and other filings are processed as expeditiously as possible.[1] However, further measures are needed to reduce delays. While section 6(c) of the Act [15 U.S.C. 80a-6(c)] and section 206A of the Advisers Act [15 U.S.C. 80B-6a] give the Commission authority to grant exemptions where "necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions" of the Acts, those provisions are not blanket authority to waive any provision of the Acts. Potential applicants should be particularly mindful of this fact when considering filing applications requesting unprecedented exemptive relief seeking a waiver of express statutory prohibitions.

The Division's staff should not have to spend an inordinate amount of time processing clearly deficient or untimely applications at the expense of delaying action on comprehensive or routine applications. Accordingly, to ensure prompt and fair consideration of all exemptive applications, each applicant must adhere to the following procedures. Where applicable, they should be followed for all submissions to the Division, including requests for no-action or interpretative letters and disclosure documents.

Procedures and Guides

1. Persons contemplating filing exemptive applications should carefully review all relevant provisions of the Acts, the rules thereunder and applicable Commission releases before filing an exemptive application.[2] Applicants should recognize the differences between their proposal and prior applications requesting similar relief and, to the extent possible, bring their proposal within applicable precedent. Further, applicants should cite and discuss applicable precedent. Where the request is unprecedented, the applicant should so state in its transmittal letter.

2. The application should be filed in a timely and comprehensive manner.

---

[12] 16 CFR 1.26(b).

[1] Division guidelines require, e.g., that (i) initial comments on an exemptive application be given at one time and within 45 days of receipt of the application (novel or complex applications may require a longer review period); (ii) notices of routine applications which require no amendment be published within 60 days; and (iii) orders under delegated authority be issued within two business days after the expiration of the notice period, if no hearing request is filed.

[2] Prospective applicants who are unfamiliar with the exemptive application process should also review prior applications on file with the Commission which concern similar matters. Copies of applications are available from the Public Reference Branch of the Commission's Office of Consumer Affairs.

Exemptive applications that require review of supporting documents (*e.g.*, a registration statement pursuant to the Securities Act of 1933 [15 U.S.C. 77a *et seq.*] or a partnership agreement in connection with a "two-tier real estate" transaction) should not be filed until all necessary supporting documents have been received by the Commission. Otherwise, the Division will ask that the application be withdrawn unless the applicant can justify, based on the facts of its situation, why they have not been submitted. If the application is not withdrawn, it will be placed on inactive status.

3. Each applicant should state an adequate basis for the relief requested, including detailed justification for removal of any statutory protections, and identify any positive benefits expected for investors and any conditions imposed to protect investors. The Division will not support an application that requests relief not adequately justified. In such instances, the Division will request that the application be either withdrawn or significantly amended.[3]

4. The application should meet the Acts' procedural requirements. Rules 0–2, 0–4 and 0–5 under the Act [17 CFR 270.0–2, 0–4 and 0–5] and Rules 0–4, 0–5 and 0–6 under the Advisers Act [17 CFR 275.0–4, 0–5 and 0–6] govern the execution and filing of exemptive applications. Applications and amendments often fail to include proper authorization and verification. Applicants will have to correct any procedural deficiency by amendment.[4]

5. Rule 0–2(g) under the Act [17 CFR 270.02(g)] and Rule 0–4(g) under the Advisers Act [17 CFR 275.04(g)] require that the application be accompanied by a proposed notice. The Commission is charged approximately $400 per page for publishing notices in the **Federal Register**. To reduce publication costs, the Division has had to devote substantial staff time to condense applications into notices that are brief as well as informative. Thus, proposed notices submitted by applicants should be brief, modeled on releases issued since 1983, and include only statements that are necessary to understand the essence of the requested relief. Generally, a proposed notice should identify the parties involved, briefly describe the relevant transactions and why the applicant believes it qualifies for an exemption, and summarize the critical representations and undertakings contained in the application. An applicant who submits a deficient or verbose proposed notice will be asked to file an amendment to resubmit a notice in usable form.

6. Applications will be reviewed in the order in which they are received.[5] The Division will not be receptive to requests for expedited review absent the most compelling demonstration that the application could not be filed in time to allow it to be processed in due course. Applicants may submit a courtesy copy of their application to the Assistant Director of the Division's Office of Investment Company Regulation or to the appropriate Division Special Counsel (if known), concurrently with the filing of the application. The courtesy copy should be clearly marked to indicate that it is *not* Applicant's official filing. One copy of each relevant supporting document (such as those referred to in Guide 2) should be included with with the courtesy copy.

7. Amendments to an application should be prepared and filed as described in Guides 3 and 4.[6] If desired, a courtesy copy of the amendment (marked to show changes) may also be submitted as described in Guide 6. For processing purposes, an amendment normally will date back to the filing of the original application and will be given priority over new applications. However, if an amendment is required because of a deficient filing as described in Guides 3 or 4, the application will be considered to have been received on the date the staff receives an acceptable amendment.

8. Amendments should be promptly filed.[7] The Division recognizes that amendments to complex or novel applications require more time to prepare than routine amendments.[8] However, in all cases applicants should either file their amendment within 60 days of receipt of comments or explain, in writing, to the reviewer why preparation of the amendment requires additional time. At the discretion of the Division, an applicant who does not do so will have its application placed on inactive status. An applicant who is notified that its application is being placed on inactive status may reactivate the application at any time by filing an appropriate request with the Division or by filing the required amendment, and need not pay any additional filing fee. Action on reactivated applications will commence from the date of receipt of the request or the amendment by the Division and will *not* date back to the filing of the original application.

9. Pre-filing conferences will be scheduled only upon a showing that a proposal involves issues that must be resolved before an application can be formally filed with the Commission.[9] Persons who believe that a pre-filing conference is necessary should contact the appropriate Branch Chief or Special Counsel (if known) or the Assistant Director or Chief of the relevant Division office. Where a pre-filing conference is scheduled, the Division requires submission of written summaries of the issues proposed to be discussed at least four business days prior to the conference.[10] The staff will not, except in the most extraordinary situations, review draft applications or

[3] If the Division cannot support an application, the Division will submit the application to the Commission with a recommendation that the application be set down for a hearing, unless it is withdrawn.

[4] The procedures for filing a request for no-action or interpretative advice are set forth in Investment Company Act Release Nos. 6220 and 6330, dated October 29, 1970, and January 25, 1971, respectively.

[5] All filings are made through the Commission's central filing office. Applicants seeking confidential treatment pursuant to Section 45(a) of the Act [15 U.S.C. 80a–44(a)] or section 210(a) of the Advisers Act [15 U.S.C. 80b–10(a)] with respect to a proposed transaction should not incorporate or attach to the exemptive application that portion for which confidential treatment is sought. Instead, the application should refer to a named exhibit, state that confidential treatment is being requested and explain the basis of the request. The application should then be filed as described herein. The confidential exhibit, and the request for confidentiality, should be submitted to the Division.

[6] An amendment may either take the form of a restated application or a modification of the original application, but must conform to the requirements of Rules 0–2 and 0–4 under the Act [17 CFR 270.0–2 and 0–4] and Rules 0–4 and 0–6 under the Advisers Act [17 CFR 275.0–4 an 0–6].

[7] The Division expects all amendments to respond fully to staff comments or be accompanied by a cover letter, directed to the attention of the reviewer, explaining why the applicant has elected not to meet certain staff comments.

[8] In the case of requests for no-action or interpretative advice, the Division's Office of Chief Counsel, as a matter of policy, will deny any such request if supplemental information is not received within 60 days after it is requested.

[9] This policy on pre-filing conferences specifically applies to all proposals submitted to the Division pursuant to the Acts; *e.g.*, exemptive applications, requests for no-action or interpretative advice and disclosure documents.

[10] While the staff will attempt to be as helpful as possible at pre-filing conferences, the staff must have the opportunity to review actual filings before taking definitive positions on the issues presented.

draft requests for no-action or interpretative advice. Of course, in all cases, the Division's staff is available to respond to telephone inquiries about any aspect of the Acts, including answering specific questions relating to preparation of filings.

The Division believes that adherence to these procedures and guidelines will make optimal use of its staff and result in better overall service to the financial industry and investing public.

List of Subjects in 17 CFR Parts 271 and 276

Investment companies, Investment advisers, Securities.

PARTS 271 AND 276—[AMENDED]

Accordingly, 17 CFR Parts 271 and 276 are hereby amended by adding a reference to this statement of Division position.

By the Commission.

John Wheeler,

Secretary.

April 30, 1985.

[FR Doc. 85-11091 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 5

Delegations of Authority and Organization; Center for Drugs and Biologics Officials

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the regulations for delegations of authority regarding orphan products and distribution of biological products to update the list of delegates according to changes in organization titles.

EFFECTIVE DATE: May 8, 1985.

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

SUPPLEMENTARY INFORMATION: In a recent reorganization, the Center for Drugs and Biologics (CDB) amended the titles of two divisions by dropping the word biological from the titles. This document amends § 5.58 *Orphan products* (21 CFR 5.58) by changing reference to the Division of Biological Product Certification to the Division of Product Certification in the list of delegates and § 5.69 *Notification of release for distribution of biological products* (21 CFR 5.69) by changing reference to Division of Biological Product Quality Control to Division of Product Quality Control.

Further redelegation of the authority delegated is not authorized. Authority delegated to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis.

List of Subjects in 21 CFR Part 5

Authority delegations (Government agencies), Organization and functions (Government agencies).

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 5 is amended as follows:

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

1. The authority citation for Part 5 continues to read as follows:

Authority: Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371), unless otherwise noted.

2. By revising § 5.58(c)(3)(ii) to read as follows:

§ 5.58 Orphan products.

* * * * *

(c) * * *

(3) * * *

(ii) The Directors and Deputy Directors of the Divisions of: Anti-Infective Drug Products, Metabolism and Endocrine Drug Products, Product Certification, and Biological Investigational New Drugs, Office of Biologics Research and Review, CDB.

3. By revising § 5.69(c) to read as follows:

§ 5.69 Notification of release for distribution of biological products.

* * * * *

(c) The Director and Deputy Director, Division of Product Quality Control, Office of Biologics Research and Review, CDB.

Effective date. This regulation shall become effective May 8, 1985.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: May 1, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-11041 Filed 5-7-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

24 CFR Parts 201, 203, and 234

[Docket No. N-85-1530; FR-2071]

Mortgage Insurance; Changes to the Maximum Mortgage Limits for Single Family Residences, Condominiums and Manufactured Homes and Lots

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, (HUD).

ACTION: Notice of revisions to FHA maximum mortgage limits for high-cost areas.

SUMMARY: This Notice amends the listing of areas eligible for "high-cost" mortgage limits under certain of HUD's insuring authorities under the National Housing Act by adding ten areas and further increasing the limits of two previously designated high-cost areas. Mortgage limits are adjusted in an area when the Secretary determines that middle- and moderate-income persons have limited housing opportunities because of high prevailing housing sales prices.

FOR FURTHER INFORMATION CONTACT: For single family: Brian Chappelle, Acting Director, Single Family Development Division, Room 9270, Telephone (202) 755-8720. For manufactured homes: Christopher Peterson, Director, Office of Title I Insured Loans, Room 9160, Telephone, (202) 755-6880; 451 Seventh Street SW., Washington, D.C. 20410. (Telephones are not toll-free numbers.)

SUPPLEMENTARY INFORMATION:

Background

The National Housing Act (NHA) (12 U.S.C. 1710-1749) authorizes HUD to insure mortgages for single family residences (from one- to four-family structures), condominiums, manufactured home lots, and manufactured homes, combination manufactured homes and lots. The NHA, as amended by the Housing and Community Development Act of 1980 and the Housing and Community Development Amendments of 1981, permits HUD to increase the maximum mortgage limits under most of these programs to reflect regional differences in the cost of housing. In addition, section 2(b) and 214 of the NHA provide for special high-cost limits for insured

mortgages in Alaska, Guam, and Hawaii.

The Housing and Urban-Rural Recovery of 1983 (Pub. L. 98-181, November 30, 1983) (1983 Act) further amended HUD's insuring authority. Of particular interest here are (1) the authorization to insure condominium in high-cost areas at the same levels as the high-cost limits for one-family residence insured under section 203(b) of the National Housing Act; and (2) the authorization to increase maximum loan limits under the Title I loan insurance program for combination manufactured home and lot loans and for individual lot loans in high-cost areas, so long as the percentage increase made to a one-family residence in the area authorized under section 203(b) of the NHA.

The Department implemented these provisions of the 1983 Act in related documents published in the **Federal Register** on April 11, 1984 (see 49 FR 14332, 14335, 14336), effective May 22, 1984. These documents also amended the Department's rules to codify the procedure of announcing high-cost mortgage limits for single family residences, condominiums, combination manufactured homes and lots and manufactured home lots by notice in the **Federal Register** (see April 11, 1984 documents, amending 24 CFR 201.1504, 203.18b, 203.29, 234.27, and 234.49). In addition, the documents codified the procedure whereby a party may request an alternative mortgage limit (see the same sections cited above).

On May 22, 1984, the Department published a revised list of areas eligible for "high-cost" mortgage limits, which contained several new features (see 49 FR 21520). First, there was no separate listing for condominium units, since these limits are now the same as those for other one-family residences. Second, the listing included instructions on how to compute the high-cost limits for combination manufactured homes and lots and individual lots, and specified the special high-cost amounts for manufactured homes, combination manufactured homes and lots and individual lots insured in Alaska, Guam, and Hawaii. And, third, it made changes to the list based on a new definition of "metropolitan area."

This Document

Today's document adds the following jurisdictions to the listing of high-cost areas: Rockingham County, New Hampshire; Monroe County, New York; Worchester County, Maryland; Blount County, Alabama; Jefferson County, Alabama; St. Clair County, Alabama; Shelby County, Alabama; Walker County, Alabama; Monroe County, Florida; and Elbert County, Colorado.

In addition, the Department is further increasing the limits for Fayette County, Kentucky; Baltimore City, Maryland; Baltimore County, Maryland; Carroll County, Maryland; Harford County, Maryland; Queen Anne's County, Maryland; and the San Juan, PR PMSA Municipios of Barceloneta, Bayamon, Canovanas, Carolina, Catano, Corozai, Dorado, Fajardo, Florida, Guaynabo, Humacao, Juncos, Las Piedras, Loiza, Luquillo, Naranjito, Rio Grande, San Juan, Toa Alta, Toa Baja, Trujillo Alto, Vega Alta, and Vega Baja.

These amendments to the high-cost areas appear in two parts. Part I explains high-cost limits for mortgages insured under Title I of the National Housing Act. Part II lists any changes for single family residences insured under sections 203(b), and 234(c) of the National Housing Act.

Accordingly, the Commissioner hereby amends the list of high-cost mortgage limits by adding ten jurisdictions and further increasing the limits for Fayette County, Kentucky, Baltimore City, Maryland; Baltimore County, Maryland; Carroll County, Maryland; Harford County, Maryland; Queens Anne's County, Maryland; and the San Juan, PR PMSA Municipios listed above as set forth in Part II of the following table:

National Housing Act High-Cost Mortgage Limits

I. Title I: Method of Computing Limits

A. *Section 2(b)(1)(D). Combination manufactured home and lot (excluding Alaska, Guam, and Hawaii):* To determine the high-cost limit for a combination manufactured home and lot loan, multiply the dollar amount in the "one family" column of Part II of this list by 80. For example, Bristol County, MA, has a one-family limit of $81,200. The combination home and lot loan limit for Bristol County is $81,200 x .80 or $64,960.

B. *Section 2(b)(1)(E). Lot only (excluding Alaska, Guam, and Hawaii).* To determine the high-cost limit for a lot loan, multiply the dollar amount in the "one-family" column of Part II of this list by .20. For example, Bristol County, MA, has a one-family limit of $81,200. The lot only loan limit for Bristol County is $81,200 x .20, or $16,240.

C. *Section 2(b)(2). Alaska, Guam, and Hawaii limits:* The maximum dollar limits for Alaska, Guam, and Hawaii may be 140% of the statutory loan limits set out in section 2(b)(1). Accordingly, the dollar limits for Alaska, Guam, and Hawaii are as follows:

Region I

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Manchester Office				
Rockingham County	$72,350	$81,500	$99,050	$114,300

Region II

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Buffalo Office				
Monroe County	$71,250	$80,250	$97,500	$112,500
HUD Field Office—Caribbean Office				
San Juan, PR PMSA:				
Barceloneta Municipio	87,100	98,100	119,200	137,550
Bayamon Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano Municipio				
Corozai Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guaynabo Municipio	87,100	98,100	119,200	137,550
Humacao Municipio				
Juncos Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Naranjito Municipio				
Rio Grande Municipio				
San Juan Municipio				
Toa Alta Municipio				
Toa Baja Municipio				
Trujillo Alto Municipio				
Vega Alta Municipio				
Vega Baja Municipio				

Region III

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Baltimore Office				
Baltimore, MD MSA (part):				
Baltimore City	$81,400	$91,700	$111,400	$128,550
Baltimore County				
Carroll County				
Harford County				
Queen Anne's County				
Other areas:				
Worcester County	71,250	80,250	97,500	112,500

Region IV

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Birmingham Office				
Birmingham, AL MSA	$69,550	$78,300	$95,150	$109,900
Blount County				
Jefferson County				
St. Clair County				
Shelby County				
Walker County				
HUD Field Office—Louisville Office				
Fayette County	85,500	96,300	117,000	135,000
HUD Field Office—Coral Gables Office				
Monroe County	80,750	90,950	110,500	127,500

Region VIII

Market area designation and local jurisdictions	1-family and condo unit	2-family	3-family	4-family
HUD Field Office—Denver Office				
Elbert County	$83,900	$94,500	$114,850	$132,500

Dated: May 2, 1985.

Shirley McVay Wiseman,

General Deputy Assistant Secretary for Housing-Federal Housing Commission.

[FR Doc. 85-11187 Filed 5-7-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8007]

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

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations; correction.

SUMMARY: This document contains corrections to the **Federal Register** publication beginning at 50 FR 3317, Jan. 24, 1985, of the temporary regulations which were the subject of Treasury Decision 8007. T.D. 8007 relates to straddles and section 1256 contracts under the Economic Recovery Tax Act of 1981, the Technical Corrections Act of 1982, and the Tax Reform Act of 1984.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective January 24, 1985. The corrections are also effective January 24, 1985.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224, Attention CC:LR:T. Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1985, the **Federal Register** published temporary regulations (50 FR 3317) relating to straddles and section 1256 contracts under the Economic Recovery Tax Act of 1981, the Technical Corrections Act of 1982, and the Tax Reform Act of 1984. Those temporary regulations also served as the text of a notice of proposed rulemaking that appeared in the same issue of the **Federal Register** at 50 FR 3352.

Need for Correction

As published, T.D. 8007 in one location incorrectly includes the language "within 30 days" instead of "no later than 30 days". In another location, the word "settlement" is used instead of the word "statement".

Correction of Publication

Accordingly, the publication of Treasury Decision 8007 which was the subject of FR Doc. 85-1820 is corrected as follows:

§ 1.1092(b)-5T [Corrected]

1. On page 3321, in the third column, in paragraph (n)(3) of § 1.1092(b)-5T, the language "within 30 days" is removed and the language "no later than 30 days" is added in its place.

§ 1.1256(h)-3T [Corrected]

2. On page 3323, in the second column, in paragraph (c)(2) of § 1.1256(h)-3T, the word "settlement" is removed and the word "statement" is added in its place.

Peter K. Scott,

Director Legislation and Regulations Division.

[FR Doc. 85-11184 Filed 5-7-85; 8:45 am]

BILLING CODE 4830-01-M

26 CFR Part 1

[T.D. 8008]

Mixed Straddles; Straddle-by-Straddle Identification and Mixed Straddle Account Elections Under Section 1092(b)(2); Correction

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations; Correction.

SUMMARY: This document contains corrections to the **Federal Register** publication beginning at 50 FR 3324 January 24, 1985 of the temporary regulations which were the subject of Treasury Decision 8008. T.D. 8008 relates to the elections under the Tax Reform Act of 1984 for straddle-by-straddle identification of mixed straddles and for the establishment of mixed straddle accounts.

EFFECTIVE DATE: The regulations that are the subject of these corrections are effective January 1, 1984. The corrections are also effective January 1, 1984.

FOR FURTHER INFORMATION CONTACT: Neil W. Zyskind of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, Washington, D.C. 20224, Attention: CC:LR:T. Telephone 202-566-3287 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On January 24, 1985, the **Federal Register** published temporary regulations (50 FR 3324) relating to the elections under the Tax Reform Act of 1984 for straddle-by-straddle identification of mixed straddles and for the establishment of mixed straddle

accounts. Those temporary regulations also served as the text of a notice of proposed rulemaking that appeared in the same issue of the **Federal Register** at 50 FR 3351.

Need for Correction

As published, T.D. 8008 included language that was not intended and omitted language that was intended to be included.

Correction of Publication

Accordingly, the publication of Treasury Decision 8008, which was the subject of FR Doc. 85–1817, is corrected as follows:

§ 1.1092(b)–3T [Corrected]

1. On page 3325, in the third column, in *Example (6)* of paragraph (b)(2) of § 1.1092(b)–3T, in the first sentence, the language "non-section 1256 loss" is removed and the language "non-section 1256 gain" is added in its place.

2. On page 3325, in the third column, in *Example (6)* of paragraph (b)(2) of § 1.1092(b)–3T, in the fourth sentence, the language "60 percent long-term capital gain and 40 percent short-term capital gain because it is attributable to the section 1256 position" is removed and the language "60 percent long-term capital loss and 40 percent short-term capital loss because it is attributable to the section 1256 contract" is added in its place.

3. On page 3326, in the third column, in *Example (4)* of paragraph (b)(4) of § 1.1092(b)–3T, in the first sentence, the language "section 1256 contract and non-section 1256 position were entered into on December 1, 1985, and the" is added immediately after the language "except that the" and immediately before the language "section 1256 contract".

4. On page 3327, in the second column, in *Example (3)* (i) of paragraph (b)(5) of § 1.1092(b)–3T, the last sentence is revised to read, "Therefore, the rules of both paragraphs (b)(3) and (b)(4) of this § 1.1092(b)–3T apply."

5. On page 3327, in the second column, in *Example (3)* (ii) of paragraph (b)(5) of § 1.1092(b)–3T, in the second sentence, the word "contract" is added immediately after the language "The section 1256" and immediately before the language "net gain".

6. On page 3327, in the third column, in *Example (3)* (iii) of paragraph (b)(5) of § 1.1092(b)–3T, in the first sentence, the word "position" is added immediately after the language "non-section 1256" and immediately before the language "net gain of $700".

7. On page 3327, in the third column, in *Example (2)* of paragraph (b)(6) of § 1.1092(b)–3T, in the second sentence (one occurrence) and in the fourth sentence (three occurrences), the word "loss" is removed and the word "gain" is added in its place.

8. On page 3328, in the first column, in *Example (4)* of paragraph (b)(6) of § 1.1092(b)–3T, in the fifth sentence, the word "capital" is added immediately after the language "short-term" and immediately before the language "gain attributable".

9. On page 3328, in the first column, in the *Example* in paragraph (7) of § 1.1092(b)–3T, at the end of the first sentence, the language "an identified section 1092(b)(2) mixed straddle" is revised to read "a section 1092(b)(2) identified mixed straddle".

Peter K. Scott,

Director, Legislation and Regulations Division.

[FR Doc. 85–11183 Filed 5–7–85; 8:45 am]

BILLING CODE 4830–01–M

---

26 CFR Parts 1, 6a, and 602

[T.D. 8023]

Mortgage Credit Certificates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Temporary regulations.

SUMMARY: This document contains temporary income tax regulations relating to the issuance of mortgage credit certificates. This action is necessary because of changes to the applicable tax law made by the Tax Reform Act of 1984. These regulations affect all holders and issuers of mortgage credit certificates. In addition, the text contained in the temporary regulations set forth in this document serves as the text of the proposed regulations cross-referenced in the notice of proposed rulemaking in the Proposed Rules section of this issue of the **Federal Register**.

DATES: Effective May 8, 1985. These temporary regulations apply to interest paid or accrued after December 31, 1984, on indebtedness incurred after December 31, 1984, and to elections not to issue qualified mortgage bonds after 1983.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3740).

SUPPLEMENTARY INFORMATION:

Background

This document contains temporary regulations relating to the issuance of mortgage credit certificates under section 25 of the Internal Revenue Code as amended by section 612 of the Tax Reform Act of 1984 ("the Act") (Pub. L. 98–369; 98 Stat. 905). Further, new §§ 1.25–1T through 1.25–8T are added by this document to Part 1 of Title 26 of the Code of Federal Regulations. The temporary regulations provided by this document will remain in effect until superseded by final regulations on this subject.

Explanation of Provisions

Section 25 authorizes States and political subdivisions ("issuers") to issue mortgage credit certificates ("MCCs") in lieu of qualified mortgage bonds. MCCs entitle qualifying individuals to a credit against the individuals' Federal income tax. The amount of the credit is determined by multiplying the certificate credit rate by the amount of mortgage interest paid or accrued by the taxpayer during the taxpayer's taxable year. An individual claiming the credit under section 25 (a) must reduce the amount of the deduction under section 163 for interest paid or accrued during the calendar year by the amount of the credit allowable under section 25 (a) for such year. An individual claiming the credit may be entitled to additional withholding allowances. See section 3402 (m) and the regulations thereunder.

Mortgage credit certificates may only be issued by those issuers with authority to issue qualified mortgage bonds. An issuer with authority to issue qualified mortgage bonds may convert such authority into authority to issue MCCs by filing an election with the Internal Revenue Service. Section 1.25–4T (c) provides that the election must specify the amount of qualified mortgage bond authority that the issuer elects not to issue (the "nonissued bond amount") in order to issue MCCs. An issuer may revoke the election during the calendar year in which the election is made.

In order for an individual to claim the credit provided by section 25 (a), the MCC must be a "qualified mortgage credit certificate" issued pursuant to a "qualified mortgage credit certificate program". Section 1.25–4T (j) provides examples illustrating the manner in which MCC programs may be operated. The requirements that must be met in order for a certificate to be a qualified MCC issued pursuant to a qualified MCC program are provided in §§ 1.25–3T and 1.25–4T. Generally, these requirements are similar to the

requirements of section 103A, relating to qualified mortgage bonds. Thus, in general, holders must meet the residence requirement, the 3-year requirement, the purchase price requirement, and the new mortgage requirement. Sections 1.25–3T and 1.25–4T provide safe-harbor procedures for meeting several of these requirements. In general, these procedures permit issuers of MCCs to rely on affidavits, signed under penalty of perjury, stating that those requirements are met. With respect to the purchase price requirement and the 3-year requirement, additional information must be provided. See § 1.25–3T (e) (3) and (f) (2).

In addition to the previously stated requirements generally applicable to qualified mortgage bonds, MCCs must satisfy a number of other requirements.

Section 1.25–3T (h) limits the transferability of MCCs. While transfers are not prohibited, the transferee must meet certain requirements as if the certificate were being issued for the first time; in addition, the transferee must assume the transferor's mortgage.

Section 1.25–3T (i) places restrictions on the use of MCCs in connection with mortgages provided from the proceeds of qualified mortgage bonds and qualified veterans' mortgage bonds. The regulations permit issuers to rely on affidavits of the MCC holders in determining whether this requirement is met.

Section 1.25–3T (j) provides that issuers may not limit the use of MCCs to indebtedness incurred from particular lenders. Thus, in general, a holder of an MCC must be free to take the certificate to any lender and use it to obtain any type of mortgage. An exception is provided in § 1.25–3T (j) (2), which permits an issuer to impose limitations on the use of MCCs to indebtedness incurred from particular lenders after demonstrating to the satisfaction of the Commissioner that the proposed limitations will result in significant economic benefits to the MCC holders. The notice of proposed rulemaking specifically requests comments on this provision and requests information on the types of limitations that issuers believe will result in significant economic benefits to MCC holders. It is anticipated that the comments received, together with the experience gained from working with issuers in processing ruling requests in this area, will form a basis for specific guidance in the final regulations on the types of limitations that generally have been found to result in significant economic benefits to MCC holders.

Issuers are permitted to allocate MCCs to particular developments provided that the developer certifies that the purchase price of the residence is not higher than it would be without the use of an MCC. See § 1.25–3T (k).

The regulations permit great flexibility in the manner in which MCCs may be issued. Issuers must ensure, however, that each of the eligibility requirements has been met. If each of these requirements is not met, the program will not be a qualified MCC program, and each of the holders of a certificate will not be entitled to claim the credit under section 25(a). To ease the harshness of this rule, the regulations provide good faith compliance procedures similar to those contained in the regulations under section 103A. See § 1.25–4T(i).

Section 1.25–4T(h) permits issuers to charge reasonable fees in connection with the processing and issuance of MCCs.

Section 1.25–5T places a limit on the aggregate amount of MCCs that may be issued by an issuer. The failure of an issuer to comply with this requirement will not result in the invalidation of any MCCs. Noncompliance with this requirement will result in a reduction in the qualified mortgage bond State ceiling for the State in which the issuer is located.

Section 1.25–6T prescribes the form that MCCs must take and the information that must be included on the MCC.

Section 1.25–7T requires that an issuer provide public notice of its MCC program at least 90 days prior to the issuance of any MCCs under the program.

Section 1.25–8T imposes reporting requirements on lenders and issuers. Lenders must file an annual report on Form 8329 containing information on mortgages issued in connection with MCCs. Issuers must file similar reports on a quarterly basis. Section 1.25–4T(e), relating to information reports containing information on the use of MCCs, and § 1.25–4T(f), relating to annual policy statements are reserved. These statements and reports are expected to be similar to those that issuers of qualified mortgage bonds are required to file. Numerous comments have been received with respect to the notice of proposed rulemaking published on December 12, 1984, dealing with policy statements and information reporting requirements for mortgage subsidy bonds, and a public hearing has been scheduled for April 30, 1985, with respect to those regulations. The written comments and those comments received at the public hearing will be given full consideration, and it is anticipated that the information reporting requirements for mortgage subsidy bonds and mortgage credit certificates will be revised. At that time, proposed and temporary regulations relating to annual policy statements and information reports for MCCs will be issued. In addition to the information required with respect to MCCs, it is anticipated that issuers of MCCs will be required to report the exact amount of the fees charged under § 1.25–4T(h)(2)(iii). This information will be studied by the Service to determine whether more specific limitations on fees are desirable.

Non-Applicability of Executive Order 12291

The Treasury Department has determined that these temporary regulations are not subject to review under Executive Order 12291 or the Treasury and OMB implementation of the Order dated April 29, 1983.

Regulatory Flexibility Act

A general notice of proposed rulemaking is not requird by 5 U.S.C. 553 for temporary regulations. Accordingly, the temporary regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. chapter 6).

Paperwork Reduction Act

The collection of information requirements contained in these regulations have been submitted to the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act of 1980. These requirements have been approved by OMB under control number 1545–0922.

Drafting Information

The principal author of these temporary regulations is Mitchell H. Rapaport of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing these regulations, on matters of both sustances and style.

List of Subjects

26 CFR §§ 1.0–1–1.58–8

Income taxes, Tax liability, Tax rates, Credits.

26 CFR §§ 1–61–1–1.281–4

Income taxes, Taxable income, Deductions, Exemptions.

26 CFR § 1.6709–1T

Penalties, Mortgage credit certificates.

26 CFR Part 6a

Bonds, Income taxes, Mortgages, Veterans, Foreign investments in United States real property interests.

26 CFR Part 602

OMB Control Numbers, Paperwork Reduction Act.

Amendments to the regulations

The amendments to 26 CFR Part 1, Part 6a, and Part 602 are as follows:

PART 1—[AMENDED]

Paragraph 1. Regulations §§ 1.25–1T through 1.25–8T are issued under the authority contained in 26 U.S.C. 7805 and 26 U.S.C. 25. Regulations § 1.163–6T and § 1.6709–1T are issued under the authority contained in 26 U.S.C. 7805. The authority citation for Part 1 is amended by adding, "§§ 1.25–1T through 1.25–8T also issued under 26 U.S.C. 25".

Par. 2. New §§ 1.25–1T through 1.25–8T are added following § 1.21–1 to read as follows:

§ 1.25–1T Credit for interest paid on certain home mortgages (Temporary).

(a) *In general.* Section 25 permits States and political subdivisions to elect to issue mortgage credit certificates in lieu of qualified mortgage bonds. An individual who holds a qualified mortgage credit certificate (as defined in § 1.25–3T) is entitled to a credit against his Federal income taxes. The amount of the credit depends upon (1) the amount of mortgage interest paid or accrued during the year and (2) the applicable certificate credit rate. See §1.25–2T. The amount of the deduction under section 163 for interest paid or accrued during any taxable year is reduced by the amount of the credit allowable under section 25 for such year. See § 1.163–6T. The holder of a qualified mortgage credit certificate may be entitled to additional withholding allowances. See section 3402 (m) and the regulations thereunder.

(b) *Definitions.* For purposes of §§ 1.25–2T through 1.25–8T and this section, the following definitions apply:

(1) *Mortgage.* The term "mortgage" includes deeds of trust, conditional sales contracts, pledges, agreements to hold title in escrow, and any other form of owner financing.

(2) *State.* (i) The term "State" includes a possession of the United States and the District of Columbia.

(ii) Mortgage credit certificates issued by or on behalf of any State or political subdivision ("governmental unit") by constituted authorities empowered to issue such certificates are the certificates of such governmental unit.

(3) *Qualified home improvement loan.* The term "qualified home improvement loan" has the meaning given that term under section 103A (1) (6) and the regulations thereunder.

(4) *Qualified rehabilitation loan.* The term "qualified rehabilitation loan" has the meaning given that term under section 103A (1) (7) (A) and the regulations thereunder.

(5) *Single-family and owner-occupied residences.* The terms "single-family" and "owner-occupied" have the meaning given those terms under section 103A (1) (9) and the regulations thereunder.

(6) *Constitutional home rule city.* The term "constitutional home rule city" means, with respect to any calendar year, any political subdivision of a State which, under a State constitution which was adopted in 1970 and effective on July 1, 1971, had home rule powers on the 1st day of the calendar year.

(7) *Targeted area residence.* The term "targeted area residence" has the meaning given that term under section 103A (k) and the regulations thereunder.

(8) *Acquisition cost.* The term "acquisition cost" has the meaning given that term under section 103A (1) (5) and the regulations thereunder.

(9) *Average area purchase price.* The term "average area purchase price" has the meaning given that term under subparagraphs (2), (3), and (4) of section 103A (f) and the regulations thereunder. For purposes of this paragraph (b) (9), all determinations of average area purchase price shall be made with respect to residences as that term is defined in section 103A and the regulations thereunder.

(10) *Total proceeds.* The "total proceeds" of an issue is the sum of the products determined by multiplying—

(i) The certified indebtedness amount of each mortgage credit certificate issued pursuant to such issue, by

(ii) The certificate credit rate specified in such certificate.

Each qualified mortgage credit certificate program shall be treated as a separate issue of mortgage credit certificates.

(11) *Residence.* The term "residence" includes stock held by a tenant-stockholder in a cooperative housing corporation (as those terms are defined in section 216(b) (1) and (2)). It does not include property such as an appliance, a piece of furniture, a radio, *etc.*, which, under applicable local law, is not a fixture. The term also includes any manufactured home which has a minimum of 400 square feet of living space and a minimum width in excess of 102 inches and which is of a kind customarily used at a fixed location. The preceding sentence shall not apply for purposes of determining the average area purchase price for single-family residences, nor shall it apply for purposes of determining the State ceiling amount. The term "residence" does not, however, include recreational vehicles, campers, and other similar vehicles.

(12) *Related person.* The term "related person" has the meaning given that term under section 103(b)(6)(C)(i) and § 1.103–10(e)(1).

(13) *Date of issue.* A mortgage credit certificate is considered issued on the date on which a closing agreement is signed with respect to the certified indebtedness amount.

(c) *Affidavits.* For purposes of §§ 1.25–1T through 1.25–8T, an affidavit filed in connection with the requirements of §§ 1.25–1T through 1.25–8T shall be made under penalties of perjury. Applicants for mortgage credit certificates who are required by a lender or the issuer to sign affidavits must be informed that any fraudulent statement will result in (1) the revocation of the individual's mortgage credit certificate, and (2) a $10,000 penalty under section 6709. Other persons required by a lender or an issuer to provide affidavits must receive similar notice. A person may not rely on an affidavit where that person knows or has reason to know that the information contained in the affidavit is false.

§ 1.25–2T Amount of credit (Temporary).

(a) *In general.* Except as otherwise provided, the amount of the credit allowable for any taxable year to an individual who holds a qualified mortgage credit certificate is equal to the product of the certificate credit rate (as defined in paragraph (b)) and the amount of the interest paid or accrued by the taxpayer during the taxable year on the certified indebtedness amount (as defined in paragraph (c)).

(b) *Certificate credit rate*—(1) *In general.* For purposes of §§ 1.25–1T through 1.25–8T, the term "certificate credit rate" means the rate specified by the issuer on the mortgage credit certificate. The certificate credit rate shall not be less than 10 percent nor more than 50 percent.

(2) *Limitation in certain States.* (i) In the case of a State which—

(A) Has a State ceiling for the calendar year in which an election is made that exceeds 20 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar

years for single-family owner-occupied residences located within the jurisdiction of such State, or

(B) Issued qualified mortgage bonds in an aggregate amount less than $150 million for calendar year 1983.

the certificate credit rate for any mortgage credit certificate issued under such program shall not exceed 20 percent unless the issuing authority submits a plan to the Commissioner to ensure that the weighted average of the certificate credit rates in such mortgage credit certificate program does not exceed 20 percent and the Commissioner approves such plan. For purposes of determining the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family owner-occupied residences located within the jurisdiction of such State, an issuer may rely upon the amount published by the Treasury Department for such calendar years. An issuer may rely on a different amount from that safe-harbor limitation where the issuer has made a more accurate and comprehensive determination of that amount. The weighted average of the certificate credit rates in a mortgage credit certificate program is determined by dividing the sum of the products obtained by multiplying the certificate credit rate of each certificate by the certified indebtedness amount with respect to that certificate by the sum of the certified indebtedness amounts of the certificates issued. See section 103A(g) and the regulations thereunder for the definition of the term "State ceiling".

(ii) The following example illustrates the application of this paragraph (b) (2):

Example. City Z issues four qualified mortgage credit certificates pursuant to its qualified mortgage credit certificate program. H receives a certificate with a certificate credit rate of 30 percent and a certified indebtedness amount of $50,000. I receives a certificate with a certificate credit rate of 25 percent and a certified indebtedness amount of $100,000. J and K each receive certificates with certificate credit rates of 10 percent; their certified indebtedness amounts are $50,000 and $100,000, respectively. The weighted average of the certificate credit rates is determined by dividing the sum of the products obtained by multiplying the certificate credit rate of each certificate by the certified indebtedness amount with respect to that certificate ((.3×$50,000) + (.25×$100,000) + (.1×$50,000) + (.1×$100,000)) by the sum of the certified indebtedness amounts of the certificates issued ($50,000+$100,000+$50,000+$100,000). Thus, the weighted average of the certificate credit rates is 18.33 percent ($55,000/$300,000).

(c) *Certified indebtedness amount*—(1) *In general.* The term "certified indebtedness amount" means the amount of indebtedness which is—

(i) Incurred by the taxpayer—

(A) To acquire his principal residence, § 1.25–2T(c)(1)(i)

(B) As a qualified home improvement loan, or

(C) As a qualified rehabilitation loan, and

(ii) Specified in the mortgage credit certificate.

(2) *Example.* The following example illustrates the application of this paragraph:

Example. On March 1, 1986, State X, pursuant to its qualified mortgage credit certificate program, provides a mortgage credit certificate to B. State X specifies that the maximum amount of the mortgage loan for which B may claim a credit is $65,000. On March 15, B purchases for $67,000 a single-family dwelling for use as his principal residence. B obtains from Bank M a mortgage loan for $60,000. State X, or Bank M acting on behalf of State X, indicates on B's mortgage credit certificate that the certified indebtedness amount of B's loan is $60,000. B may claim a credit under section 25 (e) based on this amount.

(d) *Limitation on credit*—(1) *Limitation where certificate credit rate exceeds 20 percent.* (i) If the certificate credit rate of any mortgage credit certificate exceeds 20 percent, the amount of the credit allowed to the taxpayer by section 25(a)(1) for any year shall not exceed $2,000. Any amount denied under this paragraph (d)(1) may not be carried forward under section 25(e)(1) and paragraph (d)(2) of this section.

(ii) If two or more persons hold interests in any residence, the limitation of paragraph (d)(1)(i) shall be allocated among such persons in proporation to their respective interests in the residence.

(2) *Carryforward of unused credit.* (i) If the credit allowable under section 25 (a) and § 1.25–2T for any taxable year exceeds the applicable tax limit for that year, the excess (the "unused credit") will be a carryover to each of the 3 succeeding taxable years and, subject to the limitations of paragraph (d)(2) (ii), will be added to the credit allowable by section 25 (a) and § 1.25–2T for that succeeding year.

(ii) The amount of the unused credit for any taxable year (the "unused credit year") which may be taken into account under this paragraph (d) (2) for any subsequent taxable year may not exceed the amount by which the applicable tax limit for that subsequent taxable year exceeds the sum of (A) the amount of the credit allowable under section 25 (a) and § 1.25–1T for the current taxable year, and (B) the sum of the unused credits which, by reason of this paragraph (d) (2), are carried to that subsequent taxable year and are attributable to taxable years before the unused credit year. Thus, if by reason of this paragraph (d) (2), unused credits from 2 prior taxable years are carried forward to a subsequent taxable year, the unused credit from the earlier of those 2 prior years must be taken into account before the unused credit from the later of those 2 years is taken into account. § 1.25–2T (d) (2) (ii)

(iii) For purposes of this paragraph (d) (2) the term "applicable tax limit" means the limitation imposed by section 26 (a) for the taxable year reduced by the sum of the credits allowable for that year under section 21, relating to expenses for household and dependent care services necessary for gainful employment, section 22, relating to the credit for the elderly and the permanently disabled, section 23, relating to the residential energy credit, and section 24, relating to contributions to candidates for public office. The limitation imposed by section 26 (a) for any taxable year is equal to the taxpayer's tax liability (as defined in section 26 (b)) for that year.

(iv) The following examples illustrate the application of this paragraph (d) (2):

Example (1). (i) B, a calendar year taxpayer, holds a qualified mortgage credit certificate. For 1986 B's applicable tax limit (*i.e.*, tax liability) is $1,100. The amount of the credit under section 25 (a) and § 1.25–2T for 1986 is $1,700. For 1988 B is not entitled to any of the credits described in sections 21 through 24. Under § 1.25–2T (d) (2), B's unused credit for 1986 is $600, and B is entitled to carry forward that amount to the 3 succeeding years.

(ii) For 1987 B's applicable tax limit is $1,500, the amount of the credit under section 25 (a) and § 1.25–2T is $1,700, and the unused credit is $200. For 1988 B's applicable tax limit is $2,000, the amount of the credit under section 25 (a) and § 1.25–2T is $1,300, and there is no unused credit. For 1987 and 1988 B is not entitled to any of the credits described in sections 21 through 24. No portion of the unused credit for 1986 my be used in 1987. For 1988 B is entitled to claim a credit of $2,000 under section 25 (a) and § 1.25–2T, consisting of a $1,300 credit for 1988, the $600 unused credit for 1986, and $100 of the $200 unused credit for 1987. In addition, B may carry forward the remaining unused credit for 1987 ($100) to 1989 and 1990.

Example (2). The facts are the same as in Example (1) except that for 1988 B is entitled to a credit of $400 under section 23. B's applicable tax limit for 1988 is $1,600 ($2,000 less $400). For 1988 B is entitled to claim a credit of $1,600 under section 25 (a) and § 1.25–2T, consisting of a $1,300 credit for 1988 and $300 of the unused credit for 1986. In

addition, B may carry forward the remaining unused credits of $300 for 1986 to 1989 and of $200 for 1987 to 1989 and 1990.

§ 1.25–3T Qualified mortgage credit certificate (Temporary).

(a) *Definition of qualified mortgage credit certificate.* For purposes of §§ 1.25–1T through 1.25–8T, the term "qualified mortgage credit certificate" means a certificate that meets all of the requirements of this section.

(b) *Qualified mortgage credit certificate program.* A certificate meets the requirements of this paragraph if it is issued under a qualified mortgage credit certificate program (as defined in § 1.25–4T).

(c) *Required form and information.* A certificate meets the requirements of this paragraph if it is in the form specified in § 1.25–6T and if all the information required by the form is specified on the form.

(d) *Residence requirement*—(1) *In general.* A certificate meets the requirements of this paragraph only if it is provided in connection with the acquisition, qualified rehabilitation, or qualified home improvement of a residence, that is—

(i) A single-family residence (as defined in § 1.25–1T (b)(5)) which, at the time the financing on the residence is executed or assumed, can reasonably be expected by the issuer to become (or, in the case of a qualified home improvement loan, to continue to be) the principal residence (as defined in section 1034 and the regulations thereunder) of the holder of the certificate within a reasonable time after the financing is executed or assumed, and

(ii) Located within the jurisdiction of the governmental unit issuing the certificate.

See section 103a(d) and the regulations thereunder for further definitions and requirements.

(2) *Certification procedure.* The requirements of this paragraph will be met if the issuer or its agent obtains from the holder of the certificate an affidavit stating his intent to use (or, in the case of a qualified home improvement loan, that he is currently using and intends to continue to use) the residence as his principal residence within a reasonable time (*e.g.*, 60 days) after the mortgage credit certificate is issued and stating that the holder will notify the issuer of the mortgage credit certificate if the residence ceases to be his principal residence. The affidavit must also state facts that are sufficient for the issuer or his agent to determine whether the residence is located within the jurisdiction of the issuer that issued the mortgage credit certificate.

(e) *3-year requirement*—(1) *In general.* A certificate meets the requirements of this paragraph only if the holder of the certificate had no present ownership interest in a principal residence at any time during the 3-year period prior to the date on which the mortgage on the residence in connection with which the certificate is provided is executed. For purposes of the preceding sentence, the holder's interest in the residence with respect to which the certificate is being provided shall not be taken into account. See section 103A (e) and the regulations thereunder for further definitions and requirements.

(2) *Exceptions.* Paragraph (e) (1) shall not apply with respect to—

(i) Any certificate provided with respect to a targeted area residence (as defined in § 1.25–1T (b)(7)),

(ii) Any qualified home improvement loan (as defined in § 1.25–1T (b) (3)), and

(iii) Any qualified rehabilitation loan (as defined in § 1.25–1T (b) (4)).

(3) *Certification procedure.* The requirements of paragraph (e) (1) will be met if the issuer or its agent obtains from the holder of the certificate an affidavit stating that he had no present ownership interest in a principal residence at any time during the 3-year period prior to the date of which the certificate is issued and the issuer or its agent obtains from the applicant copies of the applicant's Federal tax returns for the preceding 3 years and examines each statement to determine whether the applicant has claimed a deduction for taxes on property which was the applicant's principal residence pursuant to section 164 (a) (1) or a deduction pursuant to section 163 for interest paid on a mortgage secured by property which was the applicant's principal residence. Where the mortgage is executed during the period between January 1 and February 15 and the applicant has not yet filed has Federal income tax return with the Internal Revenue Service, the issuer may, with respect to such year, rely on a affidavit of the applicant that the applicant is not entitled to claim deductions for taxes or interest on indebtedness with respect to property constituting his principal residence for the preceding calendar year. In the alternative, when applicable, the holder may provide an affidavit stating that one of the exceptions provided in paragraph (e) (2) applies.

(4) *Special rule.* An issuer may submit a plan to the Commissioner for distributing certificates, in an amount not to exceed 10 percent of the proceeds of the issue, to individuals who do not meet the requirements of this paragraph. Such plan must described a procedure for ensuring that no more than 10 percent of the proceeds of a such issue will be used to provide certificates to such individuals. If the Commissioner approves the issuer's plan, certificates issued in accordance with the terms of the plan to holders who do not meet the 3-year requirement do not fail to satisfy the requirements of this paragraph.

(f) *Purchase price requirement*—(1) *In general.* A certificate meets the requirements of this paragraph only if the acquisition cost (as defined in § 1.25–1T (b) (8)) of the residence, other than a targeted area residence, in connection with which the certificate is provided does not exceed 110 percent of the average area purchase price (as defined in § 1.25–1T (b) (9)) applicable to that residence. In the case of a targeted area residence (as defined in § 1.251T (b) (7)) the acquisition cost may not exceed 120 percent of the average area purchase price applicable to such residence. See section 1093A (f) and the regulations thereunder for further definitions and requirements. § 1.25–3T (f) (1)

(2) *Certification procedure.* The requirements of paragraph (f)(1) will be met if the issuer or its agent obtains affidavits executed by the seller and the buyer that state these requirements have been met. Such affidavits must include an itemized list of—

(i) Any payments made by the buyer (or a related person) or for the benefit of the buyer,

(ii) If the residence is incomplete, an estimate of the reasonable cost of completing the residence, and

(iii) If the residence is purchased subject to a ground rent, the capitalized value of the ground rent.

The issuer or his agent must examine such affidavits and determine whether, on the basis of information contained therein, the purchase price requirement is met.

(g) *New mortgage requirement*—(1) *In general.* (i) A certificate meets the requirements of this paragraph only if the certificate is not issued in connection with the acquisition or replacement of an existing mortgage. Except in the case of a qualified home improvement loan, the certificate must be issued to an individual who did not have a mortgage (whether or not paid off) on the residence with respect to which the certificate is issued at any time prior to the execution of the mortgage.

(ii) *Exceptions.* For purposes of this paragraph, a certificate used in connection with the replacement of—

(A) Construction period loans,

(B) Bridge loans or similar temporary initial financing, and

(C) In the case of a qualified rehabilitation loan, an existing mortage,

shall not be treated as being used to acquire or replace an existing mortgage. Generally, temporary initial financing is any financing which has a term of 24 months or less. See section 103A(j)(1) and the regulations thereunder for examples illustrating the application of these requirements.

(2) *Certification procedure.* The requirements of paragraph (g)(1) will be met if the issuer or its agent obtains from the holder of the certificate an affidavit stating that the mortage being acquired in connection with the certificate will not be used to acquire or replace an existing mortgage (other than one that falls within the exceptions described in paragraph (g)(1)(ii)).

(h) *Transfer of mortgage credit certificates*—(1) *In general.* A certificate meets the requirements of this paragraph only if it is (i) not transferable or (ii) transferable only with the approval of the issuer.

(2) *Transfer procedure.* A certificate that is transferred with the approval of the issuer is a qualified mortgage credit certificate in the hands of the transferee only if each of the following requirements is met:

(i) The transferee assumed liability for the remaining balance of the certified indebtedness amount in connection with the acquisition of the residence from the transferor,

(ii) The issuer issues a new certificate to the transferee, and

(iii) The new certificate meets each of the requirements of paragraphs (d), (e), (f), and (i) of this section based on the facts as they exist at the time of the transfer as if the mortgage credit certificate were being issued for the first time. For example, the purchase price requirement is to be determined by reference to the average area purchase price at the time of the assumption and not when the mortgage credit certificate was originally issued.

(3) *Statement on certificate.* The requirements of paragraph (h)(1) will be met if the mortgage credit certificate states that the certificate may not be transferred or states that the certificate may not be transferred unless the issuer issues a new certificate in place of the original certificate.

(i) *Prohibited mortgages*—(1) *In general.* A certificate meets the requirements of this paragraph only if it is issued in connection with the acquisition of a residence none of the financing of which is provided from the proceeds of—

(i) A qualified mortgage bond (as defined under section 103A(c)(1) and the regulations thereunder), or

(ii) A qualified veterans' mortgage bond (as defined under section 103A(c)(3) and the regulations thereunder).

Thus, for example, if a mortgagor has a mortgage on his principal residence that was obtained from the proceeds of a qualified mortgage bond, a mortgage credit certificate issued to such mortgagor in connection with a qualified home improvement loan with respect to such residence is not a qualified mortgage credit certificate. If, however, the financing provided from the proceeds of the qualified mortgage bond had been paid off in full, the certificate would be a qualified mortgage credit certificate (assuming all the requirements of this paragraph are met).

(2) *Certification procedure.* The requirements of paragraph (i)(1) will be met if the issuer or its agent obtains from the holder of the certificate an affidavit stating that no portion of the financing of the residence in connection with which the certificate is issued is provided from the proceeds of a qualified mortgage bond or a qualified veterans' mortgage bond.

(j) *Particular lenders*—(1) *In general.* Except as otherwise provided in paragraph (j)(2), a certificate meets the requirements of this paragraph only if the certificate is not limited to indebtedness incurred from particular lenders. A certificate is limited to indebtedness from particular lenders if the issuer, directly or indirectly, prohibits the holder of a certificate from obtaining financing from one or more lenders or requires the holder of a certificate to obtain financing from one or more lenders. For purposes of this paragraph, a lender is any person, including an issuer of mortgage credit certificates, that provides financing for the acquisition, qualified rehabilitation, or qualified home improvement of a residence.

(2) *Exception.* A mortgage credit certificate that is limited to indebtedness incurred from particular lenders will not cease to meet the requirements of this paragraph if the Commissioner approves the basis for such limitation. The Commissioner may approve the basis for such limitation if the issuer establishes to the satisfaction of the Commissioner that it will result in a significant economic benefit to the holders of mortgage credit certificates (*e.g.*, substantially lower financing costs) compared to the result without such limitation.

(3) *Taxable bonds.* The requirements of this paragraph do not prevent an issuer of mortgage credit certificates from issuing mortgage subsidy bonds (other than obligations described in section 103 (a)) the proceeds of which are to be used to provide mortgages to holders of mortgage credit certificates provided that the holders of such certificates are not required to obtain financing from the proceeds of the bond issue. See § 1.25–4T (h) with respect to permissible fees.

(4) *Lists of participating lenders.* The requirements of this paragraph do not prohibit an issuer from maintaining a list of lenders that have stated that they will make loans to qualified holders of mortgage credit certificates, provided that (i) the issuer solicits such statements in a public notice similar to the notice described in § 1.25–7T, (ii) lenders are provided a reasonable period of time in which to express their interest in being included in such a list, and (iii) holders of mortgage credit certificates are not required to obtain financing from the lenders on the list. If an issuer maintains such a list, it must update the list at least annually.

(5) *Certification procedure.* The requirements of this paragraph will be met if (i) the issuer or its agent obtains from the holder of the certificate an affidavit stating that the certificate was not limited to indebtedness incurred from particular lenders or (ii) the issuer obtains a ruling from the Commissioner under paragraph (j) (2).

(6) *Examples.* The following examples illustrate the application of this paragraph:

Example (1). Under its mortgage credit certificate program, County Z distributes all the certificates to be issued to a group of 60 participating lenders. Residents of County Z may obtain mortgage credit certificates only from the participating lenders and only in connection with the acquisition of mortgage financing from that lender or one of the other participating lenders. Certificates issued under this program do not meet the requirements of this paragraph since the certificates are limited to indebtedness incurred from particular lenders. The certificates, therefore, are not qualified mortgage credit certificates.

Example (2). In connection with its mortgage credit certificate program, County Y arranges with Bank P for a line of credit to be used to provide mortgage financing to holders of mortgage credit certificates. County Y, pursuant to paragraph (j) (4), maintains a list of lenders participating in the mortgage credit certificate program. County Y distributes the certificates directly to applicants. Holders of the certificates are not required to obtain mortgage financing through the line of credit or through a lender on the list of participating lenders. Certificates issued pursuant to County Y's program satisfy the requirements of this paragraph.

(k) *Developer certification*—(1) *In general.* A mortgage credit certificate that is allocated by the issuer to any particular development meets the requirements of this paragraph only if the developer provides a certification to the purchaser of the residence and the issuer stating that the purchase price of that residence is not higher than the price would be if the issuer had not allocated mortgage credit certificates to the development. The certification must be made by the developer if a natural person or, if not, by a duly authorized official of the developer.

(2) *Certification procedure.* The requirements of this paragraph will be met if the issuer or its agent obtains from the holder of the certificate and affidavit stating that the has received from the developer the certification described in this paragraph.

(l) *Expiration*—(1) *In general.* A certificate meets the requirements of this paragraph if the certified indebtedness amount is incurred prior to the close of the second calender year following the calendar year for which the issuer elected not to issue qualified mortgage bonds under § 1.25–4T with respect to that issue of mortgage credit certificates. Thus, for example, if on October 1, 1984, and issuing authority elects under § 1.25–4T not to issue qualified mortgage bonds, a mortgage credit certificate provided under that program does not meet the requirements of this paragraph unless the indebtedness is incurred on or before December 31, 1986.

(2) *Issure-imposed expiration dates.* An issuer of mortgage credit certificates may provide that a certificate shall expire if the holder of the certificate does not incure certified indebtedness by a date that is prior to the expiration date provided in paragraph (l) (1). A certificate that expires prior to the date provided in paragraph (l) (1) may be reissued provided that the requirements of this paragraph are met.

(m) *Revocation.* A certificate meets the requirements of this paragraph only if it has not been revoked. Thus, the credit provided by section 25 and § 1.25–1T does not apply to interest paid or accrued following the revocation of a certificate. A certificate is treated as revoked when the residence to which the certificate relates ceases to be the holder's principal residence. An issuer may revoke a mortgage credit certificate if the certificate does not meet all the requirements of § 1.25–3T (d), (e), (f), (g), (h), (i), (j), (k), and (n). The certificate is revoked by the issure's notifying the holder of the certificate and the Internal Revenue Service that the certificate is revoked. The notice to the Internal Revenue Service shall be made as part of the report requred by § 1.25–8T (b) (2).

(n) *Interest paid to related person*—(1) *In general.* A certificate does not meet the requirements of this paragraph if interest on the certified indebtedness amount is paid to a person who is a related person to the holder of the certificate.

(2) *Certification procedure.* The requirements of this paragraph will be met if the issuer or its agent obtains from the holder of the certificate an affidavit stating that a related person does not have, and is not expected to have, an interest as a creditor in the certified indebtedness amount.

(o) *Fraud.* Notwithstanding any other provision of this section, a mortgage credit certificate does not meet the requirements of this section and, therefore, the certificate is not a qualified mortgage credit certificate for any calendar year, if the holder of the certificate provides a certification or any other information to the lender providing the mortgage or to the issuer of the certificate containing a material misstatement and such misstatement is due to fraud. In determining whether any misstatement is due to fraud, the rules generally applicable to underpayments of tax due to fraud (including rules relating to the statute of limitations) shall apply. See § 1.6709–1T with respect to the penalty for filing negligent or fraudulent statements.

§ 1.25–4T Qualified mortgage credit certificate program (Temporary).

(a) *In general*—(1) *Definition of qualified mortgage credit certificate program.* For purposes of §§ 1.25–1T through 1.25–8T, the term "qualified mortgage credit certificate program" means a program to issue qualified mortgage credit certificates which meets all of the requirements of paragraphs (b) through (i) of this section.

(2) *Requirements are a minimum.* Except as otherwise provided in this section, the requirements of this section are minimum requirements. Issuers may establish more stringent criteria for participation in a qualified mortgage credit certificate program. Thus, for example, an issuer may target 30 percent of the proceeds of an issue of mortgage credit certificates to targeted areas. Further, issuers may establish additional eligibility criteria for participation in a qualified mortgage credit certificate program. Thus, for example, issuers may impose an income limitation designed to ensure that only those individuals who could not otherwise purchase a residence will benefit from the credit.

(3) Except as otherwise provided in this section and § 1.25–3T, issuers may use mortgage credit certificates in connection with other Federal, State, and local programs provided that such use complies with the requirements of § 1.25–3T(j). Thus, for example, a mortgage credit certificate may be issued in connection with the qualified rehabilitation of a residence part of the cost of which will be paid from the proceeds of a State grant.

(b) *Establishment of program.* A program meets the requirements of this paragraph only if it is established by a State or political subdivision thereof for any calendar year for which it has the authority to issue qualified mortgage bonds.

(c) *Election not to issue qualified mortgage bonds*—(1) *In general.* A program meets the requirements of this paragraph only if the issuer elects, in the time and manner specified in this paragraph, not to issue an amount of qualified mortgage bonds that it may otherwise issue during the calendar year under section 103A and the regulations thereunder.

(2) *Manner of making election.* On or before the earlier of the date of distribution of mortgage credit certificates under a program or December 31, 1987, the issuer must file an election not to issue an amount of qualified mortgage bonds. The election (and the certification (or affidavit) described in paragraph (d)) shall be filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The election should be titled "Mortgage Credit Certificate Election" and must include—

(i) The name, address, and TIN of the issuer,

(ii) The issuer's applicable limit, as defined in section 103A (g) and the regulations thereunder,

(iii) The aggregate amount of qualified mortgage bonds issued by the issuing authority during the calendar year,

(iv) The amount of the issuer's applicable limit that it has surrendered to other issuers during the calendar year,

(v) The date and amount of any previous elections under this paragraph for the calendar year, and

(vi) The amount of qualfied mortgage bonds that the issuer elects not to issue.

(3) *Revocation of election.* Any election made under this paragraph may be revoked, in whole or in part, at any time during the calendar year in which the election was made. The revocation, however, may not be made with respect to any part of the nonissued bond amount that has been used to issue mortgage credit certificates pursuant to the election. The revocation shall be

filed with the Internal Revenue Service Center, Philadelphia, Pennsylvania 19255. The revocation should be titled "Revocation of Mortgage Credit Certificate Election" and must include—

(i) The name, address, and TIN of the issuer,

(ii) The nonissued bond amount as originally elected, and

(iii) The portion of the nonissued bond amount with respect to which the election is being revoked.

(4) *Special rule.* If at the time that an issuer makes an election under this paragraph it does not know its applicable limit, the issuer may elect not to use all of its remaining authority to issue qualified mortgage bonds; this form of election will be treated as meeting the requirements of paragraph (c)(2) if, prior to the later of the end of the calendar year and December 31, 1985, the issuer amends its election so as to indicate the exact amount of qualified mortgage bond authority that it elected not to issue.

(5) *Limitation on nonissued bond amount.* The amount of qualified mortgage bonds which an issuer elects not to issue may not exceed the issuer's applicable limit (as determined under section 103A (g) and the regulations thereunder). For example, a governmental unit that, pursuant to section 103A (g)(3), may issue $10 million of qualified mortgage bonds that elects to trade in $11 million in qualified mortgage bond authority has not met the requirements of this paragraph, and mortgage credit certificates issued pursuant to such election are not qualified mortgage credit certificates.

(d) *State certification requirement*—(1) *In general.* A program meets the requirements of this paragraph only if the State official designated by law (or, where there is no State official, the Governor) certifies, based on facts and circumstances as of the date on which the certification is requested, following a request for such certification, that the issue meets the requirements of section 103A(g) (relating to volume limitation) and the regulations thereunder. A copy of the State certification must be attached to the issuer's election not to issue qualified mortgage bonds, except that, in the case of elections made during calendar year 1984, the certification may be filed with the Service prior to July 8, 1985 provided that mortgage credit certificates may not be distributed until the certification is filed. In the case of any constitutional home rule city, the certification shall be made by the chief executive officer of the city.

(2) *Certification procedure.* The official making the certification described in this paragraph (d) need not perform an independent investigation to determine whether the issuer has met the requirements of section 103A(g). In determining the aggregate amount of qualified mortgage bonds previously issued by that issuer during the calendar year the official may rely on copies of prior elections under paragraph (c) of this section made by the issuer for that year, together with an affidavit executed by an official of the issuer who is responsible for issuing bonds stating that the issuer has not, to date, issued any other issues of qualified mortgage bonds during the calendar year and stating the amount, if any, of the issuer's applicable limit that it has surrendered to other issuers during the calendar year; for any calendar year prior to 1985, the official may rely on an affidavit executed by a duly authorized official of the issuer who states the aggregate amount of qualified mortgage bonds issued by the issuer during the year. In determining the aggregate amount of qualified mortgage bonds that the issuer has previously elected not to issue during that calendar year, the official may rely on copies of any elections not to issue qualified mortgage bonds filed by the issuer for that calendar year, together with an affidavit executed by an official of the issuer responsible for issuing mortgage credit certificates stating that the issuer has not, to date, made any other elections not to issue qualified mortgage bonds. If, based on such information, the certifying official determines that the issuer has not, as of the date on which the certification is provided, exceeded its applicable limit for the year, the official may certify that the issue meets the requirements of section 103A(g). The fact that the certification described in this paragraph (d) is provided does not ensure that the issuer has met the requirements of section 103A(g) and the regulations thereunder, nor does it preclude the application of the penalty for over-issuance of mortgage credit certificates if such over-issuance actually occurs. See § 1.25–5T.

(3) *Special rule.* If within 30 days after the issuer files a proper request for the certification described in this paragraph (d) the issuer has not received from the State official designated by law (or, if there is no State official, the Governor) certification that the issue meets the requirements of section 103A(g) or, in the alternative, a statement that the issue does not meet such requirements, the issuer may submit, in lieu of the certification required by this paragraph (d), an affidavit executed by an officer of the issuer responsible for issuing mortgage credit certificates stating that—

(i) The issue meets the requirements of section 103A(g) and the regulations thereunder,

(ii) At least 30 days before the execution of the affidavit the issuer filed a proper request for the certification described in this paragraph (d), and

(iii) The State official designated by law (or, if there is no State official, the Governor) has not provided the certification described in this paragraph (d) or a statement that the issue does not meet such requirements.

For purposes of this paragraph, a request for certification is proper if the request includes the reports and affidavits described in paragraph (d)(2).

(e) *Information reporting requirement*—(1) *Annual report.* [Reserved]

(f) *Policy statement requirement.* [Reserved]

(g) *Targeted areas requirement*—(1) *In general.* A program meets the requirements of this paragraph only if—

(i) The portion of the total proceeds of the issue specified in paragraph (g)(2) is made available to provide mortgage credit certificates in connection with owner financing of targeted area residents for at least 1 year after the date on which mortgage credit certificates are first made available with respect to targeted area residences, and

(ii) The issuer attempts with reasonable diligence to place such proceeds with qualified persons.

Mortgage credit certificates are considered first made available with respect to targeted area residences on the date on which the issuer first begins to accept applications for mortgage credit certificates provided under that issue.

(2) *Specified portion.* (i) The specified portion of the total proceeds of an issue is the lesser of—

(A) 20 percent of the total proceeds, or

(B) 8 percent of the average annual aggregate principal amount of mortgages executed during the immediately prceding 3 calendar years for single-family, owner-occupied residences in targeted areas within the jurisdication of the issuing authority.

For purposes of computing the required portion of the total proceeds specified in paragraph (g)(2)(i)(B) where such provision is applicable, an issuer may rely upon the safe-harbor formula provided in the regulations under section 103A(h).

(ii) See § 1.25–1T(b)(10)(ii) for the definition of "total proceeds".

(h) *Fees*—(1) *In general.* A program meets the requirements of this paragraph only if each applicant is required to pay, directly or indirectly, no fee other than those fees permitted under this paragraph.

(2) *Permissible fees.* Applicants may be required to pay the following fees provided that they are reasonable:

(i) Points, origination fees, servicing fees, and other fees in amounts that are customarily charged with respect to mortgages not provided in connection with mortgage credit certificates,

(ii) Application fees, survey fees, credit report fees, insurance fees, or similar settlement or financing costs to the extent such amounts do not exceed the amounts charged in the area in cases where mortgages are not provided in connection with mortgage credit certificates. For example, amounts charged for FHA, VA, or similar private mortgage insurance on an individual's mortgage are permissible so long as such amounts do not exceed the amounts charged in the area with respect to a similar mortgage that is not provided in connection with a mortgage credit certificate, and

(iii) Other fees that, taking into account all the facts and circumstances, are reasonably necessary to cover any administrative costs incurred by the issuer or its agent in issuing mortgage credit certificates.

(i) *Qualified mortgage credit certificate.* A program meets the requirements of this paragraph only if each mortgage credit certificate issued under the program meets each of the requirements of paragraphs (c) through (o) of § 1.25–3T.

(j) *Good faith compliance efforts*—(1) *Eligibility requirements.* (i) A program under which each of the mortgage credit certificates issued does not meet each of the requirements of paragraphs (c) through (o) of § 1.25–3T shall be treated as meeting the requirements of paragraph (i) of this section if each of the requirements of this paragraph (j)(1) is satisfied. A mortgage credit certificate program meets the requirements of this paragraph (j)(1) only if each of the following provisions is met:

(A) The issuer in good faith attempted to issue mortgage credit certificates only to individuals meeting each of the requirements of paragraphs (c) through (o) of § 1.25–3T. Good faith requires that agreements with lenders and agents and other relevant instruments contain restrictions that permit the approval of mortgage credit certificates only in accordance with the requirements of paragraphs (c) through (o) of § 1.25–3T. In addition, the issuer must establish reasonable procedures to ensure compliance with those requirements. Reasonable procedures include reasonable investigations by the issuer to determine whether individuals satisfy the requirements of paragraphs (c) through (o) of § 1.25–3T.

(B) 95 percent or more of the total proceeds of the issue were devoted to individuals with respect to whom, at the time that the certificate was issued, all the requirements of paragraphs (c) through (o) of § 1.25–3T were met. If a holder of a mortgage credit certificate fails to meet more than one of these requirements, the amount of the certificate (*i.e.*, the certificate credit rate multiplied by the certified indebtedness amount) issued to that individual will be taken into account only once in determining whether the 95-percent requirement is met. However, all of the defects in that individual's certificate must be corrected pursuant to paragraph (j)(1)(i)(C).

(C) Any failure to meet the requirements of paragraphs (c) through (o) of § 1.25–3T is corrected within a reasonable period after that failure is discovered. For example, if an individual fails to meet one or more of such requirements those failures can be corrected by revoking that individual's certificate.

(ii) *Examples.* The following examples illustrate the application of this paragraph (j)(1):

Example (1). County X only distributes mortgage credit certificates to individuals who have contracted to purchase a principal residence. County X requires that applicants for mortgage credit certificates present the following information:

(i) An affidavit stating that the applicant intends to use the residence in connection with which the mortgage credit certificate is issued as his principal residence within a reasonable time after the certificate is issued by County X, that the applicant will notify the County if the residence ceases to be his principal residence, and facts that are sufficient for County X to determine whether the residence is located within the jurisdiction of County X,

(ii) An affidavit stating that the applicant had no present ownership interest in a principal residence at any time during the 3-year period prior to the date on which the certificate is issued,

(iii) Copies of the applicant's Federal tax returns for the preceding 3 years,

(iv) Affidavits from the seller of the residence with respect to which the certificate is issued and the applicant stating the purchase price of the residence, including an itemized list of (A) payments made by or for the benefit of the applicant, (B) if the residence is incomplete, an estimate of the reasonable cost of completing the residence, and (C) if the residence is subject to a ground rent, the capitalized value of the ground rent,

(v) An affidavit executed by the applicant stating that the mortgage being acquired in connection with the certificate will not be used to acquire or replace an existing mortgage,

(vi) An affidavit executed by the applicant stating that no portion of the financing for the residence in connection with which the certificate is issued is provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond and that no portion of the mortgage for the residence is provided by a person related to the applicant (as defined in § 1.25–3T(n)),

(vii) An affidavit executed by the applicant stating that the certificate was not limited to indebtedness incurred from particular lenders, and

(viii) In the case of a mortgate credit certificate allocated for use in connection with a particular development, and affidavit executed by the applicant stating that the applicant received from the developer a certification stating that the price of the residence with respect to which the certificate was issued is no higher than it would be without the use of a mortgage credit certificate.

County X examines the information submitted by the applicant to determine whether the requirements of paragraphs (c), (d), (e), (f), (g), (i), (j), (k), and (n) of § 1.25–3T are met. County X determines that the certificate has not expired. The mortgage credit certificates issued by County X are in the form prescribed by § 1.25–6T and County X provides all the required information and statements. After determining that the applicant meets all these requirements County X issues a mortgage credit certificate to the applicant. This procedure for issuing mortgage credit certificates is sufficient evidence of the good faith of County X to meet the requirements of § 1.25–4T(j)(1)(i)(A).

Example (2). County W distributes preliminary mortgage credit certificates to individuals who have not entered into contracts to purchase a principal residence. County W issues preliminary certificates in the form prescribed by § 1.25–6T to those applicants that have submitted statements that they (i) intend to purchase a single-family residence located within the jurisdiction of County W which they will occupy as a principal residence, (ii) have had no present ownership interest in a principal residence within the preceding 3-year period, and (iii) will not use the certificate in connection with the acquisition or replacement of an existing mortgage. The certificates contain a maximum purchase price, the certificate credit rate, and a statement that the certificate will expire if the applicant does not enter into a closing agreement with respect to a loan within 6 months from the date of preliminary issuance. Holders of these certificates may apply for a mortgage loan from any lender. When the holder of the certificate applies for a loan the lender requires that he submit the following:

(i) An affidavit stating that the applicant intends to use the residence in connection with which the mortgage credit certificate is issued as his principal residence within a reasonable time after the certificate is issued by County W, that the applicant will notify

the County if the residence ceases to be his principal residence, and facts that are sufficient for County W to detrmine whether the residence is located within the jurisdication of County W.

(ii) An affidavit stating that the applicant had no present ownership interest in a principal residence at any time during the 3-year period prior to the date on which the certificate is issued.

(iii) Copies of the applicant's Federal tax returns for the preceding 3 years.

(iv) Affidavits from the seller of the residence with respect to which the certificate is issued and the applicant stating the purchase price of the residence, including an itemized list of (A) payments made by or for the benefit of the applicant, (B) if the residence is incomplete, an estimate of the reasonable cost of completing the residence, and (C) if the residence is subject to a ground rent, the capitalized value of the ground rent.

(v) An affidavit executed by the applicant stating that the mortgage being acquired in connection with the certificate will not be used to acquire or replace an existing mortgage.

(vi) An affidavit executed by the applicant stating that no portion of the financing for the residence in connection with which the certificate is issued in provided from the proceeds of a qualified mortgage bond or qualified veterans' mortgage bond and that no portion of the mortgage for the residence is provided by a person related to the applicant (as defined in § 1.25–3T(n)).

(vii) An affidavit executed by the applicant stating that the certificate was not limited to indebtedness incurred from particular lenders, and

(viii) In the case of a mortgage credit certificate allocated for use in connection with a particular development, an affidavit executed by the applicant stating that the applicant received from the developer a certification stating that the price of the residence with respect to which the certificate was issued is no higher than it would be without the use of a mortgage credit certificate.

The lender then submits those affidavits, together with its statement as to the amount of the indebtedness incurred, to County W. After determining that the requirements of paragraphs (c), (d), (e), (f), (g), (i), (j), (k) and (n) of § 1.25–3T are met and determining that the certificate has not expired, County W completes the mortgage credit certificate. This procedure for issuing mortgage credit certificates is sufficient evidence of the good faith of County W to meet the requirements of § 1.25–4T(j)(1)(i)(A).

(2) *Program requirements.* (i) A mortgage credit certificate program which fails to meet one or more of the requirements of paragraphs (b) through (h) of this section shall be treated as meeting such requirements if the requirements of this paragraph (j)(2) are satisfied. A mortgage credit certificate program meets the requirements of this paragraph (j)(2) only if each of the following provisions is met:

(A) The issuer in good faith attempted to meet all of the requirements of paragraphs (b) through (h) of this section. This good faith requirement will be met if all reasonable steps are taken by the issuer to ensure that the program complies with these requirements.

(B) Any failure to meet such requirements is due to inadvertent error, *e.g.*, mathematical error, after taking reasonable steps to comply with such requirements.

(ii) The following example illustrate the application of this paragraph (j)(2):

Example. City X issues an issue of mortgage credit certificates. However, despite taking all reasonable steps to determine accurately the size of the applicable limit, as provided in section 103A (g)(3) and the regulations thereunder, the limit is exceeded because the amount of the mortgages, originated in the area during the past 3 years is incorrectly computed as a result of mathematical error. Such facts are sufficient evidence of the good faith of the issuer to meet the requirements of paragraph (j)(2).

§ 1.25–5T Limitation on aggregate amount of mortgage credit certificates (Temporary).

(a) *In general.* If the aggregate amount of qualified mortgage credit certificates (as defined in paragraph (b)) issued by an issuer under a qualified mortgage credit certificate program exceeds 20 percent of the nonissued bond amount (as defined in paragraph (c)), the provisions of paragraph (d) shall apply.

(b) *Aggregate amount of mortgage credit certificates.*—(1) *In general.* The aggregate amount of qualified mortgage credit certificates issued under a qualified mortgage credit certificate program is the sum of the products determined by multiplying—

(i) The certified indebtedness amount of each qualified mortgage credit certificate issued under that program, by

(ii) The certificate credit rate with respect to such certificate.

(2) *Examples.* The following examples illustrate the application of this paragraph (b):

Example (1). For 1986 City Q has a nonissued bond amount of $100 million. After making a proper election, Q issues 2,000 qualified mortgage credit certificates each with a certificate credit rate of 20 percent and a certified indebtedness amount of $50,000. The aggregate amount of qualified mortgage credit certificates is $20 million (2,000 x (.2 x $50,000)). Since this amount does not exceed 20 percent of the nonissued bond amount (.2 x $100 million = $20 million), Q has complied with the limitation on the aggregate amount of mortgage credit certificates, provided that it does not issue any additional certificates.

Example (2). The facts are the same as in example (1) except that instead of issuing all its certificates at the 20 percent rate, Q issues (i) qualified mortgage credit certificates with a certificate credit rate of 10 percent and an aggregate principal amount of $25 million, (ii) qualified mortgage credit certificates with a certificate credit rate of 40 percent and an aggregate principal amount of $25 million, and (iii) qualified mortgage credit certificates with a certificate credit rate of 30 percent and an aggregate principal amount of $25 million. The aggregate amount of qualified mortgage credit certificates is $20 million ((10 percent of $25 million) plus (40 percent of $25 million) plus (30 percent of $25 million)). Q has complied with the limitation on the aggregate amount of qualified mortgage credit certificates, provided that it does not issue any additional certificates pursuant to the same program.

(c) *Nonissued bond amount.* The term "nonissued bond amount" means, with respect to any qualified mortgage credit certificate program, the amount of qualified mortgage bonds (as defined in section 103A(c)(1) and the regulations thereunder) which the issuer is otherwise authorized to issue and elects not to issue under section 25(c)(2) and § 1.25–4T(b). The amount of qualified mortgage bonds which an issuing authority is authorized to issue is determined under section 103A(g) and the regulations thereunder; such determination shall take into account any prior elections by the issuer not to issue qualified mortgage bonds, the amount of any reduction in the State ceiling under paragraph (d) of this section, and the aggregate amount of qualified mortgage bonds issued by the issuer prior to its election not to issue qualified mortgage bonds.

(d) *Noncompliance with limitation on aggregate amount of mortgage credit certificates.*—(1) *In general.* If the provisions of this paragraph apply, the State ceiling under section 103A(g)(4) and the regulations thereunder for the calendar year following the calendar year in which the Commissioner determines the correction amount for the State in which the issuer which exceeded the limitation on the aggregate amount of mortgage credit certificates is located shall be reduced by 1.25 times the correction amount with respect to such failure.

(2) *Correction amount.* (i) The term "correction amount" means an amount equal to the excess credit amount divided by .20.

(ii) The term "excess credit amount" means the excess of—

(A) The credit amount for any mortgage credit certificate program, over

(B) The amount which would have been the credit amount for such program had such program met the requirements of section 25(d)(2) and paragraph (a) of this section.

(iii) The term "credit amount" means the sum of the products determined by multiplying—

(A) The certified indebtedness amount of each qualified mortgage credit certificate issued under the program, by

(B) The certificate credit rate with respect to such certificate.

(3) *Example.* The following example illustrates the application of this paragraph:

Example. For 1987 City R has a nonissued bond amount of $100 million. City R issues all of its mortgage credit certificates with a certificate credit rate of 20 percent. City R issues certificates with an aggregate certified indebtedness amount of $120 million. The aggregate amount of mortgage credit certificates issued by City R is $24 million, which exceeds 20 percent of the nonissued bond amount. The State ceiling for the calendar year following the calendar year in which the Commissioner determines the correction amount is reduced by $25 million (the correction amount multiplied by 1.25). The correction amount is determined as follows: The credit amount is $24 million (.2×$120 million); the amount which would have been the credit amount for the program had it met the requirements of section 25(d)(2) is $20 million (.2×$100 million); the excess credit amount is $4 million ($24 million—$20 million); therefore, the correction amount is $20 million ($4 million/.2).

(4) *Cross references.* See section 103A(g)(4) and the regulations thereunder with respect to the reduction of the applicable State ceiling.

§ 1.25–6T Form of qualified mortgage credit certificate (Temporary).

(a) *In general.* Qualified mortgage credit certificates are to be issued on the form prescribed by the Internal Revenue Service. If no form is prescribed by the Internal Revenue Service, or if the form prescribed by the Internal Revenue Service is not readily available, the issuer may use its own form provided that such form contains the information required by this section. Each mortgage credit certificate must be issued in a form such that there are at least three copies of the form. One copy of the certificate shall be retained by the issuer; one copy shall be retained by the lender; and one copy shall be forwarded to the State official who issued the certification required by § 1.25–4T(d), unless that State official has stated in writing that he does not want to receive such copies.

(b) *Required information.* Each qualified mortgage credit certificate must include the following information:

(1) The name, address, and TIN of the issuer,

(2) The date of the issuer's election not to issue qualified mortgage bonds pursuant to which the certificate is being issued,

(3) The number assigned to the certificate,

(4) The name, address, and TIN of the holder of the certificate,

(5) The certificate credit rate,

(6) The certified indebtness amount,

(7) The acquisition cost of the residence being acquired in connection with the certificate,

(8) The average area purchase price applicable to the residence,

(9) Whether the certificate meets the requirements of § 1.25–3T(d), relating to residence requirement,

(10) Whether the certificate meets the requirements of § 1.25–3T(e), relating to 3-year requirement,

(11) Whether the certificate meets the requirements of § 1.25–3T(g), relating to new mortgage requirement,

(12) Whether the certificate meets the requirements of § 1.25–3T(i), relating to prohibited mortgages,

(13) Whether the certificate meets the requirements of § 1.25–3T(j), relating to particular lenders,

(14) Whether the certificate meets the requirements of § 1.25–3T(k), relating to allocations to particular developments,

(15) Whether the certificate meets the requirements of § 1.25–3T(n), relating to interest paid to related persons,

(16) Whether the residence in connection with which the certificate is issued is a targeted area residence,

(17) The date on which a closing agreement is signed with respect to the certified indebtness amount,

(18) The expiration date of the certificate,

(19) A statement that the certificate is not transferable or a statement that the certificate may be transferred only if the issuer issues a new certificate, and

(20) A statement, signed under penalties of perjury by an authorized official of the issuer or its agent, that such person has made the determinations specified in paragraph (b) (9) through (16).

§ 1.25–7T Public notice (Temporary).

(a) *In general.* At least 90 days prior to the issuance of any mortgage credit certificate under a qualified mortgage credit certificate program, the issuer shall provide reasonable public notice of—

(1) The eligibility requirements for such certificate,

(2) The methods by which such certificates are to be issued, and

(3) The other information required by this section.

(b) *Reasonable public notice*—(1) *In general.* Reasonable public notice means published notice which is reasonably designed to inform individuals who would be eligible to receive mortgage credit certificates of the proposed issuance. Reasonable public notice may be provided through newspapers of general circulation.

(2) *Contents of notice.* The public notice required by paragraph (a) must include a brief description of the principal residence requirement, 3-year requirement, purchase price requirement, and new mortgage requirement. The notice must also provide a brief description of the methods by which the certificates are to be issued and the address and telephone number for obtaining further information.

§ 1.25–8T Reporting requirements (Temporary).

(a) *Lender*—(1) *In general.* Each person who makes a loan that is a certified indebtedness amount with respect to any mortgage credit certificate must file the report described in paragraph (a)(2) and must retain on its books and records the information described in paragraph (a)(3). The report described in paragraph (a)(2) is an annual report and must be filed on or before January 31 of the year following the calendar year to which the report relates. See section 6709(c) and the regulations thereunder for the applicable penalties with respect to failure to file reports.

(2) *Information required.* The report shall be submitted on Form 8329 and shall contain the information required therein. A separate Form 8329 shall be filed for each issue of mortgage credit certificates with respect to which the lender made mortgage loans during the preceding calendar year. Thus, for example, if during 1986 Bank M makes three mortgage loans which are certified indebtedness amounts with respect to State Z's January 15, 1986, issue of mortgage credit certificates, and two mortgage loans which are certified indebtedness amounts with respect to State Z's April 15, 1986, issue of mortgage credit certificates, and fifty mortgage loans which are certified indebtedness amounts with respect to County X's December 31, 1985, issue of mortgage credit certificates, Bank M must file three separate reports for calendar year 1986. The lender must submit the Form 8329 with the information required therein, including—

(i) The name, address, and TIN of the issuer of the mortgage credit certificates,

(ii) The date on which the election not to issue qualified mortgage bonds with

respect to that mortgage credit certificate was made.

(iii) The name, address, and TIN of the lender, and

(iv) The sum of the products determined by multiplying—

(A) The certified indebtedness amount of each mortgage credit certificate issued under such program, by

(B) The certificate credit rate with respect to such certificate.

(3) *Recordkeeping requirements.* Each person who makes a loan that is a certified indebtedness amount with respect to any mortgage credit certificate must retain the information specified in this paragraph (a)(3) on its books and records for 6 years following the year in which the loan was made. With respect to each loan the lender must retain the following information:

(i) The name, address, and TIN of each holder of a qualified mortgage credit certificate with respect to which a loan is made,

(ii) The name, address, and TIN of the issuer of such certificate, and

(iii) The date the loan for the certified indebtedness amount is closed, the certified indebtedness amount, and the certificate credit rate of such certificate.

(b) *Issuers*—(1) *In general.* Each issuer of mortgage credit certificates shall file the report described in paragraph (b)(2).

(2) *Quarterly reports.* (i) Each issuer which elects to issue mortgage credit certificates shall file reports on Form 8330. These reports shall be filed on a quarterly basis, beginning with the quarter in which the election is made, and are due on the following dates: April 30 (for the quarter ending March 31), July 31 (for the quarter ending June 30), October 31 (for the quarter ending September 30), and January 31 (for the quarter ending December 31). For elections made prior to May 8, 1985, the first report need not be filed until July 31, 1985. An issuer shall file a separate report for each issue of mortgage credit certificates. In the quarter in which the last qualified mortgage credit certificate that may be issued under a program is issued, the issuer must state that fact on the report to be filed for that quarter; the issuer is not required to file any subsequent reports with respect to that program. See section 6709 (c) for the penalties with respect to failure to file a report.

(ii) The report shall be submitted on Form 8330 and shall contain the information required therein, including—

(A) The name, address, and TIN of the issuer of the mortgage credit certificates,

(B) The date of the issuer's election not to issue qualified mortgage bonds with respect to the mortgage credit certificate program and the nonissued bond amount of the program,

(C) The sum of the products determined by multiplying—

(*1*) The certified indebtedness amount of each qualified mortgage credit certificate issued under that program during the calendar quarter, by

(*2*) The certificate credit rate with respect to such certificate, and

(D) A listing of the name, address, and TIN of each holder of a qualified mortgage credit certificate which has been revoked during the calendar quarter.

(c) *Extensions of time for filing reports.* The Commissioner may grant an extension of time for the filing of a report required by this section if there is reasonable cause for the failure to file such report in a timely fashion.

(d) *Place for filing.* The reports required by this section are to be filed at the Internal Revenue Service Center, Philadelphia, Pennsylvania 19225.

(e) *Cross reference.* See section 6709 and the regulations thereunder with respect to the penalty for failure to file a report required by this section.

Par. 3. New § 1.163–6T is inserted after § 1.163–5T to read as follows:

§ 1.163–6T Reduction of deduction where section 25 credit taken (Temporary).

(a) *In general.* The amount of the deduction under section 163 for interest paid or accrued during any taxable year on a certified indebtedness amount with respect to a mortgage credit certificate which has been issued under section 25 shall be reduced by the amount of the credit allowable with respect to such interest under section 25 (determined without regard to section 28).

(b) *Cross reference.* See §§ 1.25–1T through 1.25–8T with respect to rules relating to mortgage credit certificates.

Par. 4. New § 1.6709–1T is inserted after § 1.6696–1 to read as follows:

§ 1.6709–1T Penalties with respect to mortgage credit certificates (Temporary).

(a) *Material misstatement*—(1) *Negligence.* If any person makes a material misstatement in any affidavit or other statement under a penalty of perjury made with respect to the issuance of a mortgage credit certificate and such misstatement is due to the negligence of that person, that person shall pay a penalty of $1,000 for each mortgage credti certificate with respect to which that misstatement was made.

(2) *Fraud.* If a misstatement described in subparagraph (1) is due to fraud on the part of the person making the misstatement, that person shall pay a penalty of $10,000 for each mortgage credit certificate with respect to which the fraudulent misstatement was made. The penalty imposed by this paragraph (a)(2) is in addition to any criminal penalty.

(b) *Reports.* (1) Any person required by § 1.25–8T to file a report with respect to any mortgage credit certificate who fails to file the report at the time and in the manner required by § 1.25–8T shall pay a penalty of $200 for each mortgage credit certificate with respect to which that failure occurred. The preceding sentence shall not apply if it is shown that such failure is due to reasonable cause and not to willful neglect.

(2) In the case of any report required under § 1.25–8T(b), the aggregate amount of the penalty imposed by this paragraph shall not exceed $2,000.

PART 6a—[AMENDED]

Par. 5. The authority citation for Part 6a is revised to read:

Authority: Sec. 7805, Internal Revenue Code of 1954, 68A stat. 917 [26 U.S.C. 7805] unless otherwise noted.

Par. 6. Section 6a.103A–2 is amended by revising paragraph (g)(1), by revising the first sentence of paragraph (g)(6)(i), and adding a new paragraph (g)(6)(v). These added and revised provisions read as follows:

§ 6a.103A–2 Qualified mortgage bond.

* * * * *

(g) *Limitation on aggregate amount of qualified mortgage bonds issued during any calendar year*—(1) *In general.* An issue meets the requirements of this section only if the aggregate amount of bonds issued pursuant thereto, when added to the sum of (i) the aggregate amount of qualified mortgage bonds previously issued by the issuing authority during the calendar year and (ii) the amount of qualified mortgage bonds which the issuing authority previously elected not to issue under section 25(c)(2)(A)(ii) and the regulations thereunder during the calendar year, does not exceed the applicable limit ("market limitation") for such authority for such calendar year.

* * * * *

(6) *State ceiling.* (i) Except as provided in paragraph (g)(6)(v), the State ceiling applicable to any State for any calendar year shall be the greater of—

(A) 9 percent of the average annual aggregate principal amount of mortgages executed during the immediately preceding 3 calendar years for single-family, owner-occupied residences located within the jurisdiction of such State, or

(B) $200,000,000. * * *

* * * * *

(v) *Reduction in State ceiling.* If for any calendar year an issuer of mortgage credit certificates, as defined in section 25 and the regulations thereunder, fails to meet the requirements of section 25(d)(2) and the regulations thereunder, relating to the limit on the aggregate amount of mortgage credit certificates that may be issued, the applicable State ceiling under paragraph (g)(6)(i) of this section for the State in which the program operates will be reduced by 1.25 times the correction amount (as defined in section 25(f)(2) and the regulations thereunder) with respect to that failure for the calendar year following the calendar year in which the Commissioner determines the correction amount with respect to that failure.

* * * * *

PART 602—[AMENDED]

Par. 7. The authority citation for Part 602 continues to read:

Authority: Sec. 7805, Internal Revenue Code of 1954, 68A Stat. 917 (26 U.S.C. 7805).

Par. 8. Section 602.101(c) is amended by inserting in the appropriate places in the table, "§§ 1.25–IT thru 1.25–8T . . . 1545–0922".

There is a need for immediate guidance with respect to the provisions contained in this Treasury decision. For this reason it is found impracticable to issue it with notice and public procedure under subsection (b) of section 553 of title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

Approved: April 22, 1985.

Ronald A. Pearlman,

Assistant Secretary of the Treasury.

[FR Doc. 85–11017 Filed 5–3–85; 2:59 pm]

BILLING CODE 4830–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 931

Notice of Extension of Deadline for Submission of Program Amendment to the New Mexico Permanent Program

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

ACTION: Final rule.

SUMMARY: OSM is announcing its decision to further extend the deadline for New Mexico to (1) promulgate rules governing the training, examination and certification of blasters, and (2) develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation.

On March 5, 1984, New Mexico requested an extension of time for the development of a blaster certification program. On May 14, 1984, OSM announced its decision to extend New Mexico's deadline to March 4, 1985 (49 FR 20287). On February 6, 1985, New Mexico requested an additional one-year extension to submit a blaster training program and examination. All States with regulatory programs approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act) are required to develop and adopt a blaster certification program by March 4, 1984. Section 850.12(b) of OSM's regulation provides that the Director, OSM, may approve an extension of time for a State to develop and adopt a program upon a demonstration of good cause. In accordance with the State's request, the Director is granting the State an additional one-year extension of time to submit a proposed blaster certification program.

EFFECTIVE DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Hagen, Field Office Director, Albuquerque Field Office, Office of Surface Mining, 219 Central Avenue, NW., Albuquerque, New Mexico 87102; Telephone (505) 766–1486.

SUPPLEMENTARY INFORMATION: On March 4, 1983, OSM issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Chapter M (48 FR 9486). Section 850.12 of these regulations stipulates that the regulatory authority in each State with an approved program under SMCRA shall develop and adopt a program to examine and certify all persons who are directly responsible for the use of explosives in a surface coal mining operation within 12 months after approval of a State program or within 12 months after publication date of OSM's rule at 30 CFR Part 850, whichever is later. In the case of New Mexico's program, the applicable date is 12 months after publication date of OSM's rule, or March 4, 1984.

On March 5, 1984, New Mexico advised OSM that it would be unable to meet the March 4, 1984 deadline and requested a one-year extension to develop and adopt a blaster certification program. On May 14, 1984, OSM granted New Mexico an extension to March 4, 1985 (49 FR 20287).

On February 6, 1985, the Director of New Mexico Energy and Mineral Department advised OSM that the State would require another one-year extension of time to submit its blaster training and examination program. He stated that the New Mexico Blasting Regulations need to be rewritten and approved by the Coal Surface Mining Commission. In addition, the Director stated that the State must develop a Blaster's Examination for certification of blasters and develop a budget for the blaster training, examination and certification program. An additional one-year extension was requested.

In the March 18, 1985 **Federal Register** (50 FR 10793), OSM proposed an additional one-year extension for New Mexico to submit to OSM a proposed blaster training program. Public comment on this proposal was sought for 30 days ending April 17, 1985. No comments were submitted to OSM during the comment period.

Director's Determination

In accordance with the State's request, the Director has decided to extend the deadline for New Mexico to submit a proposed blaster training program until March 4, 1985. This extension will allow the Director of the New Mexico Energy and Minerals Department to develop and adopt an adequate blaster certification and training program consistent with Federal requirements.

Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and Regulatory review by OMB.

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

established by SMCRA and the Federal rules will be met by the State.

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

List of Subjects in 30 CFR Part 931

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

Jed D. Christensen,

Director, Office of Surface Mining.

PART 93—NEW MEXICO

1. The authority citation for 30 CFR Part 931 continues to read as follows:

Authority: Sec. 503, Pub. L. 95–87, 91 Stat. 470 (30 U.S.C. 1253), unless otherwise noted.

2. 30 CFR Part 931 is amended by revising § 931.16 to read as follows:

§ 931.16 Required program amendments.

Pursuant to 30 CFR 732.17, New Mexico is required to submit for OSM's approval the following proposed amendment by the dates specified.

(a) By March 4, 1986, New Mexico shall submit for OSM's approval:

(1) Rules governing the training, examination and certification of blasters, and

(2) A program to examine and certify all persons who are directly responsible for the use of explosives in surface coal mining operations.

(b) Reserved.

[FR Doc. 85–10923 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–05–M

---

30 CFR Part 946

Approval of Amendment to the Virginia Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Virginia as an amendment to the State's permanent regulatory program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of changes to the Virginia statute concerning right of entry and right to inspect surface coal mining and reclamation operations.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules at 30 CFR Part 946 codifying decisions concerning the Virginia program are being amended to implement this action.

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

DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Robert A. Penn, Acting Director, Big Stone Gap Field Office, Office of Surface Mining, P.O. Box 626, Big Stone Gap, Virginia 24219; Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Virginia program was conditionally approved by the Secretary of the Interior on December 15, 1981 (46 FR 61088–61115). Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register.**

II. Submission of Amendment

By letter dated February 20, 1985, Virginia submitted revisions to section 45.1–244 and added a section 45.1–369.1 to the Code of Virginia (Administrative Record No. VA 550). The revisions relate to the right of entry and right to inspect surface coal mining and reclamation operations. The amendment is submitted by Virginia to comply with revisions to the Federal regulations at 30 CFR 840.12 (47 FR 35633, August 16, 1982, as amended at 48 FR 44781, September 30, 1983).

On March 18, 1985, OSM announced a public comment period and opportunity to request a public hearing (50 FR 10793). A public hearing scheduled for April 12, 1985, was not held since no one requested a hearing. The public comment period closed on April 17, 1985. No comments were received in response to the March 18 **Federal Register** notice.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendment submitted by Virginia on February 20, 1985, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

Virginia has revised section 45.1–244 and added a section 45.1–369.1 to the Code of Virginia. The revisions relate to the right of entry and right to inspect and monitor by the State regulatory authority. Specifically, the provisions provide that the authorized representatives of the Director, without advance notice and upon presentation of appropriate credentials shall have the right of entry to, upon, or through any coal surface mining reclamation operation; and shall have the right to inspect any monitoring equipment, any method of exploration, any method of operation, or any records required by this Chapter, and shall have the right to copy any such records. Further, no search warrant shall be required for any entry or inspection under this subsection except with respect to entry into a building.

The Director finds the amendment in accordance with section 517(b) of SMCRA and consistent with the Federal regulations at 30 CFR 840.12.

IV. Director's Decision

The Director, based on the above findings, is approving the February 20, 1985 amendment to the Virginia program. The Director is amending Part 946 of 30 CFR Chapter VII to implement this decision.

V. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no evironmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act:* On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a Regulatory Impact Analysis and regulatory review by OMB.

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

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

List of Subjects in 30 CFR Part 946

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

Dated: April 26, 1985.

Jed D. Christensen,

Director, Office of Surface Mining.

PART 946—VIRGINIA

1. The authority citation for 30 CFR Part 946 continues to read as follows:

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

2. 30 CFR Part 946 is amended by adding a new paragraph (o) to § 946.15 as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(o) The following amendment was approved effective May 8, 1985. Amended Section 45.1-244 and addition of a new section 45.1-369.1 of the Code of Virginia, relating to the inspection and monitoring of coal surface mining and reclamation operations, submitted February 20, 1985.

[FR Doc. 85-10924 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

Office of Pesticides and Toxic Substances

40 CFR Part 180

[PP 2F2603 and 3F2882/R638; FRL-2831-5]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects a rule on thiabendazole that appeared at page 14106 in the **Federal Register** of April 10, 1985. This action in necessary to correct a typographical error.

EFFECTIVE DATE: Effective on May 8, 1985.

FOR FURTHER INFORMATION CONTACT: Henry M. Jacoby, Product Manager (PM) 21, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 227, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, 703-557-1900.

SUPPLEMENTARY INFORMATION:

§ 180.242 [Corrected]

In FR Doc. 85-8034 appearing at page 14107 in the table in paragraph (a) of § 180.242 *Thiabendazole; tolerance for residues,* the parts-per-million entry for "Wheat grain" is corrected from "10.0" to read "1.0."

Dated: April 26, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-10912 Filed 5-7-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP5F3208/R764; FRL-2831-4]

Pesticide Tolerance on an Agricultural Commodity Carbaryl

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide carbaryl in or on the raw agricultural commodity pineapples. This rule to establish the maximum permissible level for residues of carbaryl in or on the commodity was requested by Union Carbide Agricultural Products Co., Inc.

EFFECTIVE DATE: Effective on May 8, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Jay Ellenberger, Product Manager (PM) 12, Registration Division (TS-767C), Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 202, CM#2, 1921 Jefferson Davis Highway, Arlington VA 22202, (703-557-2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice published in the **Federal Register** of April 26, 1985 (50 FR 16543), that Union Carbide Agricultural Products Co., Inc., P.O. Box 12014, Research Triangle Park, NC 27709, had filed a petition proposing to amend 40 CFR 180.169 by establishing a tolerance for residues of the insecticide carbaryl (1-naphtyl *N*-methylcarbamate) in or on the raw agricultural commodity pineapples imported from Mexico at 2.0 parts per million (ppm).

The data submitted in the petition and all other relevant material has been evaluated. The toxicological data considered in support of the tolerance included a three-generation rat reproduction study with a no-observed-effect-level (NOEL) of 200 mg/kg, a rat feeding study which was negative for oncogenic effects at 400 ppm (HLT) and has a no-observed-effect level (NOEL) of 200 ppm (10 mg/kg). Also, 10 other studies were used to evaluate the oncogenic potential of carbaryl. No significant increase in the incidence of tumors was observed in these studies at levels as high as 400 ppm (highest level tested). Although each study was found to contain some flaws in scientific design or reporting of data, the Agency believes that when the 10 studies are examined collectively they provide sufficient evidence that carbaryl is not oncogenic in experimental animals and therefore does not pose an oncogenic risk to humans.

Twenty-four studies were used to evaluate the teratogenic potential of carbaryl. After evaluating these studies, the Agency has concluded that the available data do not indicate that carbaryl constitutes a potential human teratogen or reproductive hazard under proper use. However, because certain teratology studies with dogs did not rule out teratogenic effects in that species, concern has been expressed for dogs treated with carbaryl to control fleas and tickss. But because there are problems in these studies, particularly maternal toxicity at all dose levels, it is not clear that carbaryl would prove to be teratogenic in the dog if tested and evaluated under current procedures, or if so, at what levels. The Registration Standard for carbaryl issued in March 1984 required that carbaryl registrants conduct an additional dog teratology study to settle this matter. In response to this requirement, Union Carbide has requested the Agency to reconsider the necessity of another teratology study in the dog. Thus, the Agency is currently reevaluating the need for a repeat dog teratology study. This toxicology data base was previously evaluated when carbaryl was a candidate for Special Review (previously known as Rebuttable Presumption Against Registration). The Agency published its determination and findings in the **Federal Register** of December 12, 1980 (45 FR 81869), that the data did not support allegations of unreasonable adverse effects to humans, and therefore a Special Review was not warranted. Essentially, the Agency concluded that

the data do not indicate that carbaryl constitutes a potential oncogenic, teratogenic, or reproductive hazard under proper use. More recently, the Agency reexamined these data as part of the reregistration process for carbaryl. In the Guidance Document, dated March 30, 1984, the Agency reaffirmed the conclusions reached in the previous evaluation.

Based on the 2-year chronic rat feeding study with a NOEL of 10.0 mg/kg and using a safety factor of 100, the acceptable daily intake (ADI) for humans is calculated to be 0.1 mg/kg of body weight (bw)/day. The theoretical maximum residue contribution (TMRC) resulting in the human diet from this and previously established tolerances utilizes 91.57 percent of the ADI. The requested tolerance on pineapples will increase the TMRC by approximately 0.0016 per cent.

The metabolism of carbaryl is adequately understood, and an adequate analytical method (HPLC) is available for enforcement purposes. No regulatory actions are currently pending against continued registration of carbaryl; however, a nonrodent (dog) feeding study of at least 1-year duration has been determined to be a data gap.

FDA has submitted a pineapple processing study that demonstrates that carbaryl does not concentrate in the edible pulp or juice, but these data do demonstrate that carbaryl does concentrate in the inedible portion (bran). A feed additive tolerance of 20.0 ppm carbaryl will be established at a later date for wet and dry pineapple bran. Although pineapple bran can be a major feed item for cattle, goats, horses, sheep, and swine, the established tolerances in milk and the fat, kidney, liver, meat and meat by-products of cattle, goats, horses, sheep, and swine are adequate to cover any secondary residues in these commodities from this use. In addition, since there is only sufficient fresh pineapple residue data from Mexico, this tolerance will not support carbaryl's use on domestically grown pineapples (Hawaii and Puerto Rico). To support such a use, additional residue data (edible pulp and juice, bran and forage) are needed from Hawaiian grown pineapples and a proposed tolerance on pineapple forage is required. Until these requirements have been met, the Agency is not in a position to entertain applications for registration under sections 3 or 24(c) of FIFRA for carbaryl's use on pineapples grown in the U.S. or its territories.

The pesticide is considered useful for the purpose for which the tolerance is sought. Based on the information cited above, the Agency has determined that the establishment of the tolerance for residues of the pesticide in or on the commodity will protect the public health. Therefore, the tolerance is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document 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 objection. If a hearing is requested, the objections must state the issues for the hearing 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.

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 effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

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

Dated: April 26, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for 40 CFR Part 180 is revised to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.169(d) is added to read as follows:

§ 180.169 Carbaryl; tolerances for residues.

* * * * *

(d) A tolerance is established for residues of the insecticide carbaryl (1-naphthyl *N*-methylcarbamate) in or on the raw agricultural commodity pineapples at 2.0 parts per million.

[FR Doc. 85-10913 Filed 5-7-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[FCC 85-211]

Permitting Attorneys' Submissions to the Commission Unaccompanied by Their Signatures

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This action amends § 1.52 of the Commission's Rules to permit attorneys and parties not represented by counsel to file facsimile copies of documents with the Commission.

This action is taken by the Commission in efforts to eliminate an unnecessary requirement imposed by our regulations.

EFFECTIVE DATE: June 10, 1985.

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

FOR FURTHER INFORMATION CONTACT: Steve Kaminer, Office of General Counsel, (202) 632-6990.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 1

Administrative practice and procedure.

Report and Order

In the Matter of the Revision of § 1.52 of the Commission's Rules to Permit Attorneys' Submissions to the FCC Unaccompanied by their Signatures.

Adopted: April 25, 1985.
Released May 2, 1985.

By the Commission.

1. Petitioner [1] have requested that the Commission amend § 1.52 of the Commission's Rules, 47 CFR 1.52, to permit attorneys to file documents with the Commission without their actual signature.

2. Section 1.52 now requires documents filed by attorneys to bear the actual handwritten signature of an attorney.[2] The rule reads, in pertinent part, as follows:

The original of all petitions, motions, pleadings, briefs, and other documents filed by an party represented by counsel, shall be signed by at least one attorney of record in his individual

[1] Petitioners, Joseph A. Belisle, Carey L. Ewing, Ashton R. Hardy, Wade Hargove, Dennis F. Kahane, Matthew L. Leibowitz, Larry D. Perry, Frederick A. Polner and John M. Spencer, filed a "Petition for Declaratory Ruling or, in the alternative, for Rulemaking" on May 30, 1984.

[2] Section 1.52 also requires pleadings submitted by parties not represented by counsel to be verified.

name, whose address shall be stated. . . . The signature of an attorney constitutes a certificate by him that he has read the document; that to best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay.

The Commission's rule parallels that of the federal courts.[3]

3. Petitioners suggest that the rule be amended to permit "(a) employees or agents of a attorney to sign that attorney's signature to pleadings, petitions, motions, briefs or other documents when: (i) The attorney has read the document; and (ii) the attorney authorizes the employee or agent to sign the attorney's name to the document; and (b) pleadings to be filed with facsimile signature pages when: (i) the pleading is actually signed by an attorney; (ii) a facsimile of the signed signature page is transmitted for filing with the Commission; and (iii) the signed pleading is retained in the attorney's files.

4. We have examined the Commission's cases involving violations of the signature requirement contained in § 1.52. In those cases, the Commission seems to have been primarily concerned with whether the affixed signature, when not that of the attorney, was actually authorized,[4] or whether the absence of an attorney's signature signified a lapse in professional responsibility [5] or merely carelessness [6] in the preparation of the papers. The case law indicates that the primary purpose of the attorney signature requirement is to assure accountability on the part of attorneys practicing before this Agency.[7]

5. The rules of other federal agencies differ as to the importance of the presence of an original signature. Some agencies require the signature as the indicia to responsibility.[8] Other agencies require no signature.[9] At least one agency requires an original signature;[10] another has given no such indication.[11]

6. The Securities Exchange Commission (SEC) has recently examined the filing of documents in an electronic format. The SEC's Temporary Rules And Forms For The Pilot Electronic Disclosure System,[12] designated "EDGAR" (Electronic Data Gathering, Analysis and Retrieval), embraces all filings with the SEC. For the use of EDGAR, the SEC assigns personal identification numbers ("PINs") and passwords, to be used singly by individuals, or in combination with one another, by companies. To obtain a PIN, an applicant submits a signed agreement, which remains on permanent file with the Agency until withdrawn. Together, the form and the use of the PIN with each entry constitute a user's signature.

7. We have carefully reviewed Petitioners' arguments and have concluded that the rule requiring the affixation of an attorney's original signature is unnecessary to protect the integrity of the Commission's processes. We are of the view that attorney accountability can be maintained by permitting attorneys to file pleadings which contain facsmile reproductions of their original signatures so long as an original document containing an original signature is retained in the files of the attorney. We are similarly convinced that we can maintain the integrity of our processes while permitting parties unrepresented by counsel to file facsimile copies of documents providing they retain the originals thereof for inspection by the Commission in the event a question as to authenticity is raised.

8. We propose to maintain attorney accountability for facsimile signatures to the same extent as for actual signatures. Therefore, a facsimile signature will constitute a certificate that the signatory has read the document, that, to the best of his knowledge, there is good ground to support it and that it is not interposed for delay.

9. We propose to require attorneys or unrepresented parties to retain the original document until the Commission's decision is final and no longer subject to judicial review.

10. We find that prior notice and comment procedures are unnecessary to implement the rule amendments in the attached Appendix because the amendments involve general rules of agency practice or procedure. *See* 5 U.S.C. 553(b)(3)(A).

11. In view of the foregoing and pursuant to Sections 4 (i) and (j) of the Communications Act of 1934, as amended, it is hereby ordered that Part 1 of the Commission's Rules is amended as set forth in the attached Appendix, effective June 10, 1985.

12. For further information contact Steve Kaminer, Office of General Counsel, (202) 632-6900.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix

PART 1—[AMENDED]

The authority citation for Part 1 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Part 1 of Title 47 of the Code of Federal Regulations is amended as follows:

Section 1.52 is revised to read as follows:

§ 1.52 Subscription and verification.

The original of all petitions, motions, pleadings, briefs, and other documents filed by any party represented by counsel shall be signed by at least one attorney of record in his individual name, whose address shall be stated. A party who is not represented by an attorney shall sign and verify the document and state his address. Either the original document, or an electronic reproduction of such original document containing the facsimile signature of the attorney or unrepresented party is acceptable for filing. If a facsimile copy of a document is filed, the signatory shall retain the original until the Commission's decision is final and no longer subject to judicial review. Except

---

[3] Rule 11 of the Federal Rules of Civil Procedures requires that pleadings be signed by the representing attorney:

> Every pleading, motion, and other paper of a party represented by an attorney shall be signed by at least one attorney of record in his individual name, whose address shall be stated. * * * The signature of an attorney or party consitutes a certificate by him that he has read the pleading, motion, or other paper; that to the best of his knowledge, information, and belief formed after reasonable inquiry it is well grounded in fact and is warranted by existing law or a good faith argument for the extension, modification or reversal of existing law, and that it is not interposed for any improper purpose. * * * Fed. R. Civ. P. 11, as codified in 28 U.S.C. § 11.

[4] *University of Houston for Renewal of Licenses of Noncommercial Educational Stations KUHT(TV) and KUHF(FM)*, 68 FCC2d 566, 567 (1978).

[5] *Clayton W. Mapoles*, 34 FCC 2d 1036, 1041 (1972).

[6] American Television Relay Inc., 11 FCC 2d 553, 558 (1968).

[7] The Commission has made it clear that a casual attitude toward the signature requirement will not be tolerated, saying, "[W]e demand full compliance therewith." *See Mapoles, supra*, at 1041.

[8] National Labor Relations Board, 29 CFR 102.21; Patent and Tradmark Office, Department of Commerce, 37 CFR 1.346 and 2.15.

[9] Nuclear Regulatory Commission, 10 CFR 2.101. The party or applicant must provide the name and address of any representative, however. 10 CFR 2.101(a)(3)(ii) [That person apparently need not be an attorney] The Maritime Administration, Department of Transportation, also does not require the signature of an attorney in certain procedures. 46 CFR 202.3. The Department of Energy does not require a signature since a party must inform the Department of any representation by another. 10 CFR 205.4.

[10] "The original of each document filed shall have a hand signed signature by an attorney of record for the party . . . ." Federal Trade Commission, 16 CFR 4.2(e)(1).

[11] *E.g.*, Benefits Review Board, Department of Labor, 20 CFR 802.215.

[12] 49 FR 28044 (July 10, 1984).

when otherwise specifically provided by rule or statute, documents signed by the attorney for a party need not be verified or accompanied by affidavit. The signature or electronic reproduction thereof by an attorney constitutes a certificate by him that he has read the document; that to the best of his knowledge, information, and belief there is good ground to support it; and that it is not interposed for delay. If the original of a document is not signed or is signed with intent to defeat the purpose of this section, or an electronic reproduction does not contain a facsimile signature, it may be stricken as sham and false, and the matter may proceed as though the document had not been filed. An attorney may be subjected to appropriate disciplinary action, pursuant to § 1.24, for a willful violation of this rule or if scandalous or indecent matter is inserted.

[FR Doc. 85-11103 Filed 5-7-85; 8:45 am]
BILLING CODE 6712-01-M

---

47 CFR Part 97

Amateur Radio Service Rules; Specifying Only That Another Station's Call Sign May Not Be Transmitted for Identification Purposes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document clarifies the Amateur Radio Service Rules by specifying only that an amateur station may not transmit, for purposes of identifying the station, any call sign which has not been assigned to it. This action is necessary to resolve uncertainty as to when another station's call sign may be mentioned. The effect of the rule is to permit the mention of another station's call sign in normal conversation, and other circumstances.

EFFECTIVE DATE: May 20, 1985.

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

FOR FURTHER INFORMATION CONTACT: Maurice J. DePont, Private Radio Bureau, Washington, D.C. 20554 (202) 632-4964.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 97

Amateur radio, Radio.

Order

In the matter of amendment of § 97.121 of the amateur radio service rules.
Adopted: April 25, 1985.
Released: May 1, 1985.

1. The Managing Director has under consideration a petition filed by David Popkin, 303 Tenafly Road, Englewood, New Jersey 07631-0528, requesting reconsideration of the Order of January 16, 1985, (50 FR 3525, January 25, 1985). That Order editorially amended § 97.121 of the Amateur Rules to clarify that the call sign of another amateur station could be transmitted when responding to a general call or as part of the required station identification procedure. Petitioner points out that by specifying the circumstances when an amateur radio station may transmit a call sign not assigned to it, the rule now implies all other use of another call sign is unauthorized. No oppositions to the petition for reconsideration have been filed.

2. As examples of his concern, petitioner refers us to one station's use of another's call sign when calling on a pre-arranged schedule, or the mention of a call sign during normal conversation. Petitioner believes that the rule should be amended to prohibit transmission of another call sign only when the other call sign is used for the purpose of identifying the station; or amended to include all the times when an amateur radio station can transmit the call sign of another station.

3. We agree with the petitioner that § 97.121 could be construed as restricting the use of another amateur station's call sign in the circumstances that petitioner cites, although that was not our intent. As stated in the Order of January 16th, the intent of the rule is to preclude the unlawful use of a false call sign as an unlicensed station or to avoid detection. Nevertheless, since some confusion still exists with respect to this rule, we will amend it further to specify only that an amateur station may not transmit, for the purpose of identifying the station, any call sign which has not been assigned to it.

4. Accordingly, in view of the foregoing, the petition for reconsideration is granted.

5. Because this clarifying rule amendment rule is non-substantive, the notice and comment provisions as well as the effective date requirements of the Administrative Procedure Act are inapplicable.

6. It is ordered, that § 97.121 of the Commission's Rules is amended as set forth in the Appendix.

7. Authority for this action is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, and §§ 0.231(d) and 1.106(a)(1) of the Commission's Rules.

8. The effective date of this rule amendment is May 20, 1985.

Federal Communications Commission.
Edward J. Minkel,
Managing Director

Appendix

PART 97—[AMENDED]

Part 97 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

The authority citation for Part 97 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Section 97.121 is revised to read as follows:

§ 97.121 False signals.

An amateur radio station must not transmit:

(a) False or deceptive signals or communications by radio; *NOR*

(b) For purposes of identifying the station, any call sign which has not been assigned to it. Notwithstanding the foregoing, when a station is operated within the privileges of the operator's class of license but which exceed those of the station licensee, station identification must be made by following the station call sign of the station being operated with the operator's primary station call sign in accordance with § 97.84(b).

[FR Doc. 85-10937 Filed 5-7-85; 8:45 am]
BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

48 CFR Parts 1301, 1302, 1304, 1305, 1306, 1314, 1315, 1319, 1331, 1337, and 1353

[Docket No. 50343-5043; Amdt. 85-1]

Acquisition Regulation; Competition in Contracting

AGENCY: Department of Commerce.

ACTION: Interim rule and request for comments.

SUMMARY: This interim rule amends the Commerce Acquisition Regulation (CAR) to implement the Competition in Contracting Act of 1984, Pub. L. 98-369 (CICA), and amendments to the Federal Acquisition Regulation (FAR) which incorporate and reflect changes to Federal acquisition policy required by the CICA. This interim rule also makes a number of miscellaneous changes to the CAR unrelated to implementing the CICA and FAR revisions. These involve the issuance of internal policy guidance on acquisition matters, uniform procurement numbering, small purchase order forms, small business contracting

procedures, precontract costs, and data reporting forms.

DATES: This interim rule is effective as of April 1, 1985. Written comments on the interim rule will be considered if received on or before June 12, 1985.

ADDRESSES: Send written comments to: Director, Office of Procurement and Administrative Services, HCHB, Room H6316, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, D.C. 20230. Please cite CAR; Amendment 85–1 in any written comments submitted and mark the outside of the envelope, "Comments on CAR; Amendment 85–1". The public docket rulemaking file including all comments received on the interim rule may be inspected by the public during normal business hours in Room H6414 at the above address.

FOR FURTHER INFORMATION CONTACT: David Beveridge, Procurement Analyst, Office of Procurement Management HCHB, Room H6414, U.S. Department of Commerce, 14th St. between Pennsylvania and Constitution Avenues, NW., Washington, D.C. 20230, (202) 377–4248.

SUPPLEMENTARY INFORMATION:

Background

On March 27, 1984 the Department of Commerce issued a rule known as the Commerce Acquisition Regulation (CAR) (49 FR 12956–12969, March 30, 1984). That rule implemented and supplemented the Federal Acquisition Regulation (FAR) which was separately promulgated by the General Services Administration (GSA), the Department of Defense (DOD), and the National Aeronautics and Space Administration (NASA). The FAR was promulgated as the uniform, simplified acquisition regulation called for by Executive Order 12352, "Federal Procurement Reforms".

The primary purpose of this amendment to the CAR is to implement the Competition in Contracting Act of 1984, Pub. L. 98–369 (CICA), and recent revisions to the FAR made by GSA, DOD, and NASA to implement that Act. The CICA and the revisions to the FAR require increased use of full and open competition in the acquisition of property and services by agencies of the Federal Government. The CICA requires that any solicitation for bids or proposals issued by the Department on or after April 1, 1985 comply with the requirements of the Act.

This amendment revises the CAR to provide for full and open competition for the Department of Commerce's procurements by requiring that sealed bids be solicited or competitive proposals be requested, or that other competitive procedures be employed, unless a statutory exception permits other than full and open competition. There are new justification, approval, and notice requirements for contracts employing other than full and open competition. Appointment of the competition advocates required by the CICA is also provided for.

This amendment also revises the authority for issuing internal policy guidance on acquisition matters, provides for the issuance of a Commerce Acquisition Manual to provide long term internal policy guidance to Department contracting offices, changes the approval level for precontract costs, establishes procedures for the review by the Office of Small and Disadvantaged Business Utilization (OSDBU) of subcontracting plans, establishes new contract data reporting procedures and establishes and provides for the use of new small purchase order forms.

Administrative Procedure Act Requirements

Because this amendment involves matters of agency management, public property, and contracts, under subsection 553(a)(2) of the Administrative Procedure Act (APA) (5 U.S.C. 553(a)(2)), it is exempt from all requirements of section 553 including giving notice of proposed rulemaking, providing an opportunity for comment, and delaying the effective date until at least 30 days after publication or service.

Small Business and Federal Procurement Competition Enhancement Act Requirements

Section 302 of the Small Business and Federal Procurement Competition Enhancement Act of 1984, Pub. L. 98–577, added a section 22 to the Office of Federal Procurement Policy Act requiring that notice of proposed rulemaking and at least 30 days opportunity for comment be given for acquisition regulations having a significant cost or administrative impact on contractors or offerors and specifying that such regulations may not take effect until 30 days after such notice.

Subsection 22(d) of the Office of Federal Procurement Policy Act allows the issuing officer to waive the notice of proposed rulemaking, at least 30 days opportunity for public comment, and 30 days delay in effective date requirements of section 22, if urgent and compelling circumstance make compliance with such requirements impracticable.

To the extent that any portions of the regulation are subject to the notices, comment, and delay in effective date provisions of section 22, the issuing officer hereby finds that because the CICA requires that any solicitation issued by the Department on or after April 1, 1985 comply with the requirements of the CICA, that urgent and compelling circumstances exist which make compliance with the requirements impracticable.

Section 22(d) requires that if this waiver is utilized, the notice issuing the regulation must state that the rules are temporary and must allow the public at least 30 days in which to comment on the temporarty rule, beginning on the date the rule is published.

Accordingly, the rule is issued on a temporary or interim final basis, effective retroactively to Apri 1, 1985. Written comments are invited and will be considered in promulgating a final rule if received on or before June 12, 1985.

Regulatory Flexibility Act Requirements

Since notice and an opportunity for commment are not required to be given for this rule under section 553 of the APA (5 U.S.C. 553), and since no other law requires that notice and an opportunity for comment be given for this rule, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)), no initial or final Regulatory Impact Analysis has to be or will be prepared.

Executivie Order 12291 Requirements

Under Executive Order (E.O.) 12291, the Department must judge whether this interim rule is "major" within the meaning of section 1 of the Order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This interim rule is not major because it is not likely to 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 enterprises to compete with foreign-based enterprises in domestic or export markets. Therefore, preparation of a Regulatory Impact Analysis is not required and no preliminary or final Regulatory Impact Analysis has to be or will be prepared. This interim rule was submitted to the Office of Management and Budget (OMB) for review in accordance with E.O. 12291 and OMB Bulletin 85–7.

Paperwork Reduction Act Requirements

This interim rule does not contain collection of information requirements for purposes of the Paperwork Reduction Act.

List of Subjects in 48 CFR Ch. 13

Government procurement.

For the reasons set forth in the preamble, Chapter 13 of Title 48 of the Code of Federal Regulations is amended as set forth below.

Issued in Washington, D.C., April 30, 1985.

Hugh L. Brennan,

Director, Office of Procurement and Administrative Services, U.S. Department of Commerce.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Chapter 13 of Title 48 of the Code of Federal Regulation is amended as set forth below:

PART 1301—[AMENDED]

1. The authority citation for Part 1301 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

2. Section 1301.301(b) is revised to read as follows:

1301.301 Policy.

* * * * *

(b) The Procurement Executive or designee may issue internal Department guidance in the form of Acquisition Letters, policy manuals, or model operating procedures. Documents issued under this authority are not published in the **Federal Register.**

(1) Acquisition Letters are serially numbered letters which provide immediate short term policy guidance on selected acquisition topics to Department contracting offices. They normally expire within one year from the date of issuance.

(2) The Commerce Acquisition Manual is a manual which provides long term policy guidance on selected acquisition topics to Department contracting offices. The guidance contained in the manual normally remains in effect until cancelled or revised. The numbering system parallels the FAR to the greatest extent practical.

* * * * *

PART 1302—[AMENDED]

3. The authority citation for Part 1302 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

4. Section 1302.1–1 is amended by adding the following definition for "Head of the Operating Unit" after the definition for "Head of the contracting office":

1302.1–1 [Amended]

* * * * *

Head of the Operating Unit means the Administrator of the National Oceanic and Atmospheric Administration (NOAA), acting as the host for the Department's Regional Administrative Support Centers, and any Head of the Operating Unit as defined in Department Organization Order (DOO) 1–1 so long as that Operating Unit is responsible for its own contracting operations.

* * * * *

5. Section 1302.1–1 is further amended by revising paragraph (j) of the list of duties of the Procurement Executive to read as follows:

* * * * *

(j) Promote full and open competition; and

* * * * *

6. A new Part 1304 is added to read as follows:

PART 1304—ADMINISTRATIVE MATTERS

Subpart 1304.6—Contract Reporting

1304.601 Federal Procurement Data System.

(c) The Department uses a computer generated reporting system to collect and report data for contract actions over $10,000. The data collection points are identified within a standardized procurement numbering system format specified in the DOC Procurement Data System Handbook.

(Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2)

SUBCHAPTER B—COMPETITION AND ACQUISITION PLANNING

7. The heading of Subchapter B is revised to read as set forth above.

PART 1305—[AMENDED]

8. The authority citation for Part 1305 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

9. Part 1305 is moved from Subchapter A to Subchapter B.

10. A new Part 1306 is added to Subchapter B to read as follows:

PART 1306—COMPETITION REQUIREMENTS

Sec.

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

Subpart 1306.2—Full and Open Competition After Exclusion of Sources

1306.202 Establishing or maintaining alternative sources.

(b)(1) Every proposed contract action under the authority of FAR 6.202(a) shall be supported by a determination and findings (D&F) signed by the Head of the Contracting Activity.

Subpart 1306.3—Other Than Full and Open Competition

1306.304 Approval of the justification.

(a) If the action is within his or her delegated authority, the Head of the Contracting Activity may issue class justifications for other than full and open competition for:

(1) Contracts for electric power or energy, gas (natural or manufactured), water, or other utility services when such services are available from only one source;

(2) Contracts under the authority cited in FAR 6.302–4 or 6.302–5; or

(3) Contracts for educational services from nonprofit institutions.

(b) No other class justifications are authorized for other than full and open competition.

Subpart 1306.5—Competition Advocates

1306.501 Requirement.

The Director of the Office of Procurement Management is designated as the Competition Advocate for the Department. The Head of the Operating Unit shall designate a competition advocate for each contracting activity under his direction. The contracting activity competition advocate shall be designated at a level no lower than the Deputy to the Head of the Contracting Activity.

PART 1314—SEALED BIDDING

11. The authority citation for Part 1314 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

12. The heading to Part 1314 is revised as set forth above.

13. A new subsection 1314.404–1 is added to Subpart 1314.4 of Part 1314 as follows:

1314.401–1 Cancellation of invitations after opening.

The head of the contracting office has been delegated the authority to make the determination under FAR 14.404–1 (c) and (e).

PART 1315—[AMENDED]

14. The authority citation for Part 1315 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

1315.307 [Removed]

15. Part 1315 is amended by removing Subpart 1315.3 consisting of section 1315.307.

16. A new section 1315.608 is added to Subpart 1315.6 of Part 1315 as follows:

1315.608 Proposal evaluation.

The head of the contracting office has been delegated the authority to make the determination under FAR 15.608(b).

PART 1319—[AMENDED]

17. The authority citation for Part 1319 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

18. A new subsection 1319.202–2 is added to Subpart 1319.2 of Part 1319 as follows:

1319.202–2 Locating small business sources.

(b) The contracting officer shall send a copy of the requisition form for all procurement actions expected to exceed $500,000 ($1,000,000 for construction) to the Office of Small and Disadvantaged Business Utilization, as promptly after receipt as possible. The Office of Small and Disadvantaged Business Utilization shall review the procurement actions and recommend action to the contracting officer. Orders under GSA schedule contracts, orders under Department or Government-wide indefinite delivery contracts, or actions within the scope of the changes, value engineering, or similar contract clauses are exempt from the requirements of this subsection.

19. A new Subpart 1319.7 consisting of 1319.705–5 is added to Part 1319 as follows:

Subpart 1319.7—Subcontracting With Small Business and Small Disadvantage Business Concerns

1319.705–5 Awards involving subcontracting plans.

Prior to making an award that requires a subcontracting plan, the contracting officer shall forward the proposed contract (including the plan and supporting documentation) to the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU) to allow that office to review the material and submit advisory recommendations to the contracting officer. The contracting officer shall send the material to the following address:

Director, Office of Small and Disadvantage Business Utilization, U.S. Department of Commerce, Herbert C. Hoover Building, Room H6411, 14th St. between Pennsylvania and Constitution Avenues, N.W., Washington, D.C. 20230.

The Director of the OSDBU will notify the Small Business Administration procurement center representative of the opportunity to review the proposed contract (including the plan and supporting documentation), to allow that representative an opportunity to participate in any advisory recommendations to be submitted to the contracting officer. The Director of the OSDBU shall return the material and any recommendations to the contracting officer within 5 working days after the material is received by OSDBU, providing all pertinent documents have been received by the OSDBU.

PART 1331—[AMENDED]

20. The authority citation for Part 1331 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

21. Subsection 1331.205–32 of Subpart 1331.2 of Part 1331 is revised to read as follows:

1331.205–32 Precontract costs.

The payment of precontract costs must be approved in writing by the head of the contracting office.

PART 1337—[AMENDED]

22. The Authority citation for Part 1337 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

23. Subsection 1337.205 of Subpart 1337.2 of Part 1337 is revised to read as follows:

1337.205 Management controls.

(b) The Department's management controls for acquisition of consulting and related services are contained in the Department Administrative Order on *Approval of Advisory and Assistance Services* (DAO 216–13).

PART 1353—[AMENDED]

24. The authority citation for Part 1353 continues to read as follows:

Authority: Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 486(c)), as delegated by the Secretary of Commerce in Department Organization Order 10–5 and Department Administrative Order 208–2.

25. Subsection 1353.204–2 of Subpart 1353.2 of Part 1353 is revised to read as follows:

1353.204–2 Contract reporting (CD 409).

(a) *CD 409 (11/84) Report of Individual Procurement (over $10,000).* CD 409 is prescribed for Department-wide use in reporting individual contract actions above $10,000, in lieu of SF 279.

26. A new section 1353.213 of Subpart 1353.2 of Part 1353 is added as follows:

1353.213 Small purchase and other simplified purchase procedures (CD 404).

(e) *CD 404 (1/84) Supply, Equipment of Service Order.* In lieu of OFs 347 and 348, CD 404 is prescribed for Department-wide use as follows:

(1) To accomplish small purchases

(2) To issue orders under basic ordering agreements

(3) To issue orders for paid advertisements

(4) To issue orders for construction or dismantling, demolition, or removal of improvements.

27. A new section 1353.232 of Subpart 1353.2 of Part 1353 is revised as follows:

1353.232 Contract financing.

A Department approved procurement request form certifies the availability of adequate funds for contract actions (See FAR 32.702). The Department's procurement request form also transmits technical and other specifications of the request, administrative approvals and clearances, and information for processing payments.

28. Appendix A is amended to remove Form CD 338 and add CD Forms 409 and 404.

Note.—This Appendix does not appear in the Code of Federal Regulations.

Appendix A—Forms

BILLING CODE 3510-17-M

FORM CD-409 (11-84)
PRESCRIBED BY
FAR (48 CFR 4.601)

U.S. DEPARTMENT OF COMMERCE

REPORT OF INDIVIDUAL PROCUREMENT (OVER $10,000)

TRANSACTION TYPE
0 Add
1 Delete
2 Change

1. DOC CONTRACT, PURCHASE OR DELIVERY ORDER NUMBER

2. DOLLARS (Round to Nearest Dollar)

3. OTHER CONTRACT NUMBER (Contract ordered Against)

4. MODIFICATION, TASK, OR CHANGE ORDER NO.

5. EFFECTIVE AWARD DATE — Mo. Day Yr.

5A. EST. COMPLETION DATE (Optional) — Mo. Day Yr.

6. READY REQUISITION DATE — Mo. Day Yr

7. DOLLARS ASSOCIATED WITH ADVISORY AND ASSISTANCE SERVICES (Round to Nearest Dollar)

7A. ADVISORY AND ASSISTANCE PRODUCT SERVICE CODE

8. PRODUCT/SERVICE CODE (From FPDS Product Service Code Manual)

9. PRINCIPAL PLACE OF PERFORMANCE — State or Country; City, Place or County

10. KIND OF PROCUREMENT ACTION

1. Initial Letter Contract
2. Definitive Contract Superseding Letter Contract
3. New Definitive Contract
4. Order Under Reporting Agency's Contract
5. Modification
6. GSA Federal Supply Schedule
7. Order Under Another Agency's Contract
8. Termination for Default
9. Termination for Convenience

11. TYPE OF CONTRACT

A - Fixed Price Redetermination
J - Firm Fixed Price
K - Fixed Price Economic Price Adjustment
L - Fixed Price Incentive
R - Cost Plus Award Fee
S - Cost No Fee
T - Cost Sharing
U - Cost Plus Fixed Fee
V - Cost Plus Incentive Fee
Y - Time and Materials
Z - Labor Hours

12. SUBJECT TO STATUTORY REQUIREMENTS

A. Walsh-Healey Act, Manufacturer
B. Walsh-Healey Act, Regular Dealer
C. Service Contract Act
D. Davis-Bacon Act
E. Not Subject to above Statutory Requirements

13. METHOD OF CONTRACTING

1. 2 Step Formal Advertising
2. Other Formal Advertising
3. Negotiated Competitive
4. Negotiated Noncompetitive
5. Directed Acquisitions for Foreign Governments
6. Tariff or Regulated Acquisition
7. Negotiated Competitive-Restricted Advertising

14. NEGOTIATION AUTHORITY (See Reverse for Codes)

15. EXTENT OF COMPETITION

Competitive
A1 Small Business Total Set-Aside
A2 Small Business Partial Set-Aside
A3 Labor Surplus Area Set-Aside
A4 LSA/Small Business Set-Aside
A9 Other Negotiated Competitive

Noncompetitive Negotiated
B1 Buy Indian
B2 8(a) Program
B3 Follow-On After Competition
B9 Other Negotiated Noncompetitive

16. LABOR SURPLUS AREA (LSA)

3. LSA-Tie Bid Preference
5. Not a LSA Award
7. Total LSA/Small Business Set-Aside Preference
8. Total LSA Set-Aside Preference

17. TYPE OF BUSINESS

Small Business
A1 Disadvantaged 8(a)
A2 Owned by Minority
A3 Other Small Business or Individual

Large Business
B1 Minority Business
B2 Other Large Business

Outside U.S.
E1 Acquired & Used Outside U.S.
E2 Acquired Outside U.S.; Used Inside U.S.

Non-Profit
C1 Private Educ. Org.
C2 Hospital
C3 Research Inst. Foundation, Lab.
C4 Other Institutions
C5 Minority Non-Profit
C6 Minority Private Educ. Org.

State/Local Gov.
D1 Educational
D2 Hospital
D3 Research Organization
D4 Other State/Local
D5 Minority Educational

18. WOMAN-OWNED BUSINESS

1. Yes
2. No
3. Not Certified
0. Exempt

19. TRADE DATA

Number of Bidders Offering Foreign Items
Buy American Act: % Difference
Country of Manufacturer

20. SYNOPSIS CODE

1. Synopsized Prior to Award
2. Not Synopsized Due to Emergency
3. Not Synopsized Due to Other Reasons

21. MULTI-YEAR PROCUREMENT

1. Yes
2. No

22. SUBCONTRACTING PLAN

1. Yes
2. No

23. CONTRACTOR CODE

24. CONTRACTOR NAME AND ADDRESS (Incl. Divison)

25. CONTRACT SPECIALIST/PROCUREMENT AGENT

Name

26. CONTRACTING OFFICER SIGNATURE

I certify that the above information is accurate.

(Instructions on Reverse Side)

USCOMM-DC 84-S2015

TRANSACTION TYPE

1 Delete = Removal of invalid report

2 Change = Correction of errors on a previous report except for control field error

0 Add = A new action not previously reported.

1. DOC CONTRACT, PURCHASE OR DELIVERY ORDER NUMBER

Enter the DOC contract, purchase, or delivery order number. LEFT JUSTIFY

2. DOLLARS

Enter the dollars (round to the nearest dollar) obligated or deobligated. RIGHT JUSTIFY

3. OTHER CONTRACT NUMBER

Enter the number of the contract being ordered against when placing a delivery order. If not placing a delivery order, leave this blank. LEFT JUSTIFY

4. MODIFICATION NUMBER

Enter the modification, task order or change order number. RIGHT JUSTIFY

5. EFFECTIVE AWARD DATE

Enter the effective date of award.

5A. ESTIMATED COMPLETION DATE

Enter the estimated completion date.

6. READY REQUISITION DATE

Enter the date the requisition was ready for processing by procurement.

7. DOLLARS ASSOCIATED WITH ADVISORY AND ASSISTANCE SERVICES

Enter dollars obligated or deobligated for advisory and assistance services. (See DOC FPDS Handbook for the list of services reportable under this heading and DAO 216-13 section 3. for their definition.)

7A. ADVISORY AND ASSISTANCE PRODUCT/SERVICE CODE

Enter code for services specified in DOC FPDS Handbook.

8. PRODUCT SERVICE CODE

Enter the 4-character product/service code.

9. PRINCIPAL PLACE OF PERFORMANCE

Enter the code to report the principal place of performance.

10. KIND OF PROCUREMENT ACTION

Enter the kind of procurement action.

11. TYPE OF CONTRACT

Enter the type of contract.

12. SUBJECT TO STATUTORY REQUIREMENTS

Enter the code that identifies the statutory requirement.

13. METHOD OF CONTRACTING

Enter the method of contracting.

14. NEGOTIATION AUTHORITY

Enter the 2-character negotiation authority only if reporting a negotiated procurement:

CODE	MEANING
01	-National Emergency (i.e., Small Business Unilateral Set-Aside, Labor Surplus Area Set-Aside)
02	-Public Exigency
03	-Purchase not more than $25,000
04	-Personal or Professional Service
05	-Services of Educational Institutions
06	-Purchase Outside the United States
07	-Medicine or Medical Supplies
08	-Supplies Purchased for Authorized Resale
09	-Perishable or Non-Perishable Subsistence
10	-Impractical to Secure Competition by Formal Advertising
11	-Experimental, Developmental, Test or Research
12	-Classified Purchases
13	-Technical Equipment Requiring Standardization and Interchangeability of Parts
14	-Negotiation after Advertising
15	-Otherwise Authorized by Law (i.e., Small Business Joint Set-Asides, 8(a) awards)

15. EXTENT OF COMPETITION

Enter the extent of competition.

16. LABOR SURPLUS AREA (LSA)

Enter the appropriate code.

17. TYPE OF BUSINESS

Enter the type of business.

18. WOMAN-OWNED BUSINESS

Enter the appropriate code.

19. TRADE DATA

- Enter the number of bidders offering foreign items.
- Enter the percentage difference applied under the Buy American Act.
- Enter the country of manufacturer.

20. SYNOPSIS CODE

Enter the code reflecting Commerce Business Daily synopsis.

21. MULTI-YEAR PROCUREMENT

Enter whether or not this is a multi-year procurement action.

22. SUBCONTRACTING PLAN

Enter whether or not a subcontracting plan is required.

23. CONTRACTOR CODE

Enter the contractor's 9-character DUNS number.

24. CONTRACTOR NAME AND ADDRESS

Print the name and address of the contractor. Include the name of the contractor division if applicable.

25. CONTRACT SPECIALIST/PROCUREMENT AGENT

Enter the last name of the contract specialist or procurement agent who is responsible for processing this procurement action.

26. CONTRACTING OFFICER SIGNATURE

To be signed by Contracting Officer who certifies that the information on this form is correct. The original of this form is to be retained in the contract file.

USCOMM-DC 84-S2015

UNITED STATES DEPARTMENT OF COMMERCE
SUPPLY, EQUIPMENT OR SERVICE ORDER

THIS NUMBER MUST APPEAR ON ALL INVOICES, PACKAGES AND PAPERS RELATING TO THIS ORDER

PAGE NUMBER	QUOTATION, REF. OR CONTRACT NO.	ORDER DATE	ORDER NUMBER	SUB
OF				

CHECK ONE
☐ Purchase Order (See Reverse)
☐ Delivery Order (See Block 3)

TO (Seller)

SHIP TO (Consignee and Destination)

1099 ☐ TAX

EMPLOYER IDENTIFICATION NUMBER (EIN)

LINE ITEM	ACTION CODE	DESCRIPTION	QUANTITY	UNIT ISSUE	UNIT PRICE	AMOUNT
		SELLER'S ORIGINAL				

FOB POINT	DISCOUNT TERMS	TOTAL ➧	
TIME FOR DELIVERY	SHIP VIA		

BILLING INSTRUCTIONS:

DO NOT SHIP ORDER TO THIS ADDRESS (Ship to Consignee Address Above)

Furnish invoice with our ORDER NUMBER to:

U.S. Department of Commerce
Management Service Center/P.O.
Caller Service Number 4025
Germantown, Maryland 20874

FAILURE TO SHOW OUR ORDER NUMBER ON INVOICE WILL DELAY PAYMENT. FREIGHT CHARGE OVER $100 REQUIRES BILL OF LADING

ISSUING OFFICE NAME AND ADDRESS

ORDERED BY (Name and Title)

PHONE (Area Code and Number)

CONTRACTING/ORDERING OFFICER SIGNATURE

FORM **CD 404** (1 84)
MSC

USCOMM DC 84 2268

SELLER'S ORIGINAL

U.S. DEPARTMENT OF COMMERCE
TERMS AND CONDITIONS OF PURCHASE ORDER

THE FOLLOWING CLAUSES APPLY TO ALL PURCHASE ORDERS. IN ACCORDANCE WITH FEDERAL ACQUISITION REGULATION (48 CFR CHAPTER 1) 52.252, CLAUSES INCORPORATED BY REFERENCE, THOSE CLAUSES LISTED BY REFERENCE HAVE THE SAME FORCE AND EFFECT AS IF THEY WERE GIVEN IN FULL CONTEXT. UPON REQUEST THE CONTRACTING OFFICER WILL MAKE THEIR FULL TEXT AVAILABLE.

1. INSPECTION AND ACCEPTANCE - Inspection and acceptance will be at destination, unless otherwise provided. Until delivery and acceptance, and after any rejections, risk of loss will be on the Contractor unless loss results from negligence of the Government.
2. VARIATION IN QUANTITY (APRIL 84) - FAR 52.212-9
3. PAYMENTS (APRIL 84) - FAR 52.232-1
4. DISCOUNTS FOR PROMPT PAYMENT (APRIL 84) FAR 52.232-8
5. CHANGES - FIXED PRICE (APRIL 84) FAR 52.243-1
6. DISPUTES (APRIL 84) FAR 52.233-1
7. BUY AMERICAN ACT - SUPPLIES (APRIL 84) - FAR 52.225-3
8. SERVICE CONTRACT ACT OF 1965 - CONTRACTS OF $2,500 OR LESS (APRIL 84) - FAR 52.222-40
9. SERVICE CONTRACT ACT OF 1965 (APRIL 84) - FAR 52.222-41
10. EQUAL OPPORTUNITY (APRIL 84) - FAR 52.222-26
11. AFFIRMATIVE ACTION FOR HANDICAPPED WORKERS (APRIL 84) - FAR 52.222-36
12. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT - OVERTIME COMPENSATION - GENERAL (APRIL 84) - FAR 52.222-4
13. CONVICT LABOR (APRIL 84) - FAR 52.222-3
14. OFFICIALS NOT TO BENEFIT (APRIL 84) - FAR 52.203-1
15. GRATUITIES (APRIL 84) - FAR 52.203-3
16. COVENANT AGAINST CONTINGENT FEES (APRIL 84) - FAR 52.203-4
17. TERMINATION FOR CONVENIENCE OF THE GOVERNMENT (FIXED PRICE) (SHORT FORM) (APRIL 84) - FAR 52.249-1
18. FEDERAL, STATE, AND LOCAL TAXES - Except as may be otherwise provided in this contract, the contract price includes all applicable Federal, State, and local taxes and duties in effect on the date of this contract but does not include any taxes from which the Government, the Contractor or this transaction is exempt. Upon request of the Contractor, the Government shall furnish a tax exemption certificate or similar evidence of exemption with respect to any such tax not included in the contract price pursuant to this clause. For the purpose of this clause, the term "date of this contract" means the date of the contractor's quotation or, if no quotation, the date of this purchase order.

[FR Doc. 85-11056 Filed 5-7-85; 8:45 am]
BILLING CODE 3510-17-C

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination of Carex Specuicola to be a Threatened Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines a plant, *Carex specuicola*, to be a threatened species under the authority contained in the Endangered Species Act of 1937 (Act), as amended. Critical habitat is being designated. This plant occurs in Coconino County, Arizona, on the Navajo Indian Reservation. The three known populations and their habitat are currently threatened with impacts from livestock grazing and water development. This action implements the protection provided by the Act.

DATES: The effective date of this rule is June 7, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the U..S. Fish and Wildlife Service, Region 2, 500 Gold Avenue, SW., Room 4000, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Peggy Olwell, Botanist, Region 2, Office of Endangered Species, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972).

SUPPLEMENTARY INFORMATION:

Background

Carex specuicola is a perennial member of the family Cyperaceae (sedge family). This species was first collected by J.T. Howell in 1948, and the description was published by him in 1949. *Carex specuicola* has a triangular stem 25–40 centimeters (10–16 inches) high, which extends from an elongate, slender rhizome (underground stem). The leaves are pale green, 1–2 millimeters (.04–.08 inches) wide, 12–20 centimeters (4.7–7.9 inches) long, and clustered near the base. The flowers are in 2–4 groups or spikes. The terminal spike has both male and female flowers, with the female flowers above the male flowers. The lateral spikes contain only female flowers. The flowers are reduced and not showy; they consist of small, green-brown, scale-like parts 2–3 millimeters (.08–.12 inches) long and 1–1.5 millimeters (.04–.06 inches) wide. Flowering and fruit set occur from spring to summer, but most of the reproduction appears to be vegetative.

Carex specuicola is known only from sites near Inscription House Ruin on the Navajo Indian Reservation in Coconino County, Arizona. The plants are found around three shady seep-springs. The vegetation is pinyon-juniper woodland at elevations of 1,740–1,824 meters (5,707–5,983 feet), with an average annual precipitation of approximately 19.4 centimeters (7.6 inches). Within its habitat *Carex* is locally common, growing in dense clumps from the rhizomes. Each population covers an area of less than 200 square meters (2,152 square feet) along the outflow from its respective seep-spring. In 1980, all plants were healthy and vigorous (Phillips *et al.*, 1981).

Federal actions involving *Carex specuicola* began with Section 12 of the Endangered Species Act of 1973, which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the report of the Smithsonian Institution as a petition within the context section 4(c)(2), now section 4(b)(3)(A), of the Act and of its intention thereby to review the status of those plants. On June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species to be endangered species pursuant to Section 4 of the Act. *Carex specuicola* was included in the Smithsonian petition and the 1976 proposal. General comments received in relation to the 1976 proposal were summarized in an April 26, 1978, **Federal Register** publication (43 FR 7909).

The Endangered Species Act Amendments of 1978 required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. In the December 10, 1979, **Federal Register** (44 FR 70796), the Service published a notice of withdrawal of the June 16, 1976, proposal, along with four other proposals that had expired. *Carex specuicola* was included as a category-1 species in a revised list of plants under review for threatened or endangered classification published in the December 15, 1980, **Federal Register** (45 FR 82480). Category 1 comprises taxa for which the Service presently has sufficient biological information to support their being proposed to be listed as endangered or threatened species.

The Endangered Species Act Amendments of 1982 required that all petitions pending as of October 13, 1982, be treated as having been newly submitted on that date. The species listed in the December 15, 1980, notice of review were considered to be petitioned, and the deadline for a finding on those species, including *Carex specuicola*, was October 13, 1983.

On October 13, 1983, the petition finding was made that listing *Carex specuicola* was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B) (iii) of the Act. Such a finding requires a recycling of the petition, pursuant to section 4(b)(3)(C)(i) of the Act. A proposed rule published April 11, 1984 (49 FR 14406), constituted the next required finding that the petitioned action was warranted in accordance with section 4(b)(3)(B)(ii) of the Act.

Summary of Comments and Recommendations

In the April 11, 1984, proposed rule (49 FR 14406) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the Flagstaff, Arizona, *Arizona Daily Sun* on May 9, 1984, which invited general public comment. Six comments were received, one each from the U.S. Forest Service, the Bureau of Indian Affairs (BIA), the Arizona State Agriculture and Horticulture Department, the Arizona Wildlife Federation, the International Union for Conservation of Nature and Natural Resources (IUCN), and a professional botanist at the University of Arizona. No public hearing was requested or held.

None of the comments contradicted the Service's findings of rarity or need of protection for *Carex specuicola*. Two commenters, the Forest Service and the BIA, however, did suggest additional field surveys be conducted to locate more plants. The Service agrees that the discovery of any currently unknown populations would be very beneficial, but these three populations were the only ones located in past survey work. Three commenters, the Arizona State Agriculture and Horticulture Department, the Forest Service, and the Arizona Wildlife Federation, suggested fencing be used to exclude livestock from the three springs where the species occurs and that water for livestock then

be piped outside the fenced enclosures. The Service finds that these measures may help protect the species, and watering sights are now found away from the *Carex* locations. The Arizona State Agriculture and Horticulture Department suggested not posting fenced areas or mapping plant habitat as these activities could provide locality information to unscrupulous collectors. Because *Carex specuicola* is inconspicuous and not subject to commercial or other trade, the Service does not believe posting fenced areas or mapping habitat will substantially increase the threats to the species. The Arizona Wildlife Federation suggested a monitoring system be established to ascertain population status, and the BIA suggested that in any monitoring system the effect of erosion be considered along with other factors that might jeopardize the species. The Service agrees monitoring will be needed to ensure maintenance of the species.

The BIA described grazing and water use in the areas occupied by *Carex specuicola*. In regard to grazing, the BIA stated there is not record of the number of livestock grazing in the areas prior to 1943. Carrying capacities were established in 1943 and livestock numbers have since remained constant, being regulated by permit. Grazing permits are renewed automatically but BIA action is required to cancel or modify them. With regard to water use, the BIA stated that two of the three seep-springs with *Carex specuicola* populations are presently used to water livestock. At one, livestock drink water caught in a natural basin downhill from the spring. At the other, a stone and mortar diversion has been built to direct water from the spring to a storage structure. Water from the storage structure flows through a pipe to a livestock drinker located away from the area occupied by *Carex specuicola*. These structures were built in the 1930's. Application for any additional livestock water development would have to be approved by the BIA, which states that it would review any proposal for water development with protection of *Carex specuicola* as a priority.

Neither the professional botanist at The University of Arizona nor the IUCN had any substantive comments on the proposal.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Carex specuicola* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (50 CFR Part 424) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1) of the Act. These factors and their application to *Carex specuicola* J.T. Howell are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range. Carex specuicola* has only been found at its original locality around three seep-springs in the vicinity of Inscription House Ruin on the Navajo Indian Reservation. This habitat is vulnerable to changes resulting from water development for livestock. Heavy trampling in conjunction with livestock watering already occurs around two of the three seep-springs. An increase in the number of livestock could possibly damage the *Carex* populations. Severe impacts to any one of the three populations would have a substantial detrimental effect on the species (Phillips *et al.*, 1981).

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Commercial or other trade in this plant is not known to exist (Phillips *et al.*, 1981).

C. *Disease or predation.* Many species within the genus *Carex* are palatable to livestock and wildlife. Two of the three *Carex* sites are used as livestock water sources and grazing areas (mainly for sheep), especially the one at Inscription House Ruin Spring. While not expected, an increase in grazing pressure could be harmful to the species, and should be avoided until the grazing impact is thoroughly assessed (Phillips *et al.*, 1981).

D. *The inadequacy of existing regulatory mechanisms. Carex specuicola* is not protected by Federal law or the Arizona Native Plant Law. A permit is needed, however, from the Navajo Tribe for plant study or collection on the Reservation.

E. *Other natural or manmade factors affecting its continued existence.* The specific habitat requirements of *Carex specuicola*, the limited distribution, and small number of populations (3) make the existence of this species especially precarious in the event of habitat disturbance or any activity that results in the loss of a significant number of individuals.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Carex specuicola* as threatened with critical habitat. Threatened status seems appropriate because of the restricted distribution of the species and the small size of populations which, although they are vigorous and reproducing well, are threatened by livestock grazing, habitat deterioration due to water development, and livestock trampling of areas around water sources. Also, the only protection for this species is a Navajo Tribal Law prohibiting study or collection of this species without a permit. No other laws, State or Federal, provide protection to this species.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species, and (II) that may require special management considerations or protection; and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for *Carex specuicola* to include the entire areas occupied by the three known populations of the plant. The locations are on the Navajo Indian Reservation in Coconino County, Arizona, and are 40 x 5 meter (about 200 square meters) rectangular areas with their long axes in the direction of seep-spring flow, centered on the following points: (1) latitude 36°39'53" N, longitude 110°47'18" W; (2) latitude 36°40'07" N, longitude 110°47'55" W; and (3) latitude 36°40'18" N, longitude 110°48'15" W. The total area designated comprises about 600 square meters (about 0.15 acres), and contains all habitat presently known to be occupied by the species. Constituent elements are moist sandy to silty soils at shady seep-springs within the Navajo Sandstone Formation (Phillips *et al.*, 1981).

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) that may adversely modify such habitat or may

be affected by such designation. The activities that may potentially affect the critical habitat of *Carex specuicola* or be affected by its designation are spring development and grazing. Spring development could affect the free-flowing seep-springs upon which the species depends. Livestock trampling has contributed to some soil erosion on the steeper sandy soil sites at the Inscription House Ruin Spring site. Withdrawal of the critical habitat area from grazing (representing less than one Animal Unit Month and no grazing fees) or fencing may be warranted to protect the critical habitat from soil erosion or trampling. It is not expected that use of the seep-spring water for livestock watering will affect or be affected by the critical habitat designation because the watering sites are located away from the area where *Carex specuicola* is found. There is a coal mining operation about ten miles away from the critical habitat, but it is located in a different geologic formation and has a different water source than the critical habitat's water source. Small farms in the area may use excess water runoff, but are not expected to affect or be affected by the critical habitat designation. The BIA has informed the Service that it plans to monitor the critical habitat of *Carex specuicola* as part of its plans to develop an informal monitoring system for the resources under its jurisdiction. Currently, no plans for water development, farm use, or additional grazing permit applications are known that would involve Federal funds or permits for the area affected by the critical habitat designation.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. The Service has considered the critical habitat designation in light of relevant additional information obtained during the public comment period and concludes that no significant economic impacts are expected as a result of the designation and no adjustments to the area proposed as critical habitat are warranted.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies, and the taking prohibitions are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat. Regulations implementing this interagency cooperation provisions of the Act are codified at 50 CFR Part 402 and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. With respect to *Carex specuicola*, if an adverse effect pertaining to spring development is expected and BIA funding or authorization is involved, the BIA must enter into consultation with the Service prior to issuance of a BIA permit. Permits for grazing are also issued by BIA.

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plant species. With respect to *Carex specuicola*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under certain circumstances. International and interstate commercial trade in *Carex specuicola* is not known to exist. It is anticipated that few trade permits would ever be sought or issued since this plant is not common in cultivation or in the wild.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. Section 4(d) allows for the provision of such protection to threatened species through regulations. This new protection will apply to *Carex specuicola* when revised regulations are promulgated. Permits for exceptions to this prohibition are available through sections 10(a) and 4(d) of the Act, until revised regulations are promulgated to incorporate the 1982 amendments. Proposed regulations implementing this new prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. All three populations of *Carex specuicola* are on the Navajo Indian Reservation. It is anticipated that few collection permits for the species will ever be requested. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235-1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation 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 critical habitat designation as defined in the proposed rule for *Carex specuicola* did not bring forth economic or other impacts to warrant consideration of adjusting the critical habitat designation. The critical habitat area is located entirely on Indian land within the Navajo Indian reservation in Coconino County, Arizona. The Navajo Indian Tribe owns and manages the critical habitat area. The BIA also has

some permitting and management authority over the critical habitat area. Based on BIA's current management and planned monitoring of the critical habitat area, it is not expected that significant economic impacts will result from the designation of critical habitat on the Navajo Indian Reservation. These determinations are based on a Determination of Effects that is available at the Regional Office, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

Literature Cited

Howell, J.T. 1949. Three new Arizona plants. Leaflets of Western Botany 5(9):148.

Phillips, A.M., B.G. Phillips, L.T. Green, J. Mazzoni, and N. Brian. 1981. Status report: *Carex specuicola* J.T. Howell. Office of Endangered Species, U.S. Fish and Wildlife Service, Albuquerque, New Mexico. 12 pp.

Authors

The authors of this final rule are Charles McDonald and Peggy Olwell, Office of Endangered Species, U.S. Fish and Wildlife Service, Department of the Interior, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–3972 or FTS 474–3972). The editor was E. LaVerne Smith, Office of Endangered Species, Washington, D.C. 20240 (703/235–1975 or FTS 235–1975). Status information and a preliminary listing package were provided by Dr. A.M. Phillips, Dr. B.G. Phillips, L.T. Green, J. Mazzoni, and N. Brian, Museum of Northern Arizona, Route 4, Box 720, Flagstaff, Arizona 86001.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17 Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Cyperaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cyperaceae—Sedge family:						
Carex specuicola	None	U.S.A. (AZ)	T	178	17.96(a)	NA

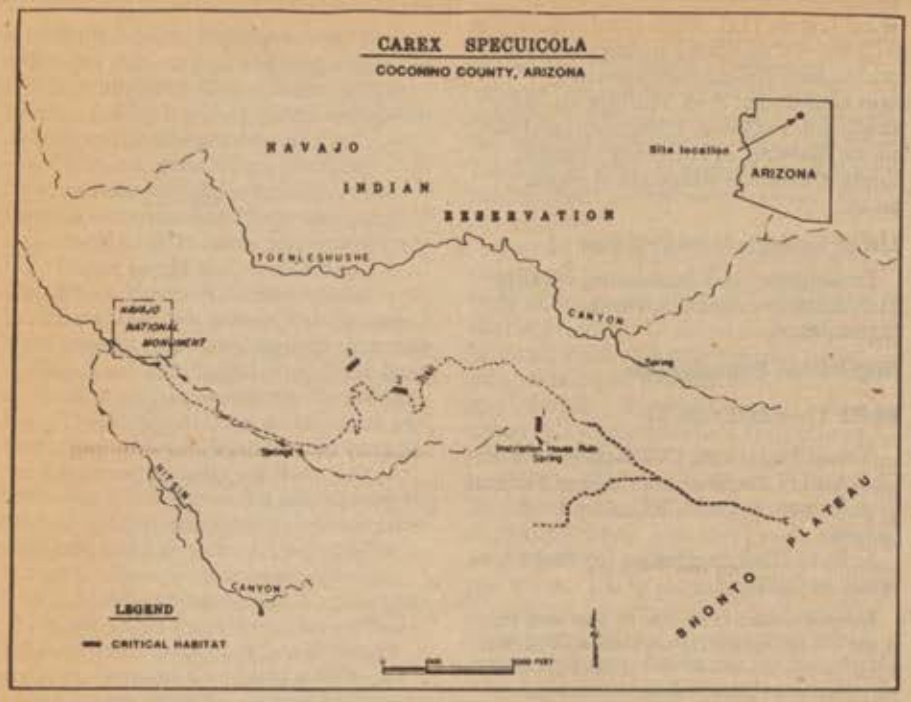
3. Amend § 17.96(a) by adding the critical habitat of *Carex specuicola* as follows: The position of this entry under § 17.96(a) will follow the same sequence as the species occurs in § 17.12.

§ 17.96 Critical habitat—plants.

(a) * * *

Cyperaceae—*Carex specuicola*

Arizona: Coconino County; Navajo Indian Reservation. A 40 x 5 meter rectangular area, with its long axis in the direction of seep-spring flow, around each of the following points: (1) Latitude 36°39'53" N, longitude 110°47'18" W; (2) latitude 36°40'07" N, longitude 110°47'55" W; and (3) latitude 36°40'18" N, longitude 110°48'15" W. Primary constituent elements include moist sandy to silty soils at shady seep-springs within the Navajo Sandstone Formation.



* * * * *

Dated: March 25, 1985.

J. Craig Potter,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-11097 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-55-M

---

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Determination That Amsinckia Grandiflora is an Endangered Species and Designation of Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines endangered status and designates critical habitat for *Amsinckia grandiflora* (large-flowered fiddleneck). This action is being taken because population numbers have declined since historic times, possibly as a result of modification of habitat for agricultural use, intensive livestock grazing, urban development, and other land use activities that have altered the natural plant communities within the large-flowered fiddleneck's historic range. Weedy exotic plants and aggressive *Amsinckia* species are presently invading the grassland habitat at the one site it now occupies. The species has an extremely restricted range, reduced gene pool, and low reproductive potential. The single known population, found in southwestern San Joaquin County, California, on Department of Energy land, has been observed from 1980 to 1984 and found to vary in size from 30 to 70 individuals for those years. There is the possibility that controlled burning and the testing of chemical explosives (both activities occur near its present environment) may be affecting the species. A determination that *Amsinckia grandiflora* is an endangered species and designation of its critical habitat will implement the protection provided by the Endangered Species Act of 1973, as amended.

DATES: The effective date of this rule is June 7, 1985.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Lloyd 500 Building, 500 NE. Multnomah Street, Suite 1692, Portland, Oregon 97232.

FOR FURTHER INFORMATION CONTACT: Mr. Wayne S. White, Chief, Division of Endangered Species, at the above address or 503/231-6131 or FTS 429-6131.

SUPPLEMENTARY INFORMATION:

Background

Amsinckia grandiflora was first collected in 1869 by Kellogg and Harford and was described in 1876 by Asa Gray. This annual species has red-orange flowers arranged in a fiddleneck-shaped inflorescence. Its bright green foliage is covered with coarse, stiff hairs. Historically, the species was found in Alameda, Contra Costa, and San Joaquin Counties, California. Today, it is known to survive only at a ½-acre site on Department of Energy (DOE) land, near Livermore, San Joaquin, California. The site is a grassy, steep, west- and south-facing slope of a small ravine with light-textured clay soil.

The reasons for the species' decline are not known, but two factors have been suggested. The reproductive system of *Amsinckia grandiflora* is considered "primitive." The species has two flower morphs, a condition that encourages outcrossing and may lead to lowered fecundity. The displacement of the large-flowered fiddleneck by aggressive fiddleneck species may be due to its inability to compete with species having higher fecundity (Ray and Chisaki, 1957; Ornduff, 1976). Also, the introduction of grazing animals into the Livermore area and the development of lands for agricultural and urban uses are believed to have been responsible for the extirpation of some populations. At this time fewer than 50 individuals are known to exist.

The Secretary of the Smithsonian Institution, as directed by section 12 of the Endangered Species Act of 1973, prepared a report on those plants considered to be endangered, threatened, or extinct in the United States. This report (House Document No. 94-51) was presented to Congress on January 9, 1975. On July 1, 1975, the Fish and Wildlife Service pubished a notice in the **Federal Register** (40 FR 27823) accepting the report as a petition within the context of section 4(c)(2) of the Endangered Species Act (petition acceptance provisions are now contained in section 4(b)(3)(A)), and giving notice of its intention to review the status of the plant taxa named therein, including the large-flowered fiddleneck. As a result of this review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine approximately 1,700 vascular plant species, including the large-flowered fiddleneck, to be endangered pursuant to Section 4 of the Act. In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2

years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) of the withdrawal of that portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired. The Service published an updated notice of review for plants on December 15, 1980 (45 FR 82480), including *Amsinckia grandiflora*. On February 15, 1983, the Service published a notice (48 FR 6752) announcing its finding that the listing of this species, as petitioned by the Smithsonian Institution, may be warranted in accordance with section 4(b)(3)(A) of the Endangered Species Act as amended in 1982. On October 13, 1983, a further finding was made that listing of *Amsinckia grandiflora* was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. On May 8, 1984, a proposed rule to list the large-flowered fiddleneck as endangered and designate its critical habitat was published (49 FR 19534), constituting a finding that the petitioned listing of the species was warranted.

Summary of Comments and Recommendations

In the May 8, 1984, proposed rule (49 FR 19534) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices that invited general public comment were published in the *Oakland Tribune* on June 12 and in the *San Francisco Chronicle* on June 13. Five substantive comments were received from four sources and are discussed below. Also received was a comment from Bureau of Land Management that provided no information or recommendation.

All substantive comments received were favorable to the proposed rule. These comments were received from the Defenders of Wildlife, Dr. A.Q. Howard, Dr. T.O. Duncan, and the California Native Plant Society. Additional information was supplied in three letters of comment. The California Native Plant Society suggested that fire in the habitat might reduce competition from introduced grasses and weedy species of *Amsinckia* and should be studied as a tool for recovery actions. Dr. A.Q. Howard, of the University of California, Berkeley, discussed the establishment of *Amsinckia grandiflora* on the newly purchased Antioch Dunes National Wildlife Refuge, a site considered by her to be the probable "Antioch" site in historical collections. On the basis of studies by Dr. R. Ornduff, Dr. Duncan suggested that the present Corral Hollow site may be a natural site (it has been suggested that the site may be composed of displaced soil) and that construction of a road to the drop-tower may have altered natural drainages, thus affecting the species. He also reported the successful storage of seed by Dr. Ornduff in a home-type freezer. It was pointed out that "media events" held within the critical habitat may be as threatening to the species' survival as is scientific research. Scientific research was discussed under the Summary of Factors Affecting the Species, "Factor B," in the proposed rule.

In response to the above comments, most of the new information received applies to recovery actions to be initiated by the Service after listing of the *Amsinckia* and will be useful in implementing such actions. In response to Dr. Duncan, the discussion in "Factor B" of the proposed rule was not intended as a criticism of research studies on the *Amsinckia*. Such studies have been valuable both in our efforts at protection of the species and also in the field of population biology and evolution. The discussion was included in the proposed rule because such studies are seen as a *potential* threat and because of the need for careful monitoring of studies involving removal of plant material, in order to prevent adverse impacts. No impacts to the large-flowered fiddleneck from public visits are presently known. However, upon listing of the species, DOE will be required to ensure that visits granted to enter the critical habitat will not cause adverse effects to the *Amsinckia*. In addition, any removal and reduction to possession of individuals or parts of this species from the area under DOE jurisdiction will require a permit.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Amsinckia grandiflora* should be listed as an endangered species. Procedures found at section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations promulgated to implement the listing provisions of the Act (to be codified at 50 CFR Part 424, see 49 FR 38900, October 1, 1984) were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Amsinckia grandiflora* Gray (large-flowered fiddleneck) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The large-flowered fiddleneck is presently threatened by the invasion of aggressive *Amsinckia* species and weedy exotic plants into the grassland habitat it occupies. The small population occurs next to a drop-tower on DOE land. According to DOE, testing of the integrity of canisters and shipping containers is performed at the drop-tower; however, such tests are infrequent and detonation is not expected. Testing of explosives does not occur in the immediate vicinity of the population. Tests conducted nearby have the potential to start grass fires that could enter the species' habitat and affect the long-term survival of the species. In addition, DOE has authorized laboratory personnel to perform controlled burning in some test areas. Such burns, if conducted in or near the proposed critical habitat, may adversely affect the species and its habitat.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* The large-flowered fiddleneck has an unusual flower morphology and highly restricted distribution, both of which contrast sharply with most other members of the genus. As a consequence, the species has been the subject of a number of studies concerning the reproductive biology and evolution of the genus *Amsinckia*. Such studies often require the use of plant materials, usually reproductive parts or occasionally whole plants. Such studies are potential threats to the species should population numbers continue to decline and collection of plant material not be monitored or managed to reduce impacts.

C. *Disease or predation.* Grazing may have been responsible, at least in part, for extirpation of some populations of this species. *Amsinckia grandiflora* is part of a remnant native grassland flora at the site it now occupies. The introduction of grazing animals into the Livermore area is thought to have degraded native grasslands that once existed there.

D. *The inadequacy of existing regulatory mechanisms.* Although the State of California lists the large-flowered fiddleneck as endangered, State law does not provide adequate protection for this species in its natural

habitat. The law provides that a landowner who has been notified by the State Fish and Game Commission that a State-listed plant is growing on her or his property must notify the Department of Fish and Game "at least 10 days in advance of changing the land use to allow for salvage of such plant." Although State law also provides for such measures as research, land acquisition, and trade restrictions, provisions of the Endangered Species Act would offer additional protection to this species and its habitat.

E. *Other natural or manmade factors affecting its continued existence.* Although very little is known about the ecology of *Amsinckia grandiflora*, recent pollination studies suggest that its reproductive system is primitive and relatively inefficient in comparison with related species (Ray and Chisaki, 1957; Ornduff 1976). Consequently, its inherently low reproductive potential places it at a distinct disadvantage in competition with other more aggressive or "weedy" species of *Amsinckia*. Furthermore, declines in population numbers could place this annual species below the reproductive level needed for replacement and recovery.

The Service has carefully assessed the best scientific information available, regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Amsinckia grandiflora* as endangered with critical habitat. In view of its demonstrated contraction of range and low population numbers, endangered status is considered most appropriate. The designation of critical habitat is discussed below.

Critical Habitat

Critical habitat, as defined by section 3 of the Act, means: (i) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) that may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Section 4(a)(3) of the Act requires that critical habitat be designated to the maximum extent prudent and determinable concurrently with the determination that a species is endangered or threatened. Critical habitat is being designated for *Amsinckia grandiflora* to include one area of approximately 160 acres in San Joaquin County, California. This area includes the known primary constituent elements of a steep, west- and south-facing slope with light-textured but stable soils. The metes and bounds of the critical habitat can be found in the "Regulations Promulgation" section.

The Service is required to consider in determining what areas are critical habitat those physiological, behavioral, ecological, and evolutionary requirements essential to the conservation of the species and which may require special management considerations or protection. These requirements include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing of offspring, germination, or seed dispersal; and generally,

(5) Habitats that are protected from disturbance or are representative of the historic geographical and ecological distribution of listed species.

With respect to the large-flowered fiddleneck, although little is known of its biology and ecology, it is the Fish and Wildlife Service's best judgment that the area designated as critical habitat will satisfy most of the plant's requirements on a long-term basis and is essential for its conservation. Thus it appears that the proposed critical habitat, with a steep west- and south-facing slope and light-textured but stable soil, satisfies the fiddleneck's most immediate physiological needs. The area designated may not include the entire suitable habitat of this plant, and revision of critical habitat may be warranted in the future.

The critical habitat designated exceeds the current range of the fiddleneck. The fiddleneck's range is now limited to a ½-acre area. Stabilization of the small population present within that area would likely not constitute recovery for the species, since a single grass fire or other local threat could render it extinct. The area designated as critical habitat is believed to contain places suitable for expansion or relocation; unless such areas are available, recovery would not be likely. Accordingly, the Service believes protection of this area is essential to the conservation of this species.

Section 4(b)(8) requires, for any proposed or final regulation that designates critical habitat, a brief description and evaluation of those activities (public or private) which may adversely modify such habitat or may be affected by such designation. Any activity that would result in a disturbance of the soil or the hydrological regime where the large-flowed fiddleneck occurs would probably adversely modify the critical habitat. Also, any activity that may increase the frequency of grass fires in the area may adversely affect the population and modify the critical habitat. The University of California's Lawrence Livemore Laboratory has been given funding and authorization by DOE to conduct various activities in the vicinity of the large-flowered fiddleneck population and its critical habitat. The principal concerns are with construction activities, testing of chemical high explosives, and controlled burns. It is believed that these activities could have an adverse impact on the large-flowered fiddleneck and its habitat unless they are undertaken carefully.

Designation of critical habitat may affect Federal activities and actions in the vicintiy of the population by prohibiting or requiring modifications to, test activities, controlled burns, and construction activities. If appropriate, the impacts will be addressed during consultation with the Service as required by section 7 of the Act.

Section 4(b)(2) of the Act requires the Service to consider economic and other impacts of designating a particular area as critical habitat. No additional information has been obtained as a result of the proposed rule on economic or other impacts that might result in a change to the designation of the proposed critical habitat. The species occurs within a research facility on lands owned by DOE. DOE has informed the Service that designation of critical habitat is compatible with present and proposed activities occurring on its land.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection

required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened, and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402, and are now under revision (see proposal at 48 FR 29990; June 29, 1983). Section 7(a)(2) requires Federal agencies to ensure that any activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. DOE funds various activities such as construction, testing of chemical high explosives and controlled burning on its lands. Consultation with the Service will be necessary to ensure that such activities do not adversely affect *Amsinckia grandiflora* or its critical habitat.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plant species. With respect to *Amsinckia grandiflora*, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, or sell or offer for sale this species in interstate or foreign commerce. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. No trade is known for this species. It is anticipated that few trade permits will be sought or issued for the large-flowered fiddleneck.

Section 9(a)(2)(B) of the Act, as amended in 1982, prohibits the removal and reduction to possession of endangered plant species from areas under Federal jurisdiction. This prohibition now applies to *Amsinckia grandiflora*. Permits for exceptions to this prohibition are available through section 10(a) of the Act, until revised regulations are promulgated to incorporate the 1982 Amendments. Proposed regulations implementing this prohibition were published on July 8, 1983 (48 FR 31417), and it is anticipated that these will be made final following public comment. *Amsinckia grandiflora* occurs on Federal lands. A few collecting permits for scientific research are anticipated. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (703/235–1903).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined by the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

Regulatory Flexibility Act and Executive Order 12291

The Department of the Interior has determined that designation of critical habitat for this species will not constitute a major action under Executive Order 12291 and certifies that this designation 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 critical habitat designation, as defined in the proposed rule, for *Amsinckia grandiflora* did not bring forth economic or other impacts to warrant consideration of revising the critical habitat designation. The critical habitat area is located entirely on DOE lands. No significant changes in DOE management of the proposed critical habitat area are envisioned. DOE management of the area is compatible with the present and foreseeable uses of the area. The designation of critical habitat is not expected to result in any significant economic impact or significant changes in the research activities occurring within the critical habitat or on adjacent lands. No direct costs, enforcement costs, or information collection or record-keeping requirements are imposed on small entities by this designation. These determinations are based on a Determination of Effects that is available at the Regional Office, U.S. Fish and Wildlife Service, at the address found in the **"ADDRESSES"** section.

Literature Cited

Ornduff, R. 1976. The reproductive system of *Amsinckia grandiflora*, a distylous species. Syst. Bot. 1:57–66.

Ornduff, R. 1977. Status report on *Amsinckia grandiflora*. California Native Plant Society. 4 pp. Unpublished.

Ray, P.M., and H.F. Chisaki. 1957. Studies on *Amsinckia*. I and II. Amer. J. Bot. 44:529–544.

Author

The primary author of this rule is Carol Wilson, U.S. Fish and Wildlife Service, at the address found in the **"ADDRESSES"** section.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for Part 17 reads as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 *et seq.*).

2. Amend § 17.12(h) by adding the following, in alphabetical order under the family Boraginaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants

* * * * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
* *	* *	* *	* *	* *		* *
Boraginaceae—Borage family:						
Amsinckia grandiflora	Large-flowered fiddleneck	U.S.A. (CA)	E	179	17.96(a)	NA
* *	* *	* *	* *	* *		* *

3. Amend § 17.96(a) by adding critical habitat of the large-flowered fiddleneck as follows: The position of this entry under § 17.96(a) will follow the same sequence as the species occurs in 17.12(h).

§ 17.96 Critical habitat—plants.

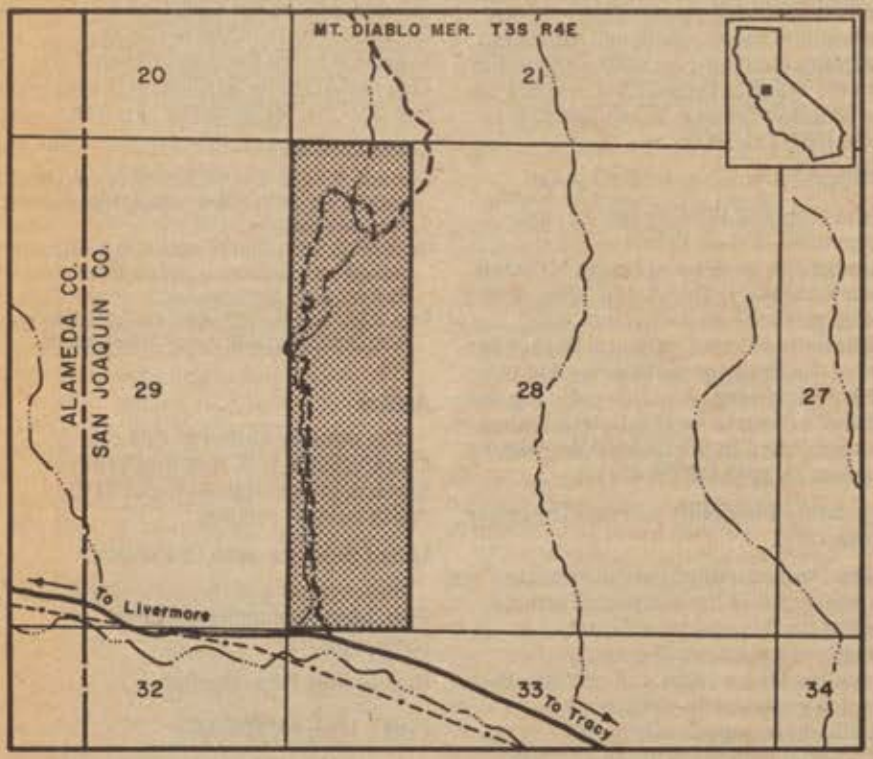
(a) * * *

* * * * *

Boraginaceae: *Amsinckia grandiflora* (large-flowered fiddleneck)

California, San Joaquin County, Mount Diablo Meridian, T3S R4E Section 28 W½ NW¼ and W½ SW¼.

This includes the known primary constituent elements of a steep, west- and south-facing slope with light textured but stable soils.



Dated: March 21, 1985.

Susan Recee,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-11096 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register
Vol. 50, No. 89
Wednesday, May 8, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

FARM CREDIT ADMINISTRATION

12 CFR Part 615

Funding and Fiscal Affairs

AGENCY: Farm Credit Administration.

ACTION: Proposed rule.

SUMMARY: The Farm Credit Administration (FCA), by its Federal Farm Credit Board (Federal Board), publishes for comment a proposed amendment to its regulation concerning the method by which banks for cooperatives' (BCs) earnings are to be distributed. This proposed amendment increases the amount of net savings derived from business done with or for patrons that may be used to create or maintain an unallocated surplus or unallocated reserve account from 10 to 50 percent.

DATES: Written comments must be received on or before July 8, 1985.

ADDRESSES: Submit any comments in writing to Donald E. Wilkinson, Governor, Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090. Copies of all communications received will be available for examination by interested parties in the Office of Director, Congressional and Public Affairs Division, Office of Administration, Farm Credit Administration.

FOR FURTHER INFORMATION CONTACT:

Thomas J. Holland, Assistant Director, Office of Examination and Supervision, (703) 883-4452

or

Kenneth L. Peoples, Office of General Counsel, (703) 883-4020

Farm Credit Administration, 1501 Farm Credit Drive, McLean, VA 22102-5090.

SUPPLEMENTARY INFORMATION: The Farm Credit Act of 1971, as amended (Act), requires that the net savings of banks for cooperatives be applied, under regulations prescribed by the FCA, on a cooperative basis with provision for sound, adequate capitalization. Further, the Act states that such regulations may provide for the establishment of reasonable contingency reserves (unallocated surplus or unallocated reserve accounts). These reserves can help to assure that the banks have an adequate capital base. The current 12 CFR 615.5370 restricts the amounts that may be added to the contingency reserves from the bank's "net savings" from business done with or for patrons, plus the total amount of any net earnings derived from nonpatronage (including nonmember) sources, to 10 percent. In view of current economic conditions, the Federal Board believes that BCs need to retain additional unallocated reserves to build their risk capital and that the present 10-percent limit imposed by 12 CFR 615.5370 is too restrictive. Therefore, the Federal Board proposes to amend 12 CFR 615.5370 to authorize, upon bank board approval, up to 50 percent of net savings from business done with or for patrons to be used to create or maintain the contingency reserve accounts. The amount of net earnings derived from nonpatronage (including nonmember) sources that may be contributed to the contingency reserves remains unchanged. Additional amounts beyond the 50-percent limit may be added with the approval of the FCA. Any amounts added shall first be reduced by related income taxes.

List of Subjects in 12 CFR Part 615

Accounting, Agriculture, Banks, Banking, Government securities, Investments, Rural areas.

PART 615—[AMENDED]

As stated in the preamble, it is proposed that Part 615 of Chapter VI, Title 12 of the Code of Federal Regulations, be amended as follows:

1. The authority citation for Part 615 continues to read as follows:

Authority: Sections 5.9, 5.12, 5.18, Pub. L. 92-181, 85 Stat. 619, 620, 621 (12 U.S.C. 2243, 2246, 2252).

2. Section 615.5370 is amended by revising paragraphs (a) and (c) as follows:

§ 615.5370 Banks for cooperatives' earnings.

(a) Whenever at the end of any fiscal year a bank shall have no outstanding capital stock held by the Governor, the net savings shall first be applied to the restoration of the amount of the impairment, if any, of capital stock, as determined by the bank board. Any remaining net savings or losses shall be distributed as authorized by the bank board. Twenty-five percent of such remaining net savings, or such other percentage as determined by the bank board, derived from business done with or for patrons may be used to maintain an allocated surplus account. Upon approval of the bank board, up to 50 percent of the net savings derived from business done with or for patrons, plus the total amount of any net earnings derived from nonpatronage (including nonmember) sources, may be used to creat or maintain an unallocated surplus or unallocated reserve account. Additional amounts beyond the 50-percent limit may be added with the approval of the Farm Credit Administration. The amount so determined shall first be reduced by related income taxes. For purposes of this regulation, all net savings shall be deemed to be from patronage sources unless otherwise determined by the bank. Cash patronage refunds shall not exceed 25 percent of the total amount of net savings allocated or paid to patrons except with Farm Credit Administration approval. Patronage refunds not paid in cash or allocated surplus shall be paid in capital stock and participation certificates as determined by the bank board. A net loss in any fiscal year shall be absorbed on the basis determined by the bank board. Any costs or expenses attributable to a prior year that are used in the computation of current year's net savings shall not be charged to reserves, surplus, or patronage allocations without the approval of the Farm Credit Administration.

* * * * *

(c) The phrase "service fees" as used in section 3.11(c) of tha Act refers to loan service fees and not income related to "technical assistance and financially related services" referred to in section 3.7 of the Act. If net savings from "technical assistance and financially related services" becomes more than incidental, such net savings shall be distributed as patronage to borrowers using such services.

* * * * *

Donald E. Wilkinson,

Governor.

[FR Doc. 85-11053 Filed 5-7-85; 8:45 am]

BILLING CODE 6705-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWP-1]

Proposed Alterations to VOR Federal Airways; Hawaii

Correction

In FR Doc. 85-9829 beginning on page 16095 in the issue of Wednesday, April 24, 1985, make the following correction on page 16096: In the third column, under V-15 [Revised], in the second line, "163°" should read "162°".

BILLING CODE 1505-01-M

---

14 CFR Parts 71 and 75

[Airspace Docket No. 85-ASO-9]

Proposed Alteration of VOR Federal Airways and Jet Routes; Vero Beach, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to realign Federal Airways V-51, V-437 and V-492 and Jet Route J-45 located in the vicinity of Vero Beach, FL. During a space shuttle launch or recovery operation it becomes necessary to reroute or vector traffic to circumnavigate that area. This action would reduce the requirement to vector traffic, aid flight planning and reduce controller workload.

DATES: Comments must be received on or before June 24, 1985.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85-ASO-9, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

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

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

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, ecomonic, 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-ASO-9." 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 Proposals

The FAA is considering amendments to § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter the descriptions of VOR Federal Airways V-51, V-437, V-492 and Jet Route J-45 located in the vicinity of Vero Beach, FL. When a space shuttle launch or recovery operation is scheduled, it becomes necessary to reroute traffic to circumnavigate the Kennedy Space Center launch and recovery areas. This action would realign the affected airways and jet route clear of the Kennedy Space Center airspace and provide a bypass route in the Vero Beach, FL, area. Sections 71.123 and 75.100 of Parts 71 and 75 of the Federal Aviation Regulations were republished in Handbook 7400.6A dated January 2, 1985.

The FAA had determined that this proposed regulation only involves an estahblished 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 signifcant 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

VOR Federal airways, Jet routes, Aviation safety.

PART 71—[AMENDED]

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 and § 75.100 of Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as follows:

§ 71.123 [Amended]

V-51—[Amended]

By removing the words "Vero Beach; Vero Beach 343° INT Melbourne, FL, 161° radials; Melbourne; Melbourne 341° INT Ormond Beach, FL, 161° radials Ormond Beach; Ormond Beach, FL;" and substituting the words "Vero Beach, INT Vero Beach 329°T(320°M) and Ormond Beach, FL, 183°T(183°M) radials, Ormond Beach;" also, by removing the words "The airspace within R-2921, R-2922, R-2926, and R-2927 is excluded."

V-437—[Amended]

By removing the words "From Melbourne, FL;" and substituting the words "From Pahokee, FL; Melbourne, FL;"

V-492—[Amended]

By removing the words "INT Palm Beach 356° and Vero Beach, FL, 143° radials; to Vero Beach." and substituting the words "INT Palm Beach 356°T(359°M) and Melbourne, FL, 146°T(148°M) radials; to Melbourne."

PART 75—[AMENDED]

§ 75.100 [Amended]

J-45—[Amended]

By removng the words "Vero Beach; Ormond Beach, FL" and substituting the words "Vero Beach; INT Vero Beach 329°(329°M) and Ormond Beach, FL, 183°T(183°M) radials; Ormond Beach;"

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

Issued in Washington, D.C., on May 2, 1985.

James Burns, Jr.,

Acting Manager, Airspace—Rules and Aeronautical Information Division.

[FR Doc. 85-11074 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 91

[Docket No. 24636; Notice No. 85-12]

Transponder-On Operation

AGENCY: Federal Aviation Administration (FAA).

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes that all aircraft equipped with an operable radar beacon transponder have the transponder turned on while airborne in the National Airspace System. This action would enhance aviation safety by providing an increased degree of aircraft target visibility to radar controllers in air traffic control (ATC) facilities. A transponder-on environment is expected to help increase controller awareness and facilitate recognition and resolution of potential traffic conflict situations. The proposed rule would not require installation of transponders.

DATE: Comments must be received on or before June 24, 1985.

ADDRESSES: Send comments on the rule in duplicate to Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-204, Docket No. 24636, 800 Independence Avenue SW., Washington, D.C. 20591. Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m.

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

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to comment on this proposal by submitting such written data, views, or arguments as they may desire. They should be submitted to the address indicated above. 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 any regulatory, economic, environmental, and energy aspects of the proposal as well as all aspects of a required transponder-on operation as it may affect operations in any controlled airspace area. Communications should identify the regulatory docket or notice number, and be submitted in duplicate to the address listed above. Comments received will be reviewed on a continuing basis and any future FAA proposal or action may be changed in light of the comments received. Commenters wishing the FAA to acknowledge receipt of their comments in response to this rule must submit with those comments a self-addressed stamped postcard on which the following statement is made: "Comments to Docket No. 24636." The postcard will be date/time stamped and returned to the commenter. All comments submitted will be available for examination in the Rules Docket both before and after the closing date for comments. A report summarized each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Background

Currently, Federal Aviation Regulations (FAR) do not contain a general requirement applicable to all controlled airspace wherein an aircraft with an operable transponder must have the transponder turned on. Although no general requirement exists, FAR Part 91 does specify two types of controlled airspace areas within which aircraft are required to operate with the transponder turned on. Specifically, FAR § 91.24 stipulates that aircraft operating above 12,500 feet mean sea level (MSL) or within terminal control areas (TCA) must be equipped with an operable Mode 3/A 4096 code radar beacon transponder and, in addition, the transponder must be replying to the Mode 3/A interrogation with the code specified by ATC.

The FAA believes that improved aircraft positional informational which is now readily available should be made available by requiring that transponders be turned on while aircraft are airborne within all controlled airspace. Transponder replies can greatly assist in obtaining aircraft position information which is essential to the provision by ATC of both safety and traffic advisory information to aircraft in flight.

For some time, the Airman's Information Manual (AIM) has contained information urging pilots to turn transponders on voluntarily as a good operating practice. While the AIM states that transponders should be operated while airborne, it is not a regulatory requirement in airspace outside of TCA's or below 12,500 feet MSL. The requirement to have the transponder turned on in all controlled airspace would enhance aviation safety in the National Airspace System by providing a higher degree of visual flight rules (VFR) aircraft target visibility to radar controllers in air route traffic control centers and terminal control facilities.

A requirement to turn transponders on was recently considered by a National Airspace Review (NAR) task group which, with the exception of a dissenting view by the Aircraft Owners and Pilots Association, adopted a position in favor of such a requirement. The NAR program is a comprehensive review of airspace use and procedural aspects of the ATC system. The joint effort includes representatives from aviation industry, FAA, the Department of Defense (DOD), and other government aviation agencies. Findings of NAR task groups represent a balance of views including users and the FAA. In September 1984, Task Group 2-3 convened in Washington, D.C., to review FAR's related to ATC. NAR Task Group 2-3 recommended that § 91.24 of the FAR be amended to require pilots of aircraft equipped with an operable radar beacon transponder while in controlled airspace, to operate the transponder, (including Mode C, if so equipped), on the appropriate code, or as assigned by ATC. Members of the task group making this recommendation represented the Air Transport Association, the Regional Airline Association, the National Air Transportation Association, the Department of Defense, the Air Line Pilots Association, Allied Pilots Association, Aircraft Owners and Pilots Association, Experimental Aircraft Association, National Business Aircraft Association, and the FAA. The specific recommendation of this task group to require that transponders be turned on

in controlled airspace was formally approved by the NAR Executive Steering Committee and forwarded to the FAA on December 4, 1984.

The FAA is aware that at certain times and in certain places a concentration of beacon targets could confuse and interfere with the efficiency of ATC rather than assist it. For example, during such occasions as high traffic density fly-ins, space launches, or such operations as touch-and-go landings, ATC may specifically ask pilots to turn transponders off or change transponder to "standby" or "low sensitivity" position. In some cases, because of the possibility of ATC radar saturation, clutter, or the phenomenon of "ring-around," ATC may direct pilots to "squawk standby" or "squawk low." In other instances, ATC may request the pilot to turn off a malfunctioning transponder.

It is not the intent of this proposal to create an inflexible requirement that could interfere with the efficiency of the National Airspace System or derogate ATC separation and advisory services. Rather, this action is intended to help increase controller awareness and recognition of potential traffic so that timely, positive actions may be taken to detect and resolve potential traffic conflict situations. This proposal would require no change to the current operational environment. Its purpose is to ensure that when needed for ATC traffic advisory and other services, and where ATC capability exists, aircraft with transponders will operate with transponders turned on. Therefore, consistent with the concept and intent to retain a flexible operational environment, and consistent with the language of the proposed rule which provides ATC authority to assign beacon codes, ATC could continue to instruct pilots to turn transponders off or "squawk standby" or "squawk low," as appropriate. These actions could be taken, as stated, for such purposes as the reduction of clutter in a multi-target area or "ring around" or other phenomena. In this regard, the FAA invites comments relative to situations when continued operation of the transponder could result in possible unsafe or inefficient operation of the National Airspace System.

In addition to leaving the current operational environment intact, the proposed amendment would also make no change to current ATC deviation authority. Under authority of § 91.24, ATC may continue to approve deviations immediately or on a continuing basis when necessary for safety and efficiency.

It is also not the intent of this proposal to change the application of § 91.172 "ATC Transponder Tests and Inspections." This section states that no person may use an ATC transponder that is specified in Part 125, § 91.24(a), § 121.345(c), § 127.123(b), or § 135.143(c) of this chapter unless within the preceding 24 calendar months, that ATC transponder has been tested and inspected and found to comply with Appendix F of Part 43 and certain other test and inspection requirements.

Under § 91.172, an operator of a transponder-equipped aircraft can elect to forego the 24-calendar-month test and inspection requirements and operate without using the transponder in all airspace except in TCA's and above 12,500 feet MSL.

Under this amendment an operator may continue to forego § 91.172 inspections and not use the ATC transponder. However, if the transponder is in compliance with the 24-calendar-month test and inspection requirements of § 91.172, it must be turned on when the aircraft is in controlled airspace.

Because this amendment generates no significant energy, cost, or other impacts on aircraft operators, this document involves a rulemaking action which is not a major rule under Executive Order 12291 and is not a significant rule under Department of Transportation Regulatory Policies and Procedures (44 FR 11034, February 26, 1979).

Regulatory Evaluation

The proposed requirement that transponders already installed in aircraft be turned on while such aircraft are airborne in the National Airspace System would not have a significant economic impact on airspace users. If adopted, the rule would not require the purchase, installation, or maintenance of any additional equipment nor would it require any additional recordkeeping. Only an imperceptible amount of additional electricity at negligible cost would be required to keep transponders in operation while the aircraft equipped with them are airborne. For the same reasons, a transponder-on-rule would not have a significant economic impact on a substantial number of small entities. While FAA has no estimate of the number, if any, of small entities which would be affected by the rule, the impact on individual operators is so minimal as not to meet the threshold of "significant impact" within the meaning of the Regulatory Flexibility Act. Therefore, it is certified that the proposed rule will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 14 CFR Part 91

Aviation safety, Air traffic control, Airspace, Safety.

The Proposal

PART 91—[AMENDED]

In consideration of the foregoing, it is proposed to amend § 91.24 of Part 91 of the Federal Aviation Regulations (14 CFR Part 91, § 91.24) by redesignating paragraph (c) as paragraph (d), and by adding new paragraph (c) to read as follows:

§ 91.24 ATC Transponder and altitude reporting equipment and use.

* * * * *

(c) *Controlled Airspace, all aircraft, transponder-on operation.* While in controlled airspace, each person operating an aircraft equipped with an operable ATC transponder maintained in accordance with § 91.172 of this Part shall operate the transponder, including Mode C equipment if installed, and shall reply on the appropriate code or as assigned by ATC.

* * * * *

(Secs. 307(a) and 313(a) Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)), 49 U.S.C. 106(g) Revised Pub. L. 97-449, January 12, 1983; and 14 CFR 11.45)

Issued in Washington, D.C., on April 3, 1985.

John R. Ryan,

Acting Director, Air Traffic Operations Service.

[FR Doc. 85-11073 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 84N-0239]

Draft Guideline for Veterinary Prescriptions and Other Orders; Draft Guideline Withdrawn

AGENCY: Food and Drug Administration.

ACTION: Notice of withdrawal of draft guidelines.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing its Draft Guideline for Veterinary Prescriptions and Other Orders. The draft guideline was the subject of a public meeting held on August 22, 1984, and written comments.

FOR FURTHER INFORMATION CONTACT: Gary J. Dykstra, Center for Veterinary Medicine (HFV-201), Food and Drug

Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3400.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of July 26, 1984 (49 FR 30076), FDA announced that it would hold a public meeting on August 22, 1984, to discuss a draft guideline concerning the dispensing of veterinary drugs that are permitted to be used only by or on the prescription or other order of a licensed veterinarian (veterinary prescription drugs). The notice reproduced the draft guideline verbatim. The notice also stated that written comments in the draft guideline could be submitted by September 30, 1984. In the **Federal Register** of October 15, 1984 (49 FR 40188), FDA extended the comment period to December 31, 1984.

The draft guideline was developed in an effort to assist the agency in its attempt to control the over-the-counter sale of veterinary prescription drugs. The agency had, in its regulatory activities, enforced several of the criteria that were incorporated into the draft guideline. These criteria included, for example, the requirements of 21 CFR 201.110, a regulation that establishes labeling requirements to be met at the time of retail delivery of a veterinary prescription drug. These criteria also included the requirement that there be written records to document the existence of a veterinarian's prescription or other orders. The FDA's Center for Veterinary Medicine had believed that it might be useful to the public to describe these requirements in a single document, issued as a guideline. In addition, the agency included in the draft guideline several criteria that had not previously been stated as requirements.

Five people made formal oral presentations during the public hearing. In addition, 147 written comments were submitted. A few comments supported the guideline in total, while others supported the guideline in part. Still others, who opposed the guideline in total, appeared to misunderstand the key provisions and purposes of the guideline. For example, some comments assumed that the guideline would make illegal the distribution of any bulk, or large quantities of, veterinary prescription drugs. Many others submitting comments opposed the guideline because they thought that the guideline would require excessive paperwork, would increase the cost of veterinary prescription drugs to farmers and other users, and could limit the availability of such drugs to clients who need them. Certain comments stated that all veterinary drugs, whether labeled as prescription drugs or not, should be allowed to be distributed without a veterinarian's prescription or other order.

The agency has reviewed the comments carefully, and it is persuaded by the weight of the comments that the implementation of the guideline as proposed in unnecessary. Full implementation would place an unwarranted burden on United States livestock and poultry producers and on veterinarians. The agency has, therefore, decided to withdraw the guideline.

Withdrawal of the guideline, however, does not change: (1) The agency's position on the need for a veterinarian's prescription or other order in connection with the sale and use of a veterinary prescription drug; (2) the agency's position that a bona fide veterinarian/patient/client relationship must be involved in the distribution of veterinarian prescription drugs; and (3) the labeling and documentation requirements already imposed by statute and regulation, before the proposal of the draft guideline. For example, this action has no effect on the agency's enforcement of 21 CFR 201.110 or on FDA's policy that veterinarians and other dispensers of prescription veterinary drugs shall keep adequate written records of drugs they dispense. FDA will continue to pursue its efforts to control the illegal distribution of veterinary prescription drugs, especially when those drugs are intended for use in food animals.

Received comments and a transcription of the oral testimony may be seen in the Docket Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 1, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-11042 Filed 5-7; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[LR-245-84]

Mortgage Credit Certificates

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: This document provides proposed regulations that relate to mortgage credit certificates. Changes to the applicable tax law were made by the Tax Reform Act of 1984 (Pub. L. 98-369; 98 Stat. 905). These regulations affect all holders and issuers of mortgage credit certificates. In addition, in the Rules and Regulations portion of this **Federal Register**, the Internal Revenue Service is issuing temporary regulations that relate to mortgage credit certificates. The text of those temporary regulations also serves as the comment document for this proposed rulemaking.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 8, 1985. The regulations are proposed to be effective for interest paid or accrued after December 31, 1984, on indebtedness incurred after December 31, 1984, and for elections not to issue qualified mortgage bonds after 1983.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T (LR-245-84), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: Mitchell H. Rapaport of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3740).

SUPPLEMENTARY INFORMATION:

Background

The temporary regulations in the Rules and Regulatios portion of this issue of the **Federal Register** add new §§ 1.25-1T through 1.25-8T to Part 1 of Title 26 of the Code of Federal Regulations and amend Part 6a of Title 26. The final regulations, which this document proposes to be based on those temporary regulations, would be added to Part 1 of Title of the Code of Federal Regulations. For the text of the temporary regulations, see FR Doc. 11017 (T.D. 8023) published in the Rules and Regulations portion of this issue of the **Federal Register**. The preamble to the temporary regulations explains the addition to the regulations.

The regulations interpret the provisions of section 25 of the Code, which provides that an issuing authority may issue mortgage credit certificates to individuals to be used in connection with the acquisition, qualified rehabilitation, or qualified home improvement of the taxpayer's principal residence. A qualified mortgage credit certificate entitles its recipient to claim a credit against his Federal income tax

based on the amount of mortage interest paid during the year.

The regulations permit great flexibility in the manner in which MCCs' may be issued and programs' administered. Examples are provided illustrating the manner in which certificates may be issued. Comments are requested with respect to other methods of issuing certificates and adminstering programs.

The proposed and temporary regulations provide, in general, that issuers may not limit the use of MCCs to indebtedness incurred from particular lenders. Thus, in general, holder of an MCC must be free to take the certificate to any lender and use it to obtain any type of mortgage. A major exception permits an issuer to impose limitations on the use of MCCs to indebtedness incurred from particular lenders after demonstrating to the satisfaction of the Commissioner that the proposed limitations will result in significant economic benefits to the MCC holders. Comments on this provision and information on the types of limitations that issuers believe will result in significant economic benefits to MCC holders are requested.

These regulations are proposed to be issued under the authority contained in section 25 and section 7805 of the Internal Revenue Code (98 Stat. 905, 26 U.S.C. 25; 68A Stat. 917, 26 U.S.C. 7805).

Non-Applicability of Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a regulatory impact analysis therefore is not required.

Regulatory Flexibility Act

Although this document is a notice of proposed rule-making that solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and that the notice and public procedures requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

Drafting Information

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

Comments and Requests for a Public Hearing

Before the adoption of these proposed regulations, consideration will be given to any written comments that are submitted (preferably eight copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.** The collection of information requirements contained herein have been submitted to the Office of Management and Budget (OMB) for review under section 3504(h) of the Paperwork Reduction Act. Comments on the requirements should be sent to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for Internal Revenue Service, New Executive Office Building, Washington, D.C. 20503. The Internal Revenue Service requests persons submitting comments to OMB also to send copies of the comments to the Service.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 85-11016 Filed 5-3-85; 2:59 pm]

BILLING CODE 4830-01-M

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 4

[Notice No. 564]

Labeling and Advertising of Wine; Application of State Laws to Wine Labeled With a Viticultural Area Appellation

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is proposing to amend regulations relating to the application of state laws for wines labeled with American viticultural area appellations. Under § 4.25a(e)(3)(v) one requirement for use of a viticultural area appellation is that the wine conform to the laws or regulations of all the states contained in the area. In some cases this may subject wines grown, fermented and finished within a single state to the laws of other states even though the grapes or wine never entered any other state. This notice proposes to delete the Federal requirement that wine bearing a viticultural area appellation comply with all such state laws and regulations.

ATF finds compliance with all state laws within a multistate viticultural area inappropriate since it potentially imposes the laws of one state upon interstate or intrastate transactions not involving that state.

DATE: Written comments must be received by July 8, 1985.

ADDRESS: Send written comments to: Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044-0385, Attention: Notice No. 564.

Written comments will be available for public inspection during normal business hours at the ATF Reading Room, Office of Public Affairs and Disclosure, Room 4407, Federal Building, 12th and Pennsylvania Avenue, NW, Washington, DC 20226.

FOR FURTHER INFORMATION CONTACT: Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226, Telephone: 202-566-7626.

SUPPLEMENTARY INFORMATION:

Background, T.D. ATF-53

Until Treasury Decision ATF-53 was issued August 23, 1978 (43 FR 37675), appellations of origin for domestic wines were generally names of states or in a few cases "regions" or "places." Treasury policy set forth in § 4.25(a)(3) required those wines to be made in conformity with the laws and regulations of such "place" or "region" governing the composition, manufacture and designation of wines. Since many domestic wines bore state appellations such as "California" or "New York," this regulation generally required compliance with state laws. This policy recognized the state interest in insuring the quality and integrity of wine bearing that states's name.

With T.D. ATF-53, viticultural areas were established as appellations of origin. American viticultural areas are defined in § 4.25a(e)(1)(i) as delimited grape growing regions distinguishable by geographical features, and recognized in 27 CFR Part 9. Because they are grape growing regions rather than political divisions such as counties or states, their boundaries have no relationship to political boundaries, and some viticultural areas occupy portions of two or more states.

One Federal requirement for use of an American viticultural area is conformity with all the laws and regulations of the states in which the viticultural area is located, § 4.25a(e)(3)(v). Thus, wine bearing a "Napa Valley" appellation is required by Federal regulation to conform to California law. Similarly, this

Federal requirement exists when a viticultural area encompasses more than one state. For example, wine bearing a "Lake Erie" viticultural area appellation is required by this section to conform to New York, Pennsylvania, and Ohio laws and regulations.

Multistate viticultural areas

The proposed "Columbia Valley" viticultural area (Notice No. 483, August 24, 1983, 48 FR 38497), has surfaced a problem with the labeling of wine with multistate viticultural areas. Geographic criteria support the establishment of this viticultural area in portions of both Oregon and Washington. However, both state regulations differ greatly regarding the manufacture and labeling of wine, and Oregon regulations are more stringent than Federal regulations. Since § 4.25a(e)(3)(v) requires compliance with laws and regulations of *all* states within a multistate viticultural area, regardless of where the wine is fermented or finished, wine made from grapes originating and fermented in Washington, and finished and bottled within Washington, is, nevertheless, subject to Oregon law if the wine bears a multistate viticultural area appellation such as Columbia Valley.

As a result, this regulation would appear to place an unfair burden on some wineries within multistate viticultural areas by subjecting a winery in one state to laws issued by another state even when the grapes or wine do not enter the other state during the course of wine production. ATF believes that § 4.25a(e)(3)(v) is unnecessarily strict and should be deleted.

Proposal

ATF is proposing to amend § 4.25a by deleting subparagraph (e)(3)(v) which requires compliance with the laws and regulations of all states contained within the viticultural area. The deletion of this Federal requirement would have no bearing on wines labeled with the name of a viticultural area located entirely within a single state.

The proposed change would affect the application of state laws when a viticultural area is located in portions of two or more states. By deleting § 4.25a(e)(v), only the state law or regulation of the state in which a winery was located would apply to wine bearing a multistate viticultural area appellation. In this way, a vintner producing such a wine would not be governed by state laws or regulations of states in which the producing winery was not located. ATF believes this proposal is especially appropriate when grapes are grown and fermented, and wine is fully finished entirely within one state of a multistate viticultural area. ATF does not believe that Federal regulation should impose the state laws or regulations of one state upon transactions occurring in other states. State laws of the state in which the wine was fermented or finished would, of course, continue to apply to the producing winery. These state laws would be enforced by the state involved.

Public Participation

ATF requests comments from all interested persons concerning this proposed regulation. All comments received before the closing date will be carefully considered. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future ATF action.

ATF will not recognize any material and comments as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comments. The name of any person submitting comments is not exempt from disclosure.

Any interested person who desires an opportunity to comment orally at a public hearing on this proposed regulation should submit his or her request, in writing, to the Director within the 60 day comment period. The request should include reasons why the respondent believes a public hearing is necessary. The Director reserves the right to determine whether a public hearing will be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

This proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities, or impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that this proposed rule, if issued as a final rule, will not have a significant economic impact on a substantial number of small entities.

Compliance With Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographical regions; and it will not have significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 27 CFR Part 4

Advertising, Consumer protection, Customs duties and inspection, Imports, Labeling, Packaging and containers, Wine.

Paperwork Reduction Act

The provisions of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35, and its implementing regulations, 5 CFR Part 1320, do not apply to this notice because no requirement to collect information is proposed.

Drafting Information

The principal author of this document is Charles N. Bacon, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms.

Authority and Issuance

PART 4—[AMENDED]

27 CFR Part 4 is amended as follows:

Paragraph 1. The authority citation for 27 CFR Part 4 continues to read as follows:

Authority: August 29, 1935, Chapter 814, sec. 5, 49 Stat 981, as amended (27 U.S.C. 205), unless otherwise noted.

§ 4.25a [Amended]

Par. 2. Section 4.25a is amended by removing paragraph (e)(3)(v).

Signed: December 6, 1984.

W.T. Drake,

Acting Director.

Approved: February 12, 1985.

Edward T. Stevenson,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 85–11054 Filed 5–7–85; 8:45 am]

BILLING CODE 4810–31–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2620

Valuation of Plan Assets

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Proposed rule.

SUMMARY: This proposed regulation sets forth rules for valuing the assets of terminating non-multiemployer pension plans that are covered by Title IV of the Employee Retirement Income Security Act of 1974, *as amended*, (the "Act"). Under Title IV of the Act, the assets of a terminating plan must be valued and allocated to the plan's benefits. Because plan assets are often held in forms that are subject to different valuation methods, this regulation is necessary to provide uniform standards for plan administrators and employers to use in determining the value of plan assets. The effect of this regulation would be to ensure that the parties involved in plan terminations are provided with the guidance necessary to comply with the provisions of Title IV of the Act.

DATES: Comments must be received on or before July 8, 1985.

ADDRESSES: Comments should be addressed to the Director, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, Suite 7300, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection in Suite 7100, at the above address, between the hours of 9:00 a.m. and 4:00 p.m.

FOR FURTHER INFORMATION CONTACT: Renae R. Hubbard, Special Counsel, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006, 202–254–6476 (202–254–8010 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

On May 7, 1976, the Pension Benefit Guaranty Corporation (the "PBGC") published in the **Federal Register** a final regulation on Valuation of Plan Assets, 41 FR 18992 (codified at 29 CFR Part 2611, recodified as Part 2620). The regulation sets forth standards for valuing the assets of a terminating pension plan. In the preamble to the regulation, the PBGC noted that specific rules for the valuation of insurance contracts when they are held as plan assets were not included and that it would provide guidance on that issue in the future. Accordingly, on April 18, 1977, the PBGC published proposed amendments to the Valuation of Plan Assets regulation, setting forth rules for determining the value of insurance contracts and insurance contract rights that are held as plan assets (42 FR 20158).

Because of the passage of time, the PBGC is publishing new proposed rules for valuing insurance contracts and insurance contract rights, in order to receive current public comment on the issues presented. The rules proposed in this document differ substantively from the 1977 proposal in several respects. Additionally, non-substantive changes have been made to simplify the regulation.

In the discussion that follows, unless otherwise stated, references are to sections of the proposed regulation set forth in this document.

Overview of the Regulation

As in the 1977 proposal, this proposed rule would restructure the regulation. For the sake of clarity, the regulation has been divided into three subparts. Subpart A contains the general provisions of the regulation. Subpart B contains the rules for valuing plan assets other than insurance contracts and insurance contract rights. Subpart C sets forth rules for identifying insurance contracts and insurance contract rights that are plan assets and for determining their value.

It should be noted that the scope of this regulation also would be changed by this amendment. Unlike the original rules, this proposal does not apply to multiemployer pension plans (§ 2620.1(b)). The Multiemployer Pension Plan Amendments Act of 1980, Pub. L. 96–364 (Sept. 26, 1980), 94 Stat. 1208, established a new insurance program for multiemployer plans, and regulations dealing with valuation of assets by such plans will be issued in the future.

In addition, this regulation has been coordinated with the PBGC's regulation on Determination of Plan Sufficiency and Termination of Sufficient Plans, which was published on January 28, 1981, 46 FR 9532 (codified at 29 CFR Part 2615, recodified as Part 2617). The "Sufficiency" regulation sets forth a procedure for plan administrators to follow in order to demonstrate whether the value of the plan's assets will be sufficient to provide plan benefits on the date the plan's assets are distributed, rather than the date of plan termination which is the valuation date for insufficient plans. Proposed § 2620.3 recognizes that alternate valuation date for sufficient plans.

With those exceptions, the provisions of Subparts A and B of this proposal do not differ substantively from the provisions of the final regulation published on May 7, 1976. Accordingly, the remainder of this preamble addresses Subpart C exclusively.

Valuation and Plan Sufficiency

Because the Sufficiency regulation provides that a plan administrator who demonstrates sufficiency may distribute plan assets to participants in the form elected by the participants, certain of the valuation rules proposed in 1977 are inapposite to a plan that is closing out pursuant to the Sufficiency regulation. For example, in the 1977 proposal, § 2611.12(a) provided that, in order to determine the value of an insurance contract, the contract's greatest cash settlement value had to be determined. Under § 2611.12(c) of that proposal, the greatest cash settlement value was to be either (1) the amount of a lump sum payment or (2) the fair market value of a series of installment payments. It is not productive, however, to require a plan administrator to determine the fair market value of a series of installment payments if the participants have elected to receive immediate lump sum distributions.

Accordingly, this proposal includes a rule to ensure that plan administrators who are demonstrating sufficiency or closing out a plan under the Sufficiency regulation are not forced to follow unnecessary valuation procedures. Under § 2620.13 of this proposal, for purposes of demonstrating sufficiency under Subpart B of the Sufficiency regulation and closing out a plan under Subpart C of that regulation, the plan administrator shall value insurance contracts and participation rights in the manner that reflects the highest value that can be realized in a form that will enable the plan administrator to close out the plan as required by the Sufficiency regulation.

Contract Provisions

Under the 1977 proposed amendments, the value of an insurance contract would have depended upon the alternatives expressly available under the contract as of the valuation date (1977 proposal § 2611.10—definition of "settlement options"). The PBGC reviewed this rule and determined that it was unnecessarily restrictive because the contractholder may be able to negotiate with the insurer for a higher value than the contract provides. Accordingly, a new § 2620.14 provides that the valuation of plan assets shall be based upon the provisions of the insurance contract as of the valuation date or upon other options available

from the insurer as of the valuation date. The existence of options other than those expressly contained in the insurance contract must be demonstrated by means of a written statement by the insurer. That section also makes clear that the plan administrator has the responsibility for obtaining the factual basis for the insurer's computations underlying its determination of value. Where the factual basis used by the insurer would lead to an unreasonable determination of value, the plan administrator is responsible for taking whatever action is necessary to arrive at a fair and reasonable determination of value.

Cash Settlement Value

Under the 1977 proposal, as well as this proposed rule, the basic method for determining the value of an insurance contract is to compare the contract's greatest cash settlement value with the present value of the benefits that can be purchased with the contract funds (1977 proposal § 2611.12(a); this proposal § 2620.15(a)). In the preamble to the proposed 1977 amendments, the PBGC noted that many insurance contracts give the insurer some discretion in calculating the amount of a cash settlement. It was and is the PBGC's expectation that insurers will be fair and reasonable in interpreting and implementing their contracts. This expection does not in any way, however, affect the plan administrator's responsibility to scrutinize the basis upon which the insurer has made its determination and to negotiate a settlement that is both fair and reasonable in light of the factors relevant to a determination of value, e.g., mortality rates, interest rates, the value of future dividend streams and comparable contract prices.

The PBGC did, however, invite suggestions from the public on the need for special safeguards and the type of safeguards that might be adopted. In response to this invitation, one comment stated that many insurance contracts provide that the cash amount available upon liquidation of the contract is determined by means of a formula that is subject to periodic modification called, in insurance parlance, a "secretary formula." The comment suggested that the regulation require the insurer to use the formula in effect during the five-year period preceding plan termination that would produce the highest cash settlement. The PBGC has considered this suggestion but has not adopted it in this new proposal because that formula may no longer be available and, thus, would be irrelevant to an accurate determination of the fair value of the asset.

In the 1977 proposal, § 2611.12(c)(2) provided that "[t]he value of a settlement option requiring cash payments by the insurer in installments is the fair market value, determined in accordance with Subpart B of this part, of the right to recieve that stream of future payments." The PBGC has made three changes in this provision. First, one public comment on the 1977 proposal objected to the use of the term "settlement option" on the ground that its use might cause confusion since it is a term of art referring to the various ways in which the proceeds of life insurance policies can be paid other than in a lump sum. In light of the comment, the PBGC has eliminated from this proposed rule the term "settlement option" and , in its place, uses the term "cash settlement" (§ 2620.15(b)).

Second, in reviewing § 2611.12(c)(2) of the 1977 proposal, the PBGC decided that the fair market value concept set forth in Subpart B of the regulation might not be particularly helpful in valuing the right to receive the stream of future payments from the insurer. Subpart B's fair market value concept depends upon the existence of a market for the asset to be valued. The PBGC is not aware of a market for the right to receive the stream of future payments from the insurer. Accordingly, this proposal sets forth a new method for determining the value of a cash settlement that provides cash installment payments by the insurer. Proposed § 2620.15(b)(2) provides that the value of these installment payments is the present value of the payments calculated as of the valuation date, determined by applying an interest rate that is the sum of the PBGC's interest rate for valuing immediate annuities in effect on the valuation date plus one-half of one percent. The resulting interest rate is the rate the PBGC uses to value immediate annuities before adjusting for benefit administration costs.

Finally, the PBGC has clarified § 2620.15(b)(2) of the proposal to make explicit the fact that it applies to a deferred lump sum cash payment as well as to a series of installment payments.

Value of Participation Rights

The 1977 proposal provided in § 2611.14 that the value of participation rights was to be determined solely by reference to the cancellation of such rights. The PBGC received a number of public comments that were critical of this provision. As suggested by some of the comments, this proposal now provides a method for valuing participant rights that cannot be cancelled.

Section 2620.16(b) provides that if a participation right cannot be cancelled, the value of the right is the present value of the future stream of payments determined by reference to all relevant factors, such as interest rates, mortality rates, the past practice of the insurer regarding participation rights and comparable contract prices. The contractholder is responsible for negotiating with the insurer to make clear, in the contract, that the rights must either be cancellable or, if not, that the insurer must provide information with respect to the future stream of payments based on past dividend practice that is adequate for the plan administrator to determine the fair value of such rights.

Additionally, the rules dealing with the valuation of participation rights that can be cancelled has been slightly modified. Proposed § 2611.14 provided that the value of a participation right was the greater of the cash amount payable by the insurer upon cancellation of the right or the value of the benefits provided by the insurer upon cancellation of the right. Section 2620.16(a) of this proposed rule provides that the value of a participation right is the greater of the cash amount or the value of the additional benefits negotiated by the parties upon cancellation of the right.

In the preamble to the 1977 proposed amendments, the PBGC invited public suggestions on appropriate measures that the PBGC might take to assure that an insurer attributes a reasonable value to a plan's participation rights. In response, one comment suggested that "if abuse really occurs, PBGC might move to requiring prior disclosure of an insurer's practices upon contract termination in . . . greater detail than is now usually provided." The PBGC would be interested in public reaction to that suggestion.

Two comments suggested that, if a participation right cannot be cancelled, the PBGC should become the holder of the right, even in the sufficient plan context. While the PBGC might become the holder of participation rights when it becomes trustee of a plan, a possibility contemplated by this regulation, the situation is different in the case of plans that are not trusteed by the PBGC. Generally, it is the PBGC's view that its involvement with plans that can be closed out in the private sector should be kept to a minimum. It would be

inconsistent with this view of the PBGC's responsibilities under Title IV of the Act for the PBGC to become the holder of a plan's participation rights when the plan is sufficient.

Comments Invited

Interested persons are invited to submit written comments on this proposed regulation. Comments should be addressed to: Director, Corporate Policy and Regulations Department, Code 611, Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, D.C. 20006. Written comments will be available for public inspection at the above address, Suite 7100, between the hours of 9:00 a.m. and 4:00 p.m. Each comment should identify this regulation and should include the name and address of the person submitting it and the reasons for any recommendation. This proposal may be changed in light of the comments received.

Classification: E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that this rule is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; nor will it create a major increase in costs or prices for consumers, individual industries, or geographic regions; nor will it have significant adverse effects on competition, employment, investment, innovation or on the ability of United State-based enterprise to compete with foreign-based enterprises in domestic or export markets.

Under section 605(b) of the Regulatory Flexibility Act, the PBGC certifies that this regulation will not have a significant economic effect on a substantial number of small entities. All pension plans that terminate under Title IV of the Employee Retirement Income Security Act of 1974 must value their assets. By setting forth valuation methods, this regulation will make it easier for administrators of such plans to comply with the law. Compliance with sections 603 and 604 of the Regulatory Flexibility Act is accordingly waived.

List of Subjects in 29 CFR Part 2620

Employee benefit plans, Pension insurance, and Pensions.

In consideration of the foregoing, it is proposed to revise Part 2620 of Chapter XXVI of Title 29, Code of Federal Regulations, to read as follows:

PART 2620—VALUATION OF PLANS ASSETS IN NON-MULTIEMPLOYER PENSION PLANS

Subpart A—General

Sec.
2620.1 Purpose and scope.
2620.2 Definitions.
2620.3 Valuation date.

Subpart B—Assets Other Than Insurance Contracts

2620.5 Purpose and scope.
2620.6 Definitions.
2620.7 General rule.
2620.8 Fair market value presumptions.

Subpart C—Insurance Contracts

2620.10 Purpose and scope.
2620.11 Definitions.
2620.12 Plan assets.
2620.13 Special rule applicable to demonstrating sufficiency and closing out a plan under Subpart C of Part 2617.
2620.14 Contract provisions.
2620.15 Value of insurance contracts.
2620.16 Value of participation rights.

Authority: Secs. 4002(b)(3), 4141, 4044 and 4062, Pub. L. 93-406, 88 Stat. 1004, 1020, 1025 and 1029 (1974), as amended by secs. 403(1), 403(d), 402(a)(7) and 403(g), Pub. L. 96-364, 94 Stat. 1302, 1301, 1299 and 1301 (1980) (29 U.S.C. 1302(b)(3), 1341, 1344 and 1362).

Subpart A—General

§ 2620.1 Purpose and scope.

(a) *Purpose.* This part sets forth rules governing the valuation of the assets of a terminating pension plan for purposes of Title IV of the Act.

(b) *Scope.* This part applies to non-multiemployer pension plans for which a Notice of Intent to Terminate is filed on or after the effective date of this part, or for which the PBGC commences a termination action on or after the effective date of this part.

§ 2620.2 Definitions.

For purposes of this part:

"Act" means the Employee Retirement Income Security Act of 1974 (29 U.S.C. § 1001 *et seq.*), *as amended.*

"Date of plan termination" means the date of plan termination established under section 4048 of the Act.

"Notice of Intent to Terminate" means a notice filed with the PBGC pursuant to section 4041(a) of the Act and Part 2616 of this chapter.

"PBGC" means the Pension Benefit Guaranty Corporation.

"Non-multiemployer plan" means a pension plan described in section 4021(a) of the Act that is maintained by one trade or business (whether or not incorporated), or by more than one trade or business (whether or not incorporated) all of which are under control within the meaning of Part 2612 of this chapter, or a plan maintained by more than one trade or business not under common control that is not a multiemployer plan as defined in section 4001(a)(3) of the Act.

§ 2620.3 Valuation date.

Except as otherwise provided, the assets of a plan that has been placed into trusteeship by the PBGC shall be valued as of the date of plan termination and the assets of a plan that closes out in accordance with Part 2617 of this chapter shall be valued as of the date plan assets are to be distributed.

Subpart B—Assets Other Than Insurance Contracts

§ 2620.5 Purpose and Scope.

This subpart sets forth rules for valuing plan assets other than plan assets described in § 2620.12.

§ 2620.6 Definitions.

For purposes of this subpart:

"Exchange" means a national securities exchange registered with the Securities and Exchange Commission under section 6 of the Securities Exchange Act of 1934.

"Fair market value" means the price at which property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts.

"National Association of Securities Dealers Automated Quotations Systems" means the automated quotations system sponsored by the National Association of Securities Dealers, Inc., a national securities association registered with the Securities and Exchange Commission under section 15A of the Securities Exchange Act of 1934.

"Principally traded" means the market place at which the greatest volume of trades normally occurs.

§ 2620.7 General rule.

Plan assets to which this subpart applies shall be valued at their fair market value on the plan's valuation date, using the method of valuation that most accurately reflects fair market value.

§ 2620.8 Fair market value presumptions.

(a) *Treasury bills.* The fair market value of Treasury bills is presumed to be the value computed from the average of the bid and asked discount for the bill on the valuation date, as nationally published in a general circulation daily newspaper.

(b) *Treasury notes, bonds and Federal agency securities.* The fair market value

of Treasury notes, bonds and Federal agency securities is presumed to be the value computed from the average of bid and asked prices for the security on the valuation date, as nationally published in a general circulation daily newspaper.

(c) *Shares in open-end mutual funds.* The fair market value of shares in open-end mutual funds is presumed to be the net asset value (the redemption value) per share of the mutual fund on the valuation date, as nationally published in a general circulation daily newspaper.

(d) *Units of participation in a common trust fund or collective investment fund.* The fair market value of units of participation in a common trust fund or collective investment fund is presumed to be the value per unit of the fund as reflected on a statement of account prepared by the manager of the fund. The value per unit of the fund is to be determined in accordance with the procedures normally employed by the manager of the fund pursuant to the terms of the fund, and federal and state law and regulations, as applicable, and as of the normal date on which the fund is valued if that date is on or within 31 days after the valuation date. This presumption will apply only if there were no distributions from the fund in relation to units of the fund in the interval between the plan's valuation date and the normal valuation date of the fund.

(e) *Common and preferred stocks, warrants and closed-end mutual funds.* The fair market value of common and preferred stocks, warrants, and closed-end mutual funds is presumed to be the value determined in accordance with the rules set forth in Paragraphs (e)(1) through (e)(4) of this section, as follows:

(1) If the security is traded on the New York Stock Exchange and the plan's valuation date is on or before January 26, 1976, or traded on the American Stock Exchange and the valuation date is on or after March 1, 1976, the fair market value is presumed to be the closing sale price on the valuation date as reported by the consolidated last sale reporting system established pursuant to Rule 11Aa3–1, promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as nationally published in a general circulation daily newspaper.

(2) If the security is principally traded on an exchange, other than as set forth in Paragraph (e)(1), the fair market value is presumed to be the closing sale price on the valuation date on the exchange where the security is principally traded, as nationally published in a general circulation daily newspaper.

(3) If the security is principally traded otherwise than on an exchange, and is quoted on the National Association of Securities Dealers Automated Quotations System, the fair market value is presumed to be the average of the end-of-day bid and asked prices for the security on the valuation date, as made available for publication by such system and nationally published in a general circulation daily newspaper.

(4) If there is no nationally published closing sale price or end-of-day bid and asked prices on the valuation date, the fair market value of the security is presumed to be—

(i) For securities traded principally on an exchange, the average of the nationally published closing sale price on the date nearest the valuation date and within five trading days before the valuation date and the nationally published closing sale price on the date nearest the valuation date and within five trading days after the valuation date; and

(ii) For securities principally traded otherwise than on an exchange, the average of (1) the average of the nationally published end-of-day bid and asked prices on the date nearest the valuation date and within five trading days before the valuation date and (2) the average of the nationally published end-of-day bid and asked prices on the date nearest the valuation date and within five trading days after the valuation date.

(f) *State and municipal obligations.* The fair market value of state and municipal obligations is presumed to be the average of bid and asked prices for the security on the valuation date, as nationally published in a general circulation daily newspaper. If there are no such nationally published bid and asked prices on the valuation date, the fair market value of the security is presumed to be the average of (1) the average of the nationally published bid and asked prices on the date nearest the valuation date and within five trading days before the valuation date and (2) the average of the nationally published bid and asked prices on the date nearest the valuation date and within five trading days after the valuation date.

Subpart C—Insurance Contracts

§ 2620.10 Purpose and scope.

This subpart sets forth rules for identifying insurance contracts and insurance contract rights that are plan assets and for determining their value.

§ 2620.11 Definitions.

For purposes of this subpart:

"Contractholder" means the owner of an insurance contract purchased with funds contributed to or under a plan. A participant who has received an insurance contract from or under a plan is not a "contractholder" for purposes of this subpart.

"Insurance contract" or "contract" means a valid written agreement between an insurer and a contractholder pursuant to which the insurer agrees to perform services including the payment of specified benefits or their equivalent in return for the payment of premiums or similar consideration. References in this subpart to "an insurance contract" include more than one contract, unless the plural is clearly inappropriate.

"Insurer" means a company authorized to do business as an insurance carrier under the laws of a State or the District of Columbia.

"Participation right" means the right of a contractholder or plan, under an insurance contract, to receive future dividends, rate credits, interest, experience credits or other earnings or distributions from the insurer.

§ 2620.12 Plan assets.

(a) *Insurance contracts.* An insurance contract purchased with funds contributed to or under a plan is a plan asset for purposes of this part if, on the valuation date, the contract has not been distributed to a participant and the insurer's obligations under the contract have not been cancelled.

(b) *Participation rights.* A participation right under an insurance contract purchased with funds contributed to or under a plan is a plan asset for purposes of this part to the extent that the value of the participation right is not included in the value of an insurance contract that is a plan asset.

§ 2620.13 Special rule applicable to demonstrating sufficiency and closing out a plan under Subpart C of Part 2617.

Notwithstanding §§ 2620.14 through 2620.16, for purposes of demonstrating sufficiency under Subpart B of Part 2617 of this chapter and closing out a plan under Subpart C of Part 2617 of this chapter, the plan administrator shall value insurance contracts and participation rights in the manner that best reflects the highest value that can be realized in a form that will enable the plan administrator to close out the plan as required by § 2617.21 of this chapter.

§ 2620.14 Contract provisions.

(a) *General.* The valuation of plan assets under this subpart shall be based upon the provisions of the insurance contract as of the valuation date or upon other options available from the insurer as of the valuation date. The existence of such other options must be

demonstrated by means of a written statement by the insurer.

(b) *Responsibilities of plan administrator.* In determining the value of an insurance contract as of the valuation date, the plan administrator is responsible for critically assessing the reasonableness of the factors underlying the insurer's determination of the contract's cash value or the value of other options provided in lieu thereof. Where the factors underlying the determination are unreasonable, the plan administrator is responsible for taking whatever action is necessary to reach a reasonable value for the asset.

§ 2620.15 Value of insurance contracts.

(a) *General.* The value of an insurance contract is the greater of—

(1) The contract's greatest cash settlement value, determined in accordance with paragraph (b) of this section, as of the valuation date; or

(2) The present value, determined in accordance with Part 2619 of this chapter, of the benefits that can be purchased under the contract as of the valuation date by application of the contract assets described in Paragraph (c) of this section to the purchase of benefits in accordance with the order of priorities prescribed by section 4044 of the Act.

(b) *Cash settlement value.* (1) The value of a cash settlement that provides an immediate lump sum cash payment by the insurer is the dollar amount of the cash payment (including the value of participation rights under § 2620.16).

(2) The value of a cash settlement that provides a deferred lump sum cash payment (including the value of participation rights, if there are any, under § 2620.16) by the insurer or cash payments by the insurer in installments is the present value of such payments calculated as of the valuation date, determined by applying an interest rate that is the sum of—

(i) The PBGC's interest rate for valuing immediate annuities in effect on the valuation date, set forth in Appendix B of Part 2619 of this chapter; and

(ii) .5 (one-half) percent.

(c) *Contract assets.* (1) Contract assets are the funds credited to an insurance contract as of the valuation date that are available to provide benefits, including funds becoming available to provide benefits upon the cancellation of any participation rights held under the insurance contract.

(2) Contract assets do not include—

(i) Funds that the insurer is entitled, under the insurance contract, to withdraw in payment for an irrevocable commitment made by the insurer prior to the date of plan termination;

(ii) Funds that the insurer is entitled, under the insurance contract, to withdraw to satisfy liabilities of the plan that became due and owing prior to the valuation date;

(iii) Funds that the insurer is entitled, under the insurance contract, to withdraw to pay for administrative or other services performed by the insurer; and

(iv) Funds that have been paid to the insurer prior to the valuation date in return for benefits or services, which are credited to an account under the contract solely for the purpose of computing amounts payable pursuant to the plan's participation rights.

(d) *Exclusive plan asset test.* Except as provided in Paragraph (e) of this section, the benefits that can be provided under the contract be determined as if each insurance contract that is a plan asset were the plan's only asset on the valuation date. If two or more insurance contracts owned by a plan expressly provide a basis for coordinated allocation of contract assets in conformance with section 4044 of the Act, the benefits that can be provided under the contracts shall be determined as prescribed by the contracts.

(e) *Optional valuation procedure.* (1) When an insurance contract is not a plan's only asset on the valuation date, the plan administrator may value the contract by applying the contract assets to purchase benefits under the insurance contract without regard to the order of priorities prescribed by section 4044 of the Act, if the plan administrator demonstrates to the PBGC that—

(i) All of the plan's assets on the valuation date, taken together, can be allocated in a manner that complies with section 4044 of the Act;

(ii) Under the combined allocation described in Paragraph (e)(1)(i) of this section, the plan's assets will provide benefits with a total present value that equals or exceeds the total present value of the benefits that could otherwise be provided by the plan's assets; and

(iii) In the case of a plan that receives a Notice of Inability to Determine Sufficiency under Part 2617 of this chapter, arrangements for a specific combined allocation that satisfies section 4044 of the Act were made prior to the date of plan termination.

(2) A plan administrator who elects this optional valuation procedure must furnish the PBGC with evidence, including supporting computations, that the optional valuation meets all of the requirements of Paragraph (e)(1) of this section.

(3) When this optional valuation procedure is used, the total value of the plan's assets is the total present value of the benefits that can be provided through the combined allocation of the plan's assets described in Paragraph (e)(1)(i) of this section.

§ 2620.16 Value of participation rights.

(a) If a participation right can be cancelled, the value of the participation right is the greater of—

(1) The dollar amount negotiated by the parties in accordance with § 2620.14(b) of this part, as payable upon cancellation of the participation right as of the valuation date; or

(2) The present value, determined in accordance with Part 2619 of this chapter, of the additional benefits, negotiated by the parties in accordance with § 2620.14(b) of this part, to be provided upon cancellation of the participation right as of the valuation date.

(b) If a participation right cannot be cancelled, the value of the participation right is the present value, determined by applying the interest rate described in § 2620.15(b)(2), of the future stream of payments, taking into account all relevant factors, including but not limited to the past practice of the insurer with respect to participation rights, mortality rates, interest rates and comparable contract prices.

Approved, pursuant to 29 U.S.C. 552, as an exercise of the duties of the Secretary of Labor and Chairman of the Board of Directors, Pension Benefit Guaranty Corporation.

Ford B. Ford,

Under Secretary of Labor.

Issued pursuant to a resolution of the Board of Directors approving this regulation and authorizing its chairman to issue same.

Edward R. Mackiewicz,

Secretary, Pension Benefit Guaranty Corporation.

[FR Doc. 85-11044 Filed 5-7-85; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 901

Public Comment Period on a Proposed Amendment to the Alabama Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSM is announcing procedures for a public comment period

on the substantive adequacy of a proposed program amendment submitted by the State of Alabama to modify the Alabama permanent regulatory program (hereinafter referred to as the Alabama program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment would decrease the approved staffing levels for administration and enforcement of the Alabama program.

This notice sets forth the times and locations that the Alabama program and the program amendment are available for public inspection and the comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments, data or other relevant information relating to the proposed amendment not received on or before 4:00 p.m. on June 7, 1985 will not necessarily be considered.

A public hearing on the proposed amendment has been scheduled for June 3, 1985, at the address listed below under **"ADDRESSES."**

Any person interested in making an oral or written presentation at the hearing should contact Mr. John T. Davis at the address or phone number listed below by the close of business, May 28, 1985.

ADDRESSES: Written comments should be mailed or hand delivered to: Mr. John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

The public hearing will be held at the Birmingham Field Office, Office of Surface Mining, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209.

FOR FURTHER INFORMATION CONTACT: John T. Davis, Director, Birmingham Field Office, Office of Surface Mining Reclamation and Enforcement, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209; Telephone: (205) 254–0890.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Alabama program and all written comments received in response to this notice, will be available for public review and copying at the OSM Field Office, the OSM Headquarters Office and the Office of the State regulatory authority listed below, during normal business hours Monday through Friday, excluding holidays. Each requestor may receive, free of charge, one single copy of the amendment by contacting the OSM Birmingham Field Office.

Office of Surface Mining, Birmingham Field Office, 228 West Valley Avenue, 3rd Floor, Homewood, Alabama 35209

Office of Surface Mining, Room 5124, 1100 "L" Street, NW., Washington, D.C. 20240

Alabama Surface Mining Commission, Central Bank Building, 2nd Floor, 811 Second Avenue, Jasper, Alabama 35501.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **"DATES"** or at locations other than the Birmingham Field Office, will not necessarily be considered and included in the Administrative Record for this final rulemaking.

Public Hearing

Persons wishing to comment at a public hearing should contact the person listed under **"FOR FURTHER INFORMATION CONTACT"** by the date listed under **"DATES."** If no one requests to comment at a public hearing, the hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber.

Submission of written statements in advance of the hearing will allow OSM officials to prepare appropriate questions. The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and persons present in the audience who wish to comment, have been heard.

Public Meeting

Persons wishing to meet with OSM representatives to discuss the proposed amendments may request a meeting at the OSM office listed in **"ADDRESSES"** by contacting the person listed under **FOR FURTHER INFORMATION CONTACT."**

All such meetings are open to the public and, if possible, notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background

Information regarding the general background on the Alabama State program including the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Alabama program, can be found at 47 FR 22020–22058 (May 20, 1982) and 48 FR 34026 (July 27, 1983).

III. Proposed Amendment

On April 2, 1985, Alabama submitted a proposed amendment to its approval regulatory program to decrease approved staffing levels. The State proposes to decrease the total staffing level from 71 positions to 58 positions. The positions proposed for deletion are: one accounting clerk, one clerk steno in the legal section, six inspectors in the inspection and enforcement section, one clerk steno in the technical section, and four inspectors in the technical section. Alabama said that the Alabama Surface Mining Commission (ASMC) "has over the last two years experienced recurring staff surpluses in certain positions but shortages in a very few." The State said that it wishes to accomplish its objectives efficiently with as few as necessary, especially in light of projected financial constraints. The State said that it has received approval from ASMC for overtime pay to compensate for temporary staff shortages should they occur. The State indicated that the following changes have also been made, but these changes result in no net change in total positions: the carto-drafter and data entry operator positions have been abolished, and a hydrologist position and an attorney position have been created.

IV. Additional Determinations

1. *Compliance with the National Environmental Policy Act*: The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. *Executive Order No. 12291 and the Regulatory Flexibility Act*: On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirements to

prepare a Regulatory Impact Ayalysis and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 602 *et seq.*). This rule would not impose any new requirements; rather, it would ensure that existing requirements established by SMCRA and the Federal rules would be met by the State.

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

List of Subjects in 30 CFR Part 901

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

The authority citation for 30 CFR Part 901 continues to read as follows:

Authority: Sec. 503, Pub. L. 95-87, 91 Stat. 407 (30 U.S.C. 1253), unless otherwise noted.

Dated: May 2, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

[FR Doc. 85-11180 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-05-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 0 and 73

[MM Docket No. 85-108; FCC 85-182]

Compatibility Between the Broadcasting Services and the VHF Aeronautical Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission proposes to amend its Rules and Regulations for broadcasting stations to protect airborne radio equipment from interference. The proposal contains criteria for broadcast station siting and power levels, as referenced to the locations of aviation navigation and communications facilities. Comments are invited on the appropriateness of the proposed criteria.

DATE: Comments are due by October 11, 1985 and replies by December 11, 1985.

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

FOR FURTHER INFORMATION CONTACT: Kathryn S. Hosford, Mass Media Bureau (202) 632-9660.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 0

Organization and functions (Government agencies).

47 CFR Part 73

Radio broadcast, Television.

Notice of Proposed Rulemaking

In the matter of Compatibility Between the Broadcasting Services and the VHF Aeronautical Mobile Radio Services: MM Docket No. 85-108.

Adopted: April 11, 1985.
Released: April 12, 1985.

By the Commission.

Introduction

1. The Commission, on its own motion, hereby institutes this proceeding to investigate the extent and nature of interference-related compatibility problems between the major broadcasting services (AM, FM, TV, and International Broadcasting) and the VHF aeronautical mobile radio services. The proceeding also proposes to establish compatibility criteria between the services. This action has become necessary as the potential for interference between the services is increasing due to a number of factors, including growth in the numbers of stations in both radio services.

Characteristics of the Radio Services Involved

2. Before considering the exact nature of the compatibility problems, it is beneficial first to examine the characteristics of the radio services involved. Broadcasting stations serve wide segments of the general public, and thus require high operating powers to reach their audiences. These powers vary from several kilowatts for the International Broadcast (IB) stations to five megawatts for UHF-TV stations. Types of modulations also vary from broadcast service to broadcast service. The following table provides a general guide to the broadcast services:

Service	Frequencies	Modulation	Maximum power (kW)
AM	0.5 to 1.6 MHz	AM	50
International	2 to 27 MHz	AM	50
TV (Ch 2-6)	54 to 88 MHz	TV/FM	100
FM	88 to 108 MHz	FM	100
TV (Ch 7-13)	174 to 216 MHz	TV/FM	316
TV (Ch 14-69)	470 to 806 MHz	TV/FM	5,000

3. The aviation radio services to be considered in this proceeding fall into two general categories: (1) VHF navigation, and (2) VHF communications. The navigational radio aids can be subdivided further into enroute and terminal approach facilities. As the names suggest, enroute facilities provide guidance information to aircraft enroute from one point to another. The two types of directional aids used by terminal approach facilities, which provide lateral guidance to aircraft as they complete their flights by approaching and landing at airports, are the Instrument Landing System (ILS) localizer and the VHF Omni-Range (VOR). The ILS localizers and VORs operate in the overlapping bands 108-112 MHz and 108-118 MHz, respectively. Aircraft communications are conducted in the band 118-137 MHz and utilize amplitude modulation (AM).

4. VOR and localizer signals differ considerably in modulation schemes used. Ground-based VOR stations transmit in such a manner that the aircraft receives an amplitude modulated signal with two components. The first component is amplitude-varying at a rate of 30 hertz. This component is formed at the VOR station by mechanically or electrically rotating a radiating directional antenna. The rotating signal combines with an omni-directionally transmitted signal to provide the aircraft with a signal that appears to be amplitude modulated with a 30 hertz tone. The depth of modulation is relatively small. The omni-directional signal also contains a subcarrier at 9960 hertz. This subcarrier is frequently modulated (FM) by a 30 hertz tone. The tone on the subcarrier is phased such that by measuring the time difference (at the aircraft) between the 30 hertz AM component of the VHF signal and the 30 hertz FM component of the subcarrier, the relative bearing from the station can be determined. The VOR station also transmits Morse Code identification and voice on its baseband, above 30 hertz and below 9960 hertz.

5. ILS localizers do not transmit signals such that relative bearings can be determined. Instead, localizers provide guidance only in one direction, usually the extended center line of a runway. Transmission schemes for localizers are such that to the left of the center line, a 90 hertz tone is transmitted and to the right of the center line a 150 Hz tone is transmitted. An aircraft on centerline will receive an equal balance of 90 and 150 hertz information. To the left or right of the center line, an imbalance between 90 and 150 hertz will be present at the aircraft.

6. In a 1974 report released by the Department of Commerce entitled *Electromagnetic Compatibility of Simulated CATV Signals and Aircraft Navigation Receivers* (OT Report 74-

39), it was reported that both localizer receivers and VOR receivers have certain critical frequencies. For localizer receivers, these frequencies are 90 hertz or 150 hertz offset from the carrier frequency of the navigation signal (p. 25). For VOR receivers, the frequencies are 30 hertz and 9960 hertz offset (p. 29). Although the report remains silent on the frequency stability requirements to interfere with the VOR, it indicates for localizer interference that, "it was observed that the beat frequency had to be maintained within 2 or 3 Hz of the 90 or 150 Hz in order to have maximum effect in the comparator section of the receiver." This high level of immunity to interference could logically be deduced from the fact that voice and Morse Code modulation are routinely superimposed on localizer and VOR transmissions, with no apparent interference. If the receivers were not immune to extraneous modulation products, they could be expected to react to the voice and tone modulations.

7. Voice communications between the ground and aircraft occur on frequencies between 118 and 137 MHz. The most critical communications on these channels is between the aircraft and the air traffic controlling facility. Pilots may receive information on the condition of an airport, on traffic flow, or on specific courses to fly.

8. VOR, localizer, and communications transmitters are all much lower in power than broadcasting transmitters. For example, many localizer and communications transmitters operate with only 10 watts power. VOR stations are classified according to their use and expected range, but even the highest powered VOR stations operate with powers only in the range of hundreds of watts. VOR stations known as T-VORs (terminal VORs) operate in the band 108–112 MHz with only 50 watts power.

Background

9. The potential interference problem between broadcast stations and aeronautical stations (especially airborne stations) surfaced in the mid-seventies. Pilots began to complain of hearing music in their communications or navigation receivers. This prompted concern over the causes of the interference and led to several investigations by the FCC, FAA, and others. Those investigations uncovered several facts that eventually became the subjects of major world-wide concerns. For example, a particular type of emergency locator transmitter (ELT) was found to produce interference in an aircraft's VHF receivers when the aircraft was being illuminated by strong radio frequency fields of FM Broadcast stations. Also during this time period, VHF equipment was being designed with solid-state components rather than vacuum tubes, rendering it more susceptible to interference. For co-channel sharing purposes, ILS localizer transmitter powers were being reduced from 100 watts to 10 watts. Finally, broadcasting was experiencing tremendous growth.

10. Some of the best early authoritative work was accomplished by the Federal Aviation Administration (FAA) and documented in a publication entitled: *Interference in Communications and Navigation Avionics from Commercial FM Stations*, by Edward M. Sawtelle and James G. Dong. (FAA Report No. 78–35) This report, published in July 1978, provided the first clues as to the nature of the interference mechanisms. The report describes the results of test flights at several locations, including Atlantic City, New Jersey; Indianapolis, Indiana; Kansas City and Topeka, Kansas; Denver, Colorado; Albuquerque, New Mexico; San Antonio, Houston, Dallas, and Fort Worth, Texas; Birmingham, Alabama; and Opa Locka, Florida. In these tests, several grades of aviation receivers were employed, ranging form an inexpensive general aviation type receiver to a commercial airliner type receiver.

11. FAA 78–35 remains an authoritative document even today because it encapsulated the essence of the problem—the susceptibility of aviation receivers. For example, in many of the tests, the poorer general aviation receiver experienced nearly continuous interference while the airliner receiver experienced no interference. Because there were significant differences in the performance of the receivers, it was clear that the poorer receivers were internally generating the apparent interference. The report also provided a basic procedure, the Venn Diagram approach, to predict interference areas regardless of the cause. That approach, though somewhat modified, remains the basic method of interference prediction currently in use by the FAA. The report also provided information on the characteristics of aviation antennas and receiver selectivities. Finally, the report concluded (on page 29) that, "A 10 dB increase of rejection in the avionics receivers to FM signals would nearly eliminate intermodulation interference."

12. Over the next several years, other organizations such as the International Civil Aeronautics Organization (ICAO), the Radio Technical Commission on Aeronautics (RTCA), and the International Radio Consultative Committee (CCIR) continued to investigate the interference mechanisms. In all cases, the susceptibility of the avionics receiver to self-generated interference was found to be a significant cause of the problem.

13. The RTCA sponsored a Special Committee (SC 141) to investigate the interference mechanisms as a result of a request from the FAA on November 6, 1978. The work of SC 141 was published in November 1981, in a report entitled *FM Broadcast Interference to Airborne ILS, VOR, and VHF Communications*. The SC 141 report suggested several steps that should be taken to combat the interference problem. For example, the SC 141 report indicated that general aviation aircraft are statistically more susceptible to interference than commercial aircraft (p. 61). Recommendations included, *inter alia*: (1) Publishing an FAA Advisory Circular warning the aviation community of potential limitations * * * of some airborne equipment, (2) encouraging improvements to existing receivers, (3) investigating improvements in aircraft antenna systems (e.g., RF filtering between the antenna and receiver), (4) developing improved standards for new receivers, and (5) continuing coordination between the FCC and FAA to determine the necessary protection criteria (p. 63).

14. It should also be noted that the ICAO developed standards for new receivers to reduce or eliminate the compatibility problems with the broadcast services. Such improvements in aviation receivers will not be completed until 1998, according to the ICAO timetable, when essentially all existing receivers are planned to be replaced. Although this will provide the solution in 1998, during the interim, some compatibility criteria are needed.

15. During this same timeframe, the International Telecommunications Union (ITU) became aware of the interference potential between the FM Broadcast and the Aeronautical Radio Services. During the General World Administrative Radio Conference in 1979 (WARC–79), the question was addressed particularly with regard to an expansion of the FM Broadcast ban in Regions 1 and 3 (European and Eastern countries) from 100 MHz to 108 MHz (Resolution number 510). It was left to the CCIR to develop recommendations to resolve any differences.

16. Initially, CCIR Study Group 8 (Mobile Radio Services) and Study Group 10 (Aural Broadcast Radio Services) were charged individually with the study task. Each Study Group

held separate Interim Working Party (IWP 8/12 and IWP 10/8, respectively) meetings to bring experts from various countries together to consider the issues. The IWPs assumed that the interference mechanisms fell into two broad categories as being either FM Broadcast transmitter generated, or avionics receiver generated. These categories were again each divided into two sections. Although both Study Groups generally agreed that improvements in aviation receivers would virtually eliminate the problem, there was not agreement on what should be done in the interim to protect the avionics. In particular, considerable disagreement surfaced on whether the worst-performing or some better median-performing receiver should be used as the model to develop protection criteria.

17. In an attempt to resolve the differences between the two IWPs, Study Group 1 (Spectrum Utilization) and the CCIR Secretariat organized a Joint Interim Study Working Party (JIWP 8/10–1). Meetings of the JIWP were held in Geneva in May 1984, to develop a coordinated recommendation to the Regional Administrative Conference for the Planning of VHF Sound Broadcasting (Region 1 and Part of Region 3), to be held in the fall of 1984. The countries of Region 2 (of which the United States is a part) because of their experience in the compatibility issues, where FM assignments in the band 100–108 already existed, formally participated in both IWPs and in the JIWP, but did not participate in the Regional Planning Conference. Throughout the IWPs and the JIWP, the United States position was that anything decided for Regions 1 and 3 did not apply to Region 2, where the compatibility problems had been handled successfully on a case-by-case basis.

18. The Regional Planning Conference (CARR–1(2)) was held in Geneva from October 29, 1984, through December 7, 1984. The work of the CCIR study groups was considered in arriving at several recommendations for the expansion of the FM Broadcast band. A complete report of the CARR–1(2) work can be found in the *Final Acts of the Regional Administrative Conference for the Planning of VHF Sound Broadcasting (Region 1 and Part of Region 3) (Final Acts).* The participants of the CARR–1(2) adopted a detailed coordination procedure based on the interference mechanisms defined by the JIWP 8/10–1, but recognized that several unanswered issues remained in the compatibility question and invited the CCIR to continue work in the matter. To paraphrase somewhat, the CARR–1(2) also recommended that aeronautical assignments in the future take into consideration the frequency assignment plan for the FM Broadcast service and that any actual cases of interference be handled on a case-by-case basis.

19. The Commission continues to believe that the specific CCIR and ITU work as outlined above may not apply directly to Region 2 nor, in particular, to the United States. Nevertheless, we believe that much useful information has been developed over the past few years and that information should be taken into consideration in developing the interim and long-term spectrum compatibility plans for the United States. Therefore, this document will make several references to this work as a preliminary basis for discussion without specifically endorsing its applicability to the United States.

The Interference Mechanisms

20. In the development of the interference protection criteria, we propose to use the same terminology as defined internationally. Chapter seven of the *Final Acts* defines the four types of interference mechanisms as follows:

Type A interference—Due to radiation at frequencies in the aeronautical radio navigation band:

Type A1: Intermodulation or other spurious products radiated from the broadcasting station; and

Type A2: Out-of-band emissions from broadcasting stations in the aeronautical radio navigation band immediately above the band edge of 108 MHz.

Type B interference—Due to radiation at frequencies outside the aeronautical radio navigation band:

Type B1: Intermodulation generated in the receiver; and

Type B2: Desensitization in the RF section of the receiver (also called "brute force" interference).

In brief, the Type A interference emanates from the broadcast transmitter plant and may be corrected, usually through filtering, by the broadcaster. Nothing can be done at the receiver to correct for Type A interference. Type B interference occurs because of a receiver's inability to reject strong, adjacent-band signals. Although one could argue that in the Type B case there would be no interference if broadcast stations were operating at lower power levels, we believe that argument as a compatibility solution has little merit. Improvements in receivers could dramatically reduce or eliminate the Type B interference independent of any actions by the broadcast community. Each interference type will be developed separately.

21. *Type A1 Interference.* This type of interference is caused by an actual signal being transmitted by the broadcast station on an aviation frequency. The signal is unwanted and unintentional. It may occur because of the production of a spurious emission in a single transmitter or it may occur as the result of a mix in the broadcast transmitter between the desired signal and some other radio signal. Such mixes usually occur in the power amplifier stages of transmitters. Outside the United States it is common for several FM broadcast stations to multiplex their transmitters into a single antenna. Such an arrangement gives rise to a high potential for intermodulation production at the transmitter site. Since common antennas are not usually used in the United States (for FM stations only six cases approximately), transmitter-produced mixes are rare. Our concern, therefore, is concentrated on spurious emissions.

22. *Type A2 Interference.* This type of interference occurs because energy from the desired signal of the broadcast transmitter falls on aviation frequencies. The only broadcast service in which this can occur (as referenced to the 108–137 MHz aviation band) is FM Broadcast. Desired modulation products can fall on aviation channels that are immediately adjacent in frequency to the FM station. For example, significant modulation products from a station operating on 107.9 MHz may extend above 108.0 MHz. A station on 107.9 could easily affect navigation channels centered on 108.05 MHz, 108.10 MHz, and 108.15 MHz. Because the "Bessel sidebands" of an FM station fall off rapidly in amplitude to either side of the rest carrier frequency, it appears unlikely that any other FM channels or aviation channels would be involved in Type A2 interference. The *Final Acts* (para. 7.6.4) supports the proposition that this type of interference need not be considered beyond the case of a frequency difference of 300 kHz.

23. *Type B1 Interference.* Receiver "front-end" radio frequency (RF) amplifiers are operated in the Class A (linear) mode. This mode supports a fixed amount of gain for all input signals and discourages the mixing or signals to form intermodulation products. When something happens to change the biasing of the RF amplifier (e.g., operating it in the presence of a strong FM Broadcast station so that the stage is in an "overload" condition), it may change modes of operation and become non-linear. This change in mode to non-

linear will cause the amplifier to begin mixing the input signals to produce undesired intermodulation products. For example, a "third-order" intermodulation product is equal in frequency to twice one signal minus the second signal ($2f_1 - f_2$). This situation could occur for an FM Broadcast signal on 107.7 MHz and another on 106.1 MHz. In this case, the intermodulation product would be on an aviation frequency, 109.3 MHz. The performance of the receiver would probably be unaffected on all frequencies except 107.3 MHz. This mixing can also occur in the "mixer" stage of the receiver. This mixer is intentionally biased into non-linear operation to perform its intended function within the receiver. If the two undesired FM Broadcast signals both appear at the mixer stage, intermodulation products will be produced. This type of interference is difficult to reduce or eliminate with better front-end selectivity but can be overcome by use of FR amplifiers that are more immune to overload.

24. *Type B2 Interference.* As with Type B1 interference, Type B2 interference is caused by overload of the front-end FR stage. It differs from Type B1 in that, rather than just non-linear operation, it results in saturation of the receiver to the point of potentially affecting all frequencies to which the receiver might be tuned. Type B2 can be so severe as to block the receiver from satisfactorily receiving any other signals. In some cases, better front-end selectivity and, generally, use of FR amplifiers that are highly immune to overload would relieve the Type B2 conditions. This type of interference is also commonly known as "brute force" or "desensitization."

Effects of Interference

25. Pilots receive course guidance information from both VOR and ILS localizer navigation aids by the centering of a needle (or similar indicating device such as a series of light emitting diodes or a bearing indication in degrees) in the cockpit of the aircraft. When an aircraft is "centered" on the directional aid, the needle will indicate center scale. A needle indication either to the left or right of center scale will provide guidance to the pilot on which direction to fly to come back to center course. The navigation receiver may also be coupled to an autopilot on the aircraft to allow automatic tracking of a course. For localizers, the full scale left or right indications of the needle equal ∓ 2.5 degrees of the center line. VOR indications are one-fourth as sensitive, such that full scale is ∓ 10 degrees.

26. In addition to the center line needle, cockpit displays also have a second indicator called a warning "flag." The absence of the flag indicates that a valid navigation signal is being received and the indications of the needle can be relied upon. A needle indication may not be used for navigation unless the warning flag disappears. Generally for the enroute phase of a flight, if the flag appears or if there is other reason to believe that the navigation signal is faulty, the pilot would switch to a different navigational aid for guidance. In the terminal phase, changing to a different facility may not be possible because there may be only one such aid serving the airport. Even if more than one aid serves the airport, faulty indications "inside" the Initial Approach Fix" (IAF) are immediate cause to terminate the approach and execute a "missed approach." In other words, once a particular terminal approach procedure has commenced (at the IAF), loss of valid navigation signals would mean the pilot would normally execute a missed approach procedure (as published on the navigation chart) which, as a minimum, would involve climbing to a higher and safer altitude to await further instructions from the Air Traffic Control (ATC) facility.

27. An important point to remember about the navigational facilities is that although they can be used by pilots flying under the visual flight rules (VFR), the aids are primarily required for flights under the instrument flight rules (IFR). Pilots flying under VFR are expected to complete flights by, if necessary, visual contact with references on the ground. IFR pilots often may be in zero visibility conditions in clouds or in fog and must therefore rely entirely on the radio navigation signals. This is a critical distinction between types of flight. The VFR pilot should be able to complete a flight safety without the radio navigational aids. The IFR pilot may not be able to terminate the flight in the customary manner without navigational aid assistance. The IFR pilot also might hit an obstruction if the information being supplied by the radio navigation instruments is faulty. In short, disturbances to radio navigation signals should be no more than inconveniences to VFR pilots, but may be life-threatening to IFR pilots. One other consideration is the effect of interference on autopilot operation. Interference could result in the aircraft automatically flying along a wrong course or in the autopilot decoupling from control of the aircraft. Finally, pilots do not normally listen to the navigation channel, except for brief periods to identify the navigational aid. Unless the interference could be heard at the time the pilot was listening for the identification, the pilot would have no indication of the interference except for needle irregularities or flags.

28. Interference to voice communications will actually be heard by a pilot. Pilots, especially those flying under IFR, must continually monitor a particular communications channel for ATC instructions. Unlike broadcast or navigation signals, communications signals are present only when ATC desires to communicate with a pilot on the channel. When no signals are present, a squelch circuit in the airborne receiver mutes the receiver so that idle channel noise will not be heard. Interference could be so minor as only to "open" the squelch during periods of inactivity on the channel. This level of interference would be an annoyance, but should not be hazardous as long as the ATC communications were not affected. On the other hand, severe cases of interference that block the ATC transmission could cause a pilot to miss a crucial instruction from ATC and could be life-threatening.

Issues

29. There are several issues to be considered in this proceeding. Most basically, the procedures to reduce or eliminate the potential for each type of interference mechanism must be explored. This necessarily requires judgments as to who must take the responsibility where options exist. Are all types of broadcast stations equally likely to cause interference? Finally, should existing and new stations be treated differently? These concerns will be developed in a series of issues, as follows:

1. What are the characteristics of aircraft equipment and installations?

2. Between which types of radio services are spectrum incompatibilities likely to arise?

3. What critical points should be used to evaluate the potential for interference on the stereoscopic service volumes?

4. What protection criteria should be considered for the four types of interference?

5. How should the protection criteria be applied to broadcaster?

6. To what extent should the vertical radiation pattern of a broadcast antenna be considered in evaluating the potential for interference?

7. Should the new protection criteria be applied to all stations, new stations, and/or stations undergoing major modifications?

Each of these issues will be developed separately, along with an example of how to apply the derived protection criteria.

Issue 1: Aircraft Characteristics

30. There are several characteristics of actual aviation installations that must be taken into account when considering what protection criteria should apply. These characteristics include the interference rejection parameters of the avionics equipment, the responses of the antenna systems, and the installation-specific details such as transmission line length and the use of signal splitters. Each of these variables can contribute to the overall interference rejection capabilities of an avionics installation.

31. Based on the various investigations over the past few years, several avionics performance parameters have been developed. For example, Table 1 provides a summary of the JIWP agreed upon Type A2 immunity values. Figure 1 presents the ITU accepted receiver characteristics for Type B2 interference (existing and future values). In developing the protection criteria herein, we have endeavored to use the best available information; however, we request comments on the appropriateness and correctness of any protection values presented.[1] We also request comments on whether the worst-case or some better performing median-case receiver interference rejection characteristics should be used. For example, should receivers used for IFR flight be expected to perform better than those used exclusively for VFR flight? As previously stated, protection of a better-than-worst case receiver would be consistent with the recommendations of the RTCA SC 141.

32. The FAA currently recognizes antenna rejection factors of 3 dB plus 1 dB per MHz below 108 MHz to 88 MHz, 23 dB below 88 dB to 50 MHz, and 15 dB above 175 MHz to 800 MHz for navigation antennas (FAA directive AES–500, June 1984). These values, especially above 175 MHz may be overly conservative. For example, the FAA 78–35 report presents antenna rejection data showing well over 40 dB attenuation of out-of-band signals between 175 MHz and 225 MHz (see Figure 2). Comments on the appropriate rejection values for aircraft navigation and communications antennas to out-of-band signals are requested. In addition, we believe that many or most general aviation installations use only one navigation antenna to feed two receivers. In such cases, the signal from the antenna is divided by a "hybrid splitter." This splitter may add 3 dB or more in the transmission line path. Comments on the extent to which such attenuation should be considered are welcomed.

33. The FCC in its participation in the working groups over the years has proposed the use of low cost add-on filters (we anticipate approximately $300 per installation) to airborne installations to improve the interference immunity. Based on the proposed 10 dB additional rejection capability as indicated in the FAA 78–35 report, a filter seems a reasonable answer to improving compatibility. The aviation community, world-wide, has rejected this proposal based on its projected cost and its impact on precision navigation systems. Concern has been expressed about how a specific filter might interact with the varying input impedance of a receiver. Although the Commission shares the concern that a filter should not endanger air traffic operations, we continue to believe that filters may offer a low-cost retrofit to help eliminate the interference problem on a case-by-case basis. We request comments on the feasibility of allowing a minimal allowance, perhaps 10 dB, for either the use of filters on the poorer quality receivers or as a consideration of typical rejection capabilities for better-than-worst-case receivers.

Issue 2: Incompatabilities Between Services

34. From the previous discussion, it can be concluded that avionics reception systems could be expected to discriminate heavily against signals far removed in frequency from the VHF aviation band due to antenna system response. In addition, front-end selectivity has to be a mitigating factor as the frequency of interest departs from the band for which the receiver was designed. Figure 1, in fact, gives some insight into this level of rejection. Finally, the interference potentials of television signals are quite different from the FM signals, as described in Appendix 1 (letter between Ralph A. Haller (FCC) and Leland F. Page (FAA), dated November 29, 1984). For these reasons, it appears appropriate to limit the discussion of protection criteria to the FM broadcast band, as the other broadcast services have low potentials for causing interference.

35. We believe the most likely conditions for interference are when an aircraft is tuned to either an ILS localizer or a T–VOR. These facilities share the band between 108 and 112 MHz with the ILS localizers occupying the odd frequencies (108.1, 108.3, etc.) and the T–VORs occupying the even frequencies (108.2, 108.4, etc.). In addition to the frequency adjacency with the FM band and the transmitter power level differences between the services, the aircraft tuned to such navigation facilities are typically on approaches to airports. This means that they are at low altitudes, near to, and often directly within the main beam of FM broadcast stations. Although interference may be possible above 112 MHz to either navigation or communications signals, such interference seems more unlikely. For navigation signals above 112 MHz, aircraft would be at enroute altitudes, well above the main beams of FM broadcast antennas. Communications channels do not even begin until 118 MHz, which is fully 10 MHz above the highest FM Broadcast channel. We therefore propose to protect only ILS localizers and T–VORs (that are used for instrument approaches) in this proceeding. Comments on this approach are requested.

Issue 3: Protection of Airspace

36. Each navigational aid has an associated "service volume," outside which interference may occur but would not be considered critical to safe air navigation. Navigational aids are to be considered suitable for navigation only within their assigned steroscopic (three dimensional) service volumes. Service volumes vary depending on the type of navigational aid (ILS or VOR) and its intended coverage area. For example, there are two stereoscopic service volumes for the ILS. The larger ILS extends to a maximum distance of 29 miles from the localizer transmitter, and to ±10 degrees off the center line course. The small ILS extends to 21 miles and ±10 degrees. The maximum altitude of the service volume is 6,250 feet above the ground elevation of the localizer transmitter (see Figure 3). A terminal VOR (T–VOR) serves an area around landing fields to a radius of approximately 29 miles (see Figure 4). For completeness (since we are not proposing protection), we also note that

[1] The Commission has undertaken, in cooperation with other interested parties, including the FAA and the Government of Canada, discussions concerning a major research and development project to establish with a statistically valid number of avionics receivers and FM transmitters, the current state of Avionics-Broadcasting compatibility. (See Appendix 2 for the Draft Work Statement.) This proposed project has been drafted as a Work Statement in five tasks so that interested parties may directly comment, perform, or contract-for specific portions of the test plan. The Draft is currently being coordinated with interested parties. All studies that are used in this proceeding will be made a part of the record and parties will be given an opportunity to comment on them.

a low altitude enroute VOR (L-VOR) serves aircraft operating enroute below 18,000 feet above sea level to a radius of approximately 46 miles and a high altitude VOR (H-VOR) serves aircraft to 60,000 feet above sea level to a maximum radius of 150 miles.

37. Within each of the service volumes, the FAA guarantees certain minimum field strength levels. For the localizer, a minimum signal strength of 40 uV/m (32 dBuV/m) can be expected. Likewise, for a VOR, the minimum signal strength is 90 uV/m (39 dBuV/m). As protection criteria for each interference mechanism developed, it will be assumed that: (1) The navigation signal is being protected only within the assigned stereoscopic service volume, and (2) the minimum expected signal levels from the navigational aid are actually being provided.

38. Although we are proposing to protect the minimum field strength over the full service volume, comments are requested on whether the full service volume needs such absolute protection. For example, as previously discussed, we note that course information for an ILS localizer is given only within 2.5° of the center line. Beyond this sector the needle is designed to indicate a full "left" or "right." However, protection of the entire service volume would dictate criteria ±35° of the center line, out to 12 miles (see Figure 3). We request comments on whether the portions of the sector beyond full scale of the indicator should be protected.

Issue 4: Protection Criteria

39. For our analysis, let us initially assume that the broadcast transmission is omnidirectional in the horizontal and vertical planes, that only the horizontally-polarized component gives rise to interference, and that the field strength at the aircraft may be calculated assuming free-space conditions. Comments on these assumptions are requested. Figure 5 indicates field strength as a function of distance in statute miles for 1 kW effective radiated power (ERP) from the FM broadcast transmitter assuming an aircraft at 2000 feet.[2] Protection criteria will be developed for each interference mechanism. So that all interested parties have a common term-of-reference to evaluate the effects of the proposal, all distances in text of this document are given in statute miles. The actual proposed rules in Appendix 3 use the standard metric conversions.

[2]Propagation curve based on K. Bullington, "Radio Propagation at Frequencies Above 30 Megacycles," *Proceedings of the IRE*, Vol. 35, pp. 1122-1136; October 1947.

40. *Spurious Emissions (Type A1):* Section 73.317 requires that FM broadcast emissions, including spurious emissions,[3] be attenuated as follows:

Removed from carrier	Attenuation
120 to 240 kHz	25 dB.
240-600 kHz	35 dB.
Over 600 kHz	Lesser of 43+10 log P (Watts) or 80 dB.

41. For a spurious component coinciding with the aeronautical frequency, a desired to undesired (D/U) signal ratio (protection ratio) of 14 dB is suggested as affording an adequate level of protection. Since the 17 dB ratio used by the JIWP and the Regional Administrative Conference included an additional 3 dB for multiple antenna entries, which rarely occurs in this country, we propose the 14 dB protection ratio for this type of interference. Further, 14 dB would provide the required protection in most of the limited cases studied by the FAA and Canada (see Table 1).

42. The following procedure can be used to determine the interference criteria:

(a) Determine the undesired field strength:

$E_u = E_d - PR - P_t + S$

where:

E_u = undesired field strength in dB above 1 uV/m (FM station)

E_d = desired field strength in dB above 1 uV/m (Navigational aid)

PR = protection ratio in dB above 1 uV/m (i.e. D/U ratio)

P_t = transmitter power in dB above 1 kW (FM station)

S = spurious attenuation in dB at 108 MHz (FM station)

(b) From Figure 5, read the distance along the abscissa (horizontal) for the undesired field strength on the ordinate (vertical).

For example,

ILS protected signal, $E_d = 32$ dBu
protection ratio, PR = 14 dB
FM station transmits 100 kW ERP, $P_t = 20$ dBk
FM spurious attenuation, S = 80 dB

Thus,

the interfering contour $E_u = 78$ dBu,
which results in a distance of 17 miles from Figure 5.

[3]Spurious emission is defined as "emission on a frequency or frequencies which are outside the necessary bandwidth and the level of which may be reduced without affecting the corresponding transmission of information. Spurious emissions include harmonic emissions, parasitic emissions, intermodulation products and frequency conversion products, but exclude out-of-band emissions." "Section 139, International Radio Regulations, ITU, Geneva, 1982.

43. To avoid interference in this situation, a 100 kW FM station would have to locate its transmitter at a distance of 17 miles from the edge of an ILS service volume. Since this requirement is, on face, very restrictive considering that many FM stations and ILS facilities co-exist at lesser distances without interference, we request comments on whether FM stations typically have spurious responses well below the required limits of § 73.317. For example, we note that an attenuation of 100 dB (rather than 80 dB) would reduce this distance to 2 miles. In order not to be overly or unnecessarily restrictive, we propose to allow individual FM stations to identify the minimum distance requirement based on the level of spurious response their stations will actually furnish. In the event of actual cases of harmful interference where spurious emissions are the cause, we would require more than 80 dB suppression (e.g. filters) on an individual basis to the point of no interference. Also, because the entire FM band population has equal probability of injecting spurious emissions throughout the entire aeronautical bands, without regard to the specific frequencies involved, we have not provided a frequency dependent term in this interference type. We request comments on whether a frequency related term would be appropriate.

44. *Adjacent Channel (Type A2):* This type of interference need only be considered for signals close in frequency. The following protection ratios are proposed based on the receiver data of the JIWP (the 5 dB "safety margin for limited survey" has been eliminated).

Frequency separation	Protection ratio
200 kHz	-55 dB.
300 kHz	-73 dB.

45. Separations beyond 300 kHz is not a problem; therefore, the only situation of concern is FM Channel 300 (107.9 MHz). Using Figure 5, the required distance for several classes (ERP) of FM stations to an ILS on 108.1 MHz and a terminal VOR on 108.2 MHz would be:

Class	Facilities	Distance (miles)	
		ILS(108.1)	VOR(108.2)
A	3 kW at 100 meters HAAT.	11	0
B	50 kW at 150 meters HAAT.	44	3
C	100 kW at 600 meters HAAT.	60	4

46. Practically, this restriction may result in Channel 300 being limited to Class A operations. However, our research indicates that there are currently no civil ILS assignments within the United States on 108.1 MHz.[4] Consequently, we propose that FM stations on Channel 300 (107.9 MHz) need not consider protecting 108.1 MHz and that any future need for such assignments be individually coordinated.

47. *Receiver-generated intermodulation (Type B1):* Various flight and laboratory tests indicate that FM signals of varying strengths can cause the production of third or higher order intermodulation products in aviation receivers. When one FM signal is strong enough to produce an overload or non-linear response in the receiver, a second FM signal of a lower level (not more than 10 dB lower) may result in interference on "most low-cost general aviation receivers." (Findings of FAA RD 78-35, p. 25.) Thus, areas where FM stations of high or prime signal levels intersect FM station contours of lower or secondary signal levels, represent areas of potential interference. Interference may occur, within these intersected areas, to navigation receivers if the aeronautical operational frequency is on a third intermodulation product (i.p.) frequency of the form:

$f_a = 2f_1 - f_2$ for two signals, or
$f_a = f_1 + f_2 - f_3$ for three signals

Where $f_1 > f_2 > f_3$ are the FM frequencies and f_a is the operational aviation frequency.

48. For navigation receivers, the signal levels (trigger values) previously found in general to produce i.p. interference were −20 dBm (prime) and −30 dBm (secondary). (See FAA RD 78-35.) In discussing received signal levels, the frequency response of the aircraft antenna system must be taken into account. Allowing for a system fixed loss and antenna aircraft loss, signal power at the receiver input may be converted to field strength as follows:

$E_u = P_r + 115 + L_s + L_r - P_t$

where

E_u = undesired field strength in dBu
P_r = desired receiver power in dBm
L_s = system fixed loss of 3.5 dB
L_r = aviation antenna rejection 3 dB + 1dB/MHz below 108 MHz
P_t = transmitter power in dBk

49. For FM stations above 107 MHz the following distances would be computed, using Figure 5:

Class	Facilities	Distances (miles)	
		Prime (−20 dBm)	Secondary (−30 dBm)
A	3 kW at 100 m	2	7
B	50 kW at 150 m	9	22
C	100 kW at 600 m	12	34

50. Using these distances as radii of circles, an area where the prime and secondary signal levels intersect may be identified as an area where aircraft operating on the i.p. frequency could experience interference. We expect that the potential for interference in such areas is high enough to require FM stations to avoid creating an interference situation within ILS or T-VOR service volumes. We propose this approach, known as a Venn diagram technique, as a simplified method of predicting potential interference although it may provide greater protection than the calculation of specific i.p. signal level for each situation. The constants and trigger values chosen for use in this approach require special consideration and comments on them are requested.[5]

51. *Receiver Desensitization (Type B2):* An unacceptable degradation of navigatoin receiver performance may result if the level of an FM signal at the receiver input exceeds the receiver's interference threshold (i.e., front end or brute-force overload). The following are proposed as maximum signal levels at the input to navigation receivers (See Figure 1), assuming existing immunity (for intermediate values use linear interpolation):

Frequency of broadcast signal (MHz)	Maximum level (dBm)
88 to 100	10
104	0
106	−5
107.9	−20

52. Converting these receiver powers to field strength and using Figure 5, the required distances to avoid apparent receiver overload are:

Class	Facilities	Distance (miles)	
		104.1 MHz	107.9 MHz
A	3 kW at 100 m	0	2
B	50 kW at 150 m	0	9
C	100 kW at 600 m	1	12

53. Therefore, higher powered FM stations above 104 MHz would be required to locate 1 to 12 miles from ILS and T-VOR service volumes. From these calculations, it is also apparent that stations below mid-FM band (approximately 104 MHz) have little probability of causing serious degradation to aeronautical radionavigation systems. Therefore, we do not propose Type B2 restrictions for FM stations below 104 MHz.

54. *Summary.* The preceeding calculations indicate that FM stations operating adjacent-band to navigational aids may generate interference within the poorer quality aviation receivers. Although FM siting restrictions are being proposed to avoid this potential, we believe that further discussions and testing to further refine these values are imperative. Additionally, it is apparent that the rejection factor for navigational antennas falls off fairly rapidly. Therefore, we do not propose any restrictions for FM stations operating in the "educational portion" of the FM band (82-92 MHz).

Issue 5: Siting Procedure for FM Broadcasting

55. As an illustration of siting restrictions, assume an FM Broadcast applicant desires to construct a new Class C (100 kW at 600 meters HAAT) FM Broadcast station on Channel 300 (107.9 MHz). The following analysis to determine zones of potential aeronautical interference would be made:

Step 1. Determine the maximum interference range from the Type B1 calculations. Adding the maximum aviation service range to the maximum interference range yields:

R = 29 + 34 = 63 miles for all situations.

Step 2. Identify aviation facilities. Contact the FAA regional field office (see Table 2) to compile a list of radionavigation facilities (ILS and terminal VOR) within the maximum distance, R, of the proposed FM transmitter site. Continuing the example, assume the following aviation facilities are identified:

Facility	Frequency (MHz)	Distance (miles)
ILS (Optional)	109.1	15
ILS (Standard)	112.3	42
VOR (Terminal)	108.2	43

Step 3. Identify existing FM stations. Considering all FM stations within 46 miles (distance of the prime plus the secondary interference contours; see Type B1), identify those FM stations that could have 2 and 3 signal third order intermodulation products corresponding

[4] Although 108.05 MHz is a possible assignable frequency, it is our understanding that this channel is used for temporary test purposes, and, as such, will not be afforded equal protection on a permanent basis.

[5] For additional information on the Venn Diagram technique, see *Procedure To Evaluate Changes To The FM Broadcasting Table of Assignments To Determine If Interference to Aeronautical Radio Facilities Could Result*, FAA Report DOT/FAA/RD—82/4, February 1982.

to the aviation frequencies identified in Step 2. For the following FM stations:

FM stations	Class	Distance (miles)
101.9 (Ch. 270)	C2	22
103.1 (Ch. 276)	A	29
103.5 (Ch. 278)	C1	26

the intermodulation products of concern are:

$f_a = 2f_1 - f_2 = 2(107.9) - 103.5 = 112.3$ for 2 signals;

$f_a = f_1 + f_2 - f_3 = 107.9 + 103.1 - 101.9 = 109.1$ for 3 signals.

Step 4. Determine the distance to the contour of potential interference. In accordance with the equations and figures previously discussed, calculate the undesired field strengths and the resulting distances for the various interference types. For our example, the computed field strengths for both the worst-case and the better quality receiver (10 dB improvement) result in the following distances (statute miles):

		Field Strength (dBu)	Distance (miles) worst-case	Distance (miles) improved
Spurious emissions (Type A1)				
ILS		78	17	N/A
VOR		85	9	N/A
Adjacent channel (Type A2)				
ILS (none on	108.1 MHz)	-	-	-
VOR		92	4	N/A
Intermodulation products (Type B1)				
prime for	107.9 MHz	81.5	12	5
(-20 dBm)	101.9	90.5	5	1
	103.1	101.5	1	0
	103.5	86.5	8	3
secondary for	107.9	71.5	34	12
(-30 dBm)	101.9	80.5	14	5
	103.1	91.5	5	1
	103.5	76.5	21	8
Desensitization (Type B2)				
overload		81.5	12	5

Step 5. Determine potential interference zones. On a map, plot the location and service volume of the aviation facilities identified in Step 2. Using the distances calculated in Step 4, plot the areas of potential interference.

Note.—For the case of intermodulcation products, the contour distances are drawn from their respective FM station. For a signal product, the area of potential interference is the intersection of a prime and secondary signal level. For a three signal product, the potential interference area is where the prime signal contour of one station intersects with an area common to the secondary signal levels of the other two stations.

Figures 6 and 7 are plots of the areas of potential interference for our proposed FM station for the worst-case and the better quality (or improved by 10 dB) receiver models, respectively. The potential interference area caused by spurious emissions may be reduced (even eliminated) if the FM station agrees to suppress its spurious response more than 80 dB; consequently, this interference type is not limiting and is represented by dashed lines.

Step 6. Location of FM station. The proposed FM station must be located so that its areas of potential interference do not penetrate the service volume of the related aviation facilities. From this example, observe that the receiver-generated interference mechanisms (Types B1 and B2) offer the greatest restrictions to the location of FM broadcast stations. Consequently, we propose to use the 10 dB improved immunity value in recognition that aircraft flying IFR (*i.e.*, those depending on ILS and terminal VOR for landing approaches), should be equipped with the better quality receivers (see Issue 1 discussion). Approximately half of the general aviation aircraft (80,000) are fitted with receiver installations which permit IFR operations. We request comments on the number of receiver installations that would be affected if the 10 dB factor was adopted.

Issue 6: Vertical Radiation Pattern

56. So far we have discussed the simplified example of the horizontal component of an omnidirectional FM antenna. However, FM broadcast transmissions typically have significant directivity in the vertical plane and an aircraft flying directly over a transmitter will have significantly less potential for interference than one several miles away passing through the main beam.

Thus, due to the radiation characteristics of the aviation facilities (i.e., radiating upward from the transmitter), we believe that the stereoscopic nature of the service volume should be taken into account when computing the interference zone. In other words, an FM station may locate "under" an ILS or VOR system without being a potential source of interference (see Figure 8). We propose to allow use of the vertical radiation pattern in the determination of potential interference zones. Further, the characteristics of a directional FM antenna should also be incorporated, if necessary, to furnish protection to the aeronautical facility. An FM station, therefore, could include in its analysis, the benefits of directional antennas, beam tilt, and/or the vertical characteristics of different antenna systems, to avoid a prohibited penetration of the stereoscopic service volume. However, no allowance has been proposed for polarization differences between the broadcasting and aviation signals. The interfering signals were assumed to have the same polarization as the navigation system. Due to the inherent difficulties in defining the polarization of the aircraft antenna during flight, we believe this approach to be practical. We request comments on this proposal addressing both (1) the accuracy of the protection expected through theoretical calculations and whether actual proofs of performance at flying altitudes are needed, and (2) the method of accomplishing this obviously complex analysis scheme.

Issue 7: Existing FM Stations

57. Since the existing FM stations have operated without incident to air safety, they should be permitted to continue without regard to the new protection criteria proposed. Therefore, we propose that existing FM stations (those for which a license or construction permit has been granted) be grandfathered as long as any changes made would not increase the likelihood of interference to the stereoscopic service volumes of potentially affected aeronautical facilities. In all other cases, the new standard would apply.

Miscellaneous

58. Because serious interference has the potential to be a threat to air safety, the Commission proposes to amend the Rules to oblige licensees causing interference, which jeopardizes safety of life, to promptly eliminate that interference. Additionally, if that interference could not be expeditiously eliminated, the rule amendment would give the Chief of the Field Operations Bureau delegated authority to temporarily suspend the operating authority of the interfering station. This authority to suspend operations would encompass all broadcast stations authorized under Part 73 of the Rules (i.e., AM, FM, TV, International, etc.) and would follow the precedent established by Sec. 0.311 of the FCC Rules.

59. We suggest that the existing power of the Commission to issue Cease and Desist Orders is not sufficient because (1) a violation of license authority must occur first, and (2) the process may be too slow. Where interference can be shown to jeopardize personal safety, we cannot rely solely upon voluntary cooperation. The Commission, therefore, wishing to put all parties on notice of their rights and responsibilities, proposes rules which would give the Commission the device necessary to suspend operation. We expect an emergency order would be exercised only in the most egregious circumstances where a clear case of safety of life has been confirmed by the Commission.

60. Further, for those cases which would normally not be permitted within the distances specified but have unusual circumstances (such as, the move of a grandfathered station, antenna farm, etc.), we propose authorizing the station with the following condition on the construction permit or license:

> Upon receipt of notification from the Commission that harmful interference is being caused by the operation of the licensee's (permittee's) transmitter, the licensee (permittee) shall either immediately reduce the power to the point of no interference, cease operation, or take such immediate corrective action as is necessary to eliminate the harmful interference. This condition expires after one year of interference-free operation.

Conclusion

61. In considering the compatibility between FM broadcasting and aeronautical radio navigation susceptibility, the rights and responsibilities of each service must be recognized. We have endeavored to meet the questions of compatibility directly and assess a fair burden between the affected services. The requirements suggested in this document are based on international documentation and their applicability, as well as, their accuracy should be extensively evaluated for domestic cases. We emphasize that via this document the Commission is proposing general compatibilty solutions for discussion purposes; and, therefore, the specific criteria and ultimately adopted procedures may change as a result of the compiled record.

Initial Regulatory Flexibility Act Analysis

I. Reason for Action

The proposed action will eliminate or substantially simplify electromagnetic coordination requirements with the Federal Aviation Administration. Currently, the FAA reviews most broadcast applications and issues air hazard determinations if they predict that interference to their facilities may occur. The standards used for such determinations are not specified in any document and have been varied by the FAA from time to time. Further, the standards have resulted in restrictions to the siting of broadcast transmitters, particularly to FM broadcasting, without the benefit of public comment.

II. Objectives

The purpose of this rule making proceeding is to define the protection criteria needed to sufficiently protect avionic equipment without unnecessary restricting the growth of the broadcast industry. Since the FM Broadcast stations have been identified internationally as having a potential for generating interference in aeronautical receivers, specific protection standards have been proposed for the FM Broadcast service. The Commission expects to reduce the likelihood that broadcast applications will be held up due to air hazard determinations if actual standards are developed.

III. Legal Basis

The action taken by this *Notice* is authorized by sections 4(i) and (j), 302, 303, and 403 of the Communications Act of 1934, as amended.

IV. Description, Potential Impact and Number of Small Entities Affected

The proposed action defines the protection standards that FM Broadcast applicants are being required to meet when siting their transmitters in the vicinity of FAA facilities. All broadcast applicants, including small entities, will be positively affected because the burdens associated with unknown criteria will be eliminated. In connection with another proceeding (MM Docket No. 84-231), the Commission will be releasing (over a series of months) 689 FM Broadcast allotments to allow interested parties to file applications. The number of small entities that might apply for these, or future allotments, is unknown.

V. Recording, Record Keeping and Other Compliance Requirements

None.

VI. Federal Rules Which Overlap, Duplicate, or Conflict With This Rule

None.

VII. Any Significant Alternative MInimizing Impact on Small Entities and Consistent With Stated Objectives

Under the status quo, the Commission must evaluate each case where the FAA has issued an electromagnetic air hazard determination. The applicant may try to reach an accommodation with the FAA, perhaps by changing the proposed site, to remove the determination or request the Commission to review the air hazard study and begin negotiation to reverse the determination if we disagree. The proposed action should remove the need for such a time consuming process by advising all parties what standards will be applied to determine if interference to avionics is likely to occur. No other alternatives exist which would minimize the impact on small entities.

Paperwork Reduction Act

62. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase burden hours imposed on the public.

Ex Parte Considerations

63. For purposes of this non-restricted notice and comment rule making proceeding, members of the public are advised that *ex parte* contacts are permitted from the time the Commission adopts a *Notice of Proposed Rule Making* until the time a *Public Notice* is issued stating that a substantive disposition of the matter is to be considered at a forthcoming meeting. 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 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 oral presentation. Each *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state by docket number the proceeding to which it relates. *See generally*, § 1.1231 of the Commission's Rules, 47 CFR 1.1231.

64. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before October 11, 1985, and reply comments on or before December 11, 1985. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to Office of the Secretary, Federal Communications Commission, Washington, D.C. 20554. Comments and reply comments will be available for public inspection during regular business hours in the Dockets Reference Room (Room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, D.C. 20554.

Ordering Clause

65. As required by Section 603 of the Regulatory Flexibility Act, the Commission has prepared an initial regulatory flexibility analysis ("IRFA") of the expected impact on small entities of the proposals advanced herein. Written public comments are requested on the IFRA. These comments must be filed in accordance with the same filing deadlines as comments on the rest of the *Notice*, but they must have a separate and distinct heading designating them as respones to the regulatory flexibility analysis. The Secretary shall cause a copy of the *Notice*, including the initial regulatory flexibility analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, as required by section 603(a) of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981)).

66. For further information regarding this proceeding, contact Kayhryn S. Hosford, Mass Media Bureau, (202) 632-9660.

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

Federal Communications Commission.

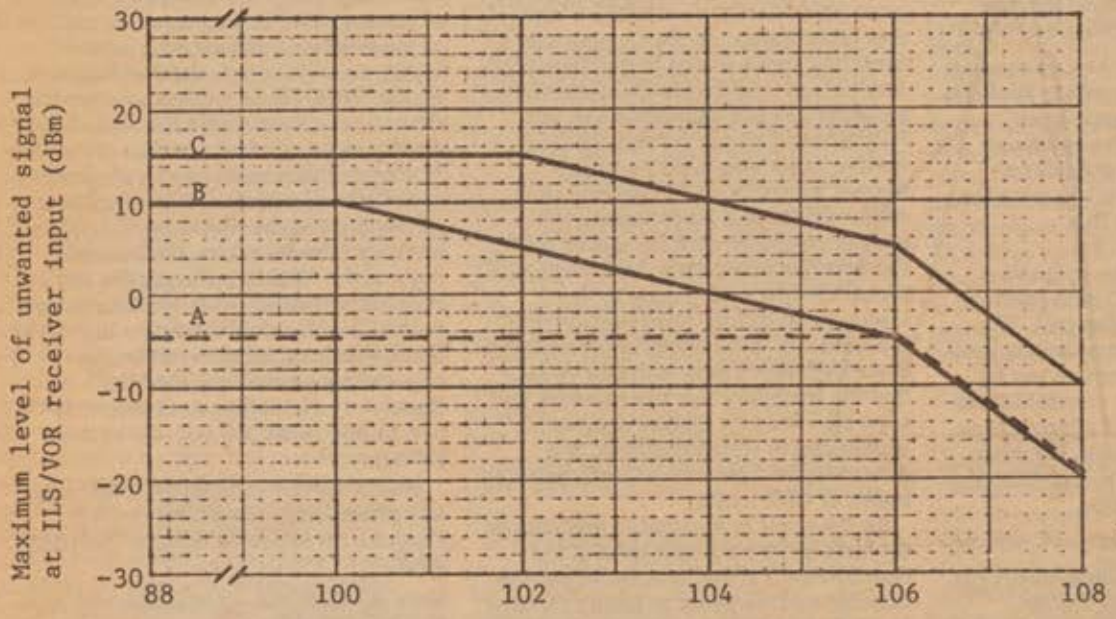
William J. Tricarico,

Secretary.

Note.—Due to the ongoing effort to minimize publishing costs, the Bibliography, the "Acronyms" list, Table 2 (FAA Regional Frequency Management Addresses listing), and Appendix 2 (Draft of Work Statement regarding the Research and Development Project) will not be printed herein. However, copies of the entire text of this document may be obtained from International Transcriptions Services, Inc., located at 1919 M St., NW., Washington, D.C. 20554, (202) 296-7322. Also, a copy is available for public inspection in the FCC Dockets Branch, Rm. 239, and the FCC Library, Rm. 639, both at 1919 M St., NW. and are filed with the original.

BILLING CODE 6712-01-M

Figure 1



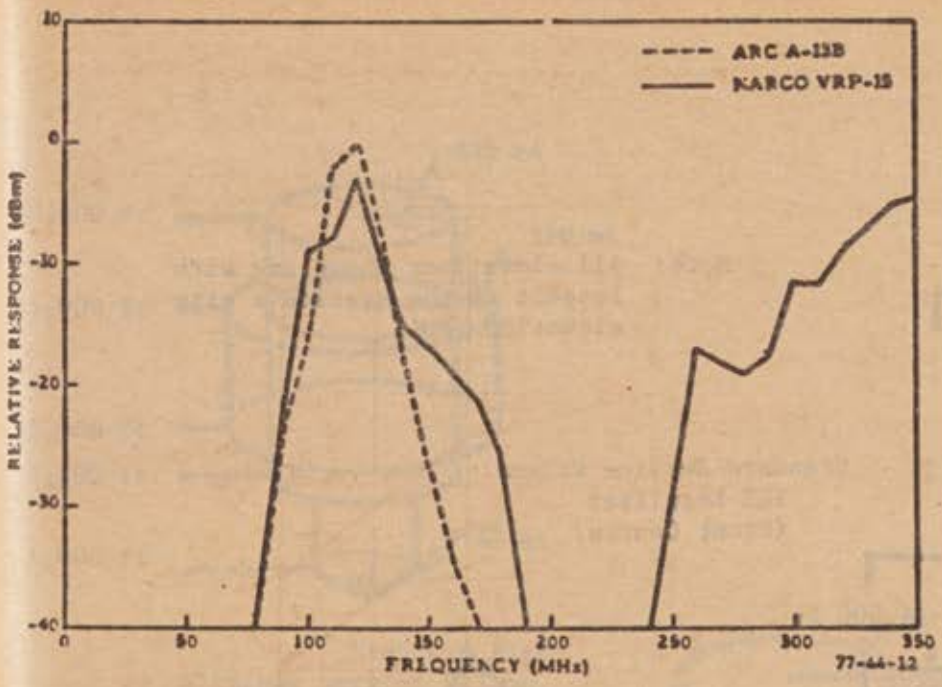
ILS/VOR desensitization immunity criteria (Type B2)

A : First Session CARR-1-82
Assumed existing immunity

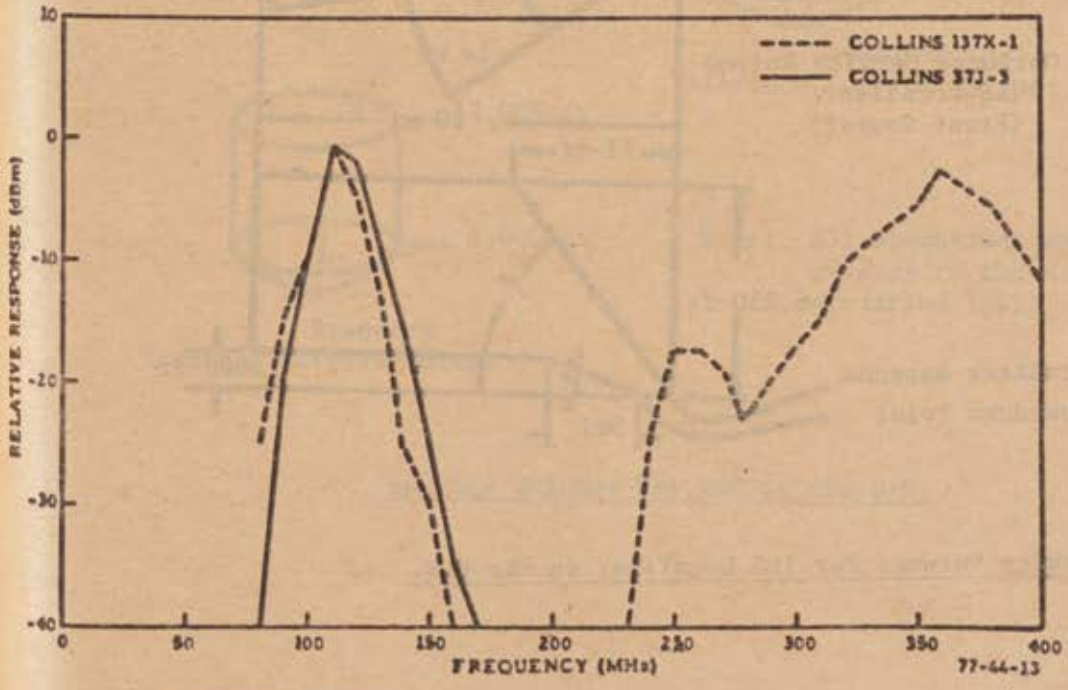
B : JIWP 8-10/1 Existing immunity

C : JIWP 8-10/1 Future immunity

FIGURE 2

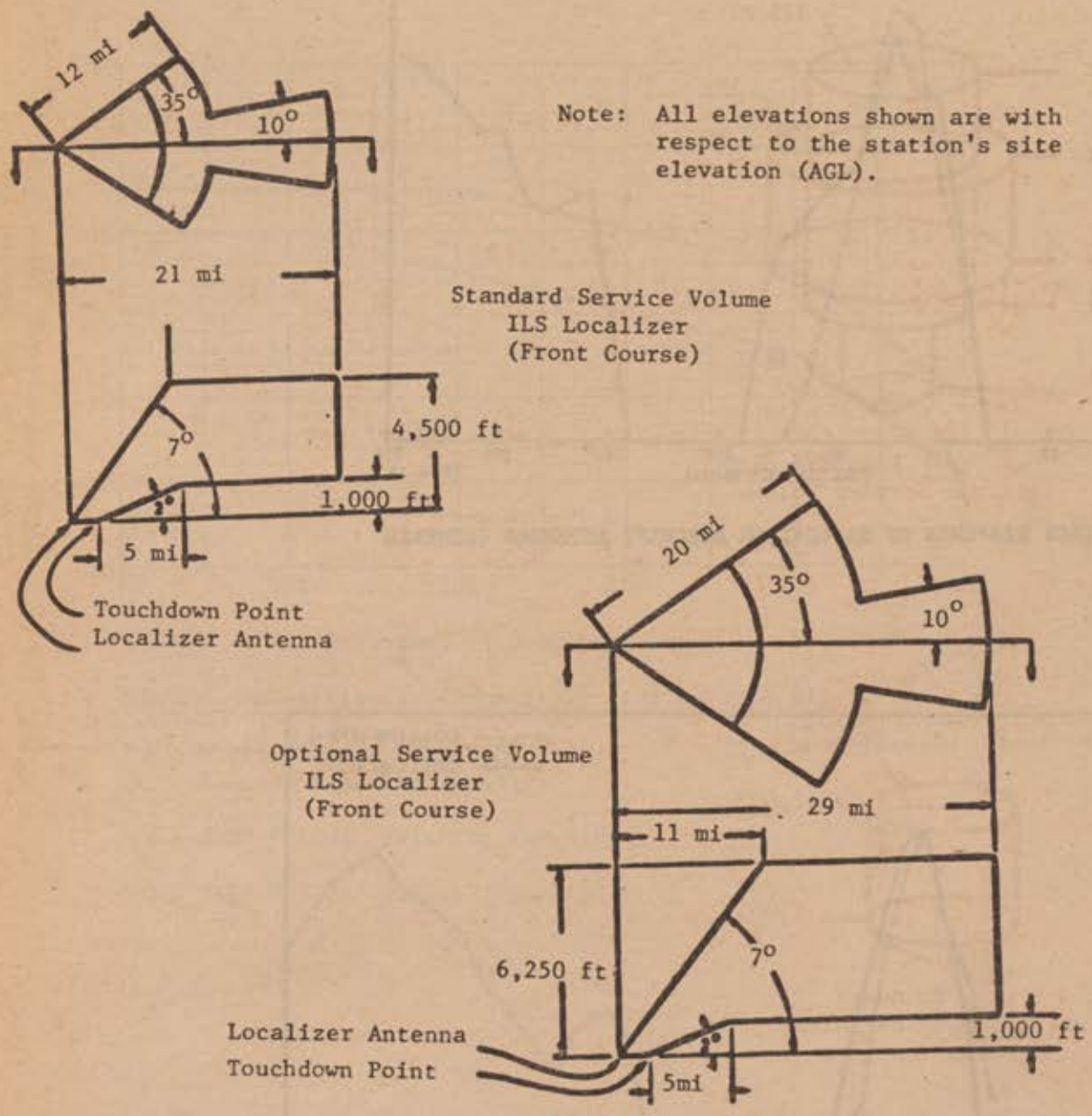


FREQUENCY RESPONSE OF NAVIGATION AIRCRAFT ANTENNAS (GENERAL



FREQUENCY RESPONSE OF NAVIGATION AIRCRAFT ANTENNAS (COMMERCIAL)

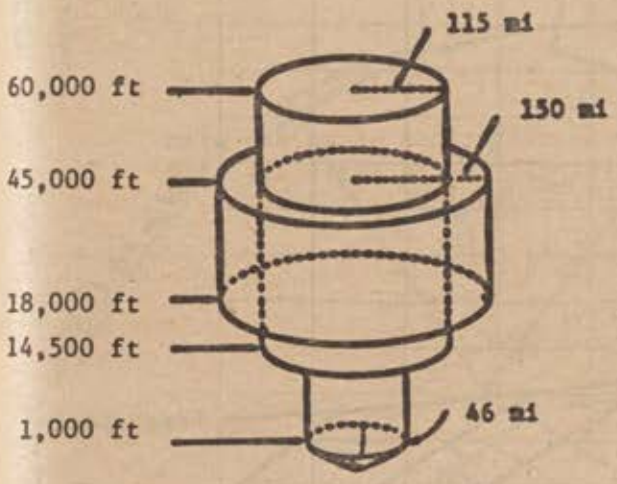
FIGURE 3



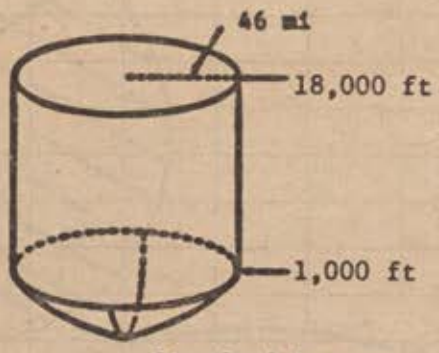
Note: All elevations shown are with respect to the station's site elevation (AGL).

Service Volumes for ILS Localizer in the U.S.

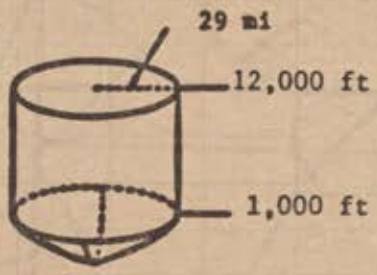
FIGURE 4



Standard High
Altitude Service Volume



Standard Low
Altitude Service Volume



Standard
Terminal Service Volume

Note: All elevations shown are with respect to the station's site elevation (AGL).

Service Volumes for VOR in the U.S.

FIGURE 5

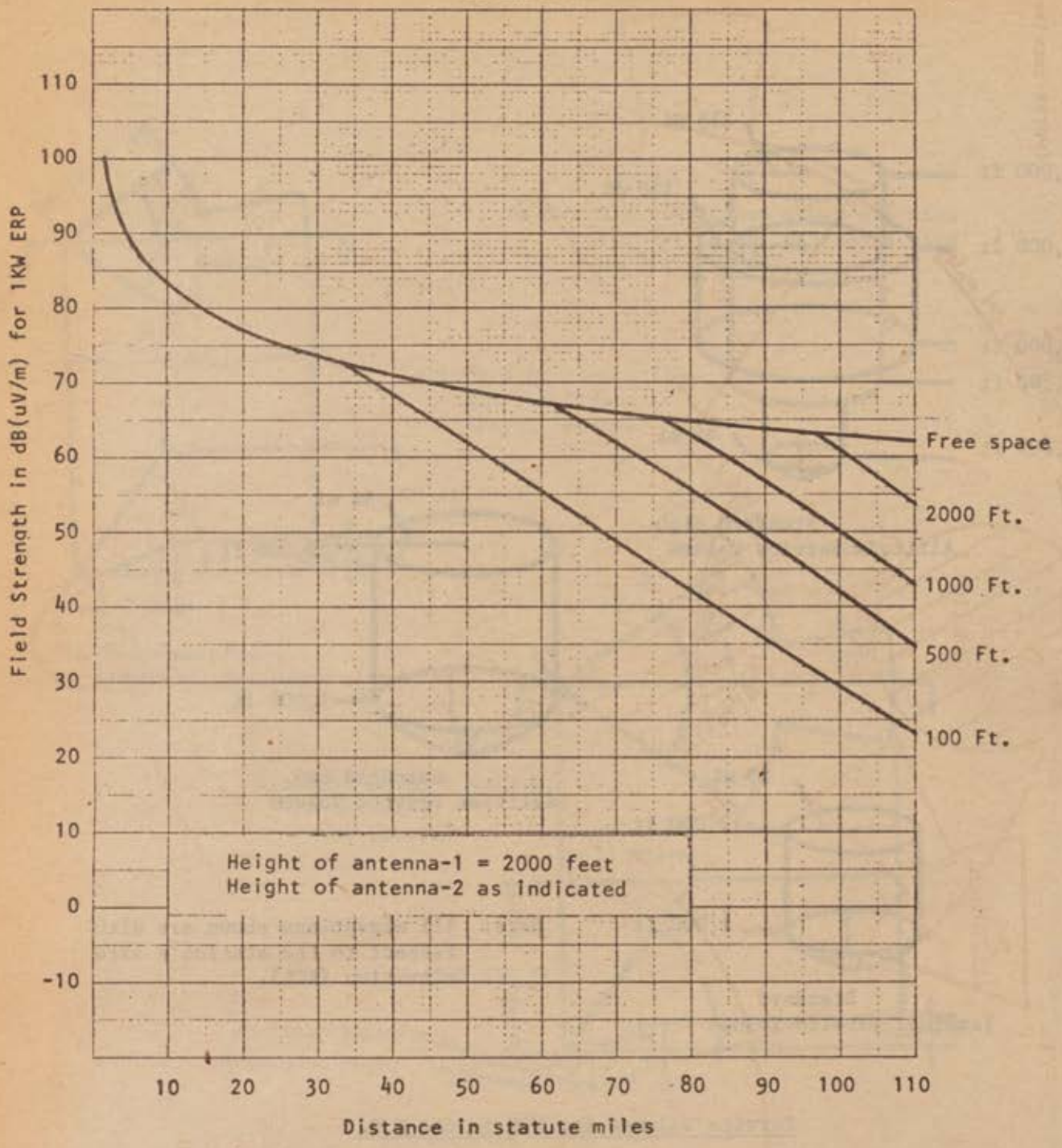

Field Strength in dB(uV/m) for 1KW ERP
110
100
90
80
70
60
50
40
30
20
10
0
-10
Free space
2000 Ft.
1000 Ft.
500 Ft.
100 Ft.
Height of antenna-1 = 2000 feet
Height of antenna-2 as indicated
10
20
30
40
50
60
70
80
90
100
110
Distance in statute miles

FIGURE 6
(worst receiver)

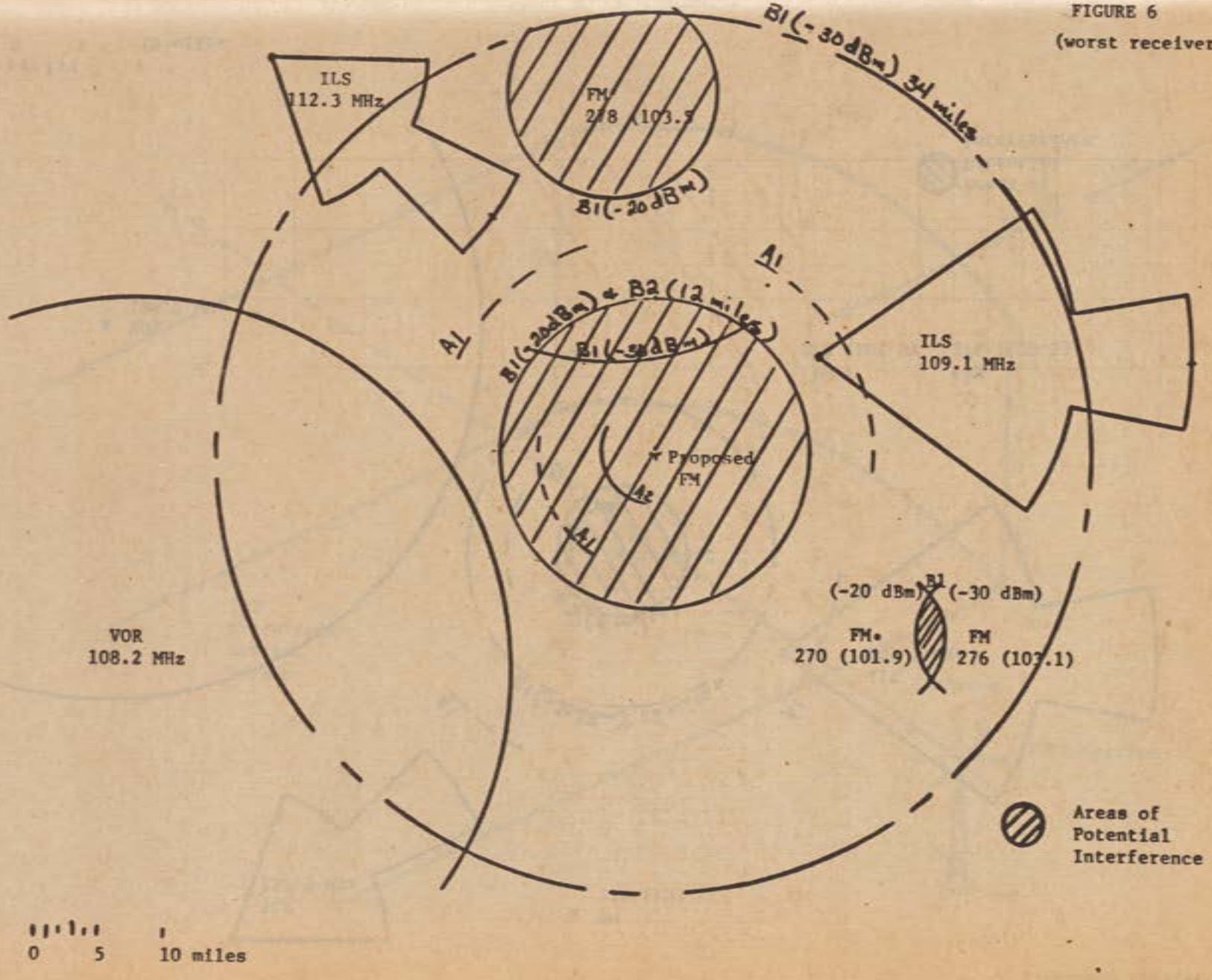
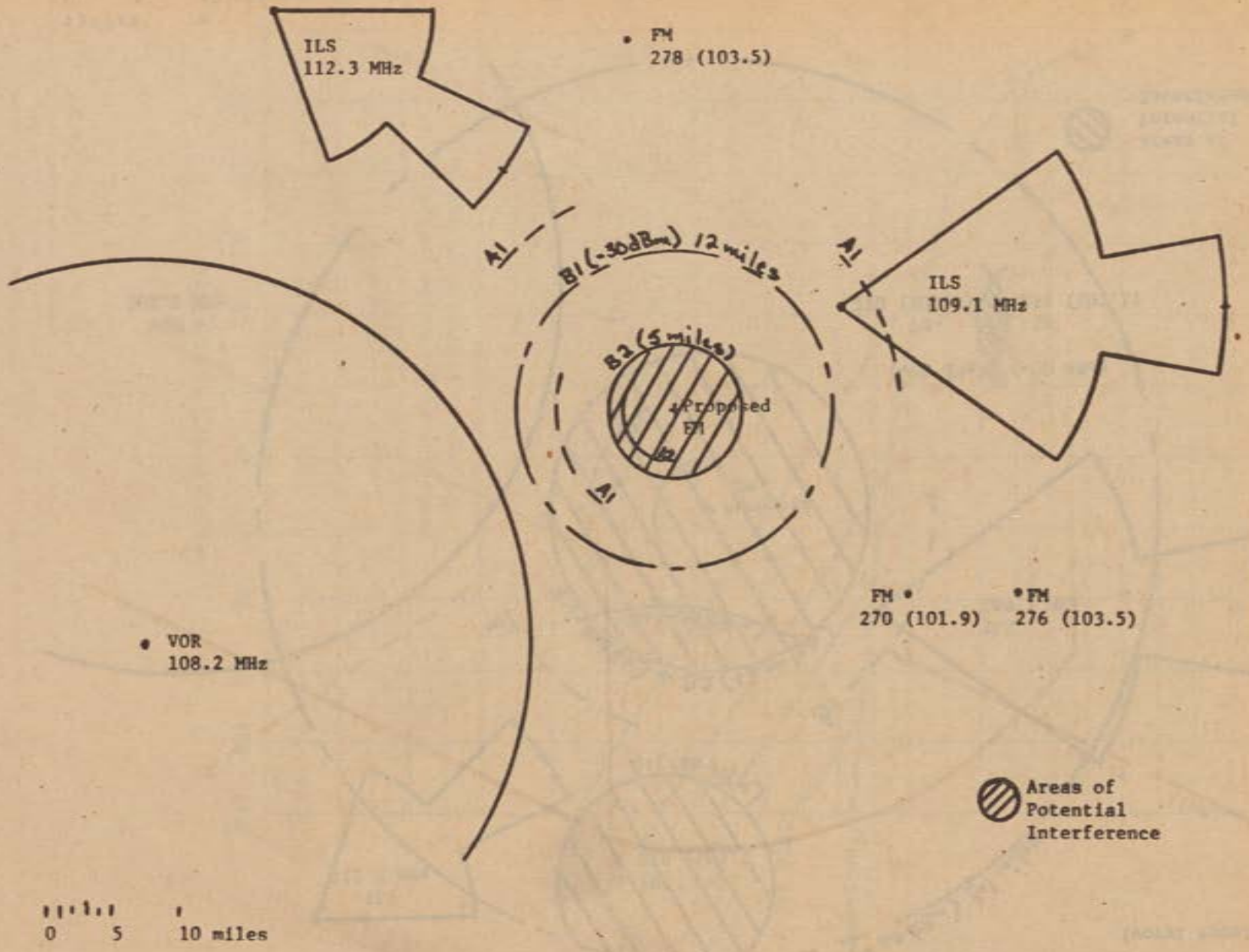


FIGURE 7
(improved receiver)



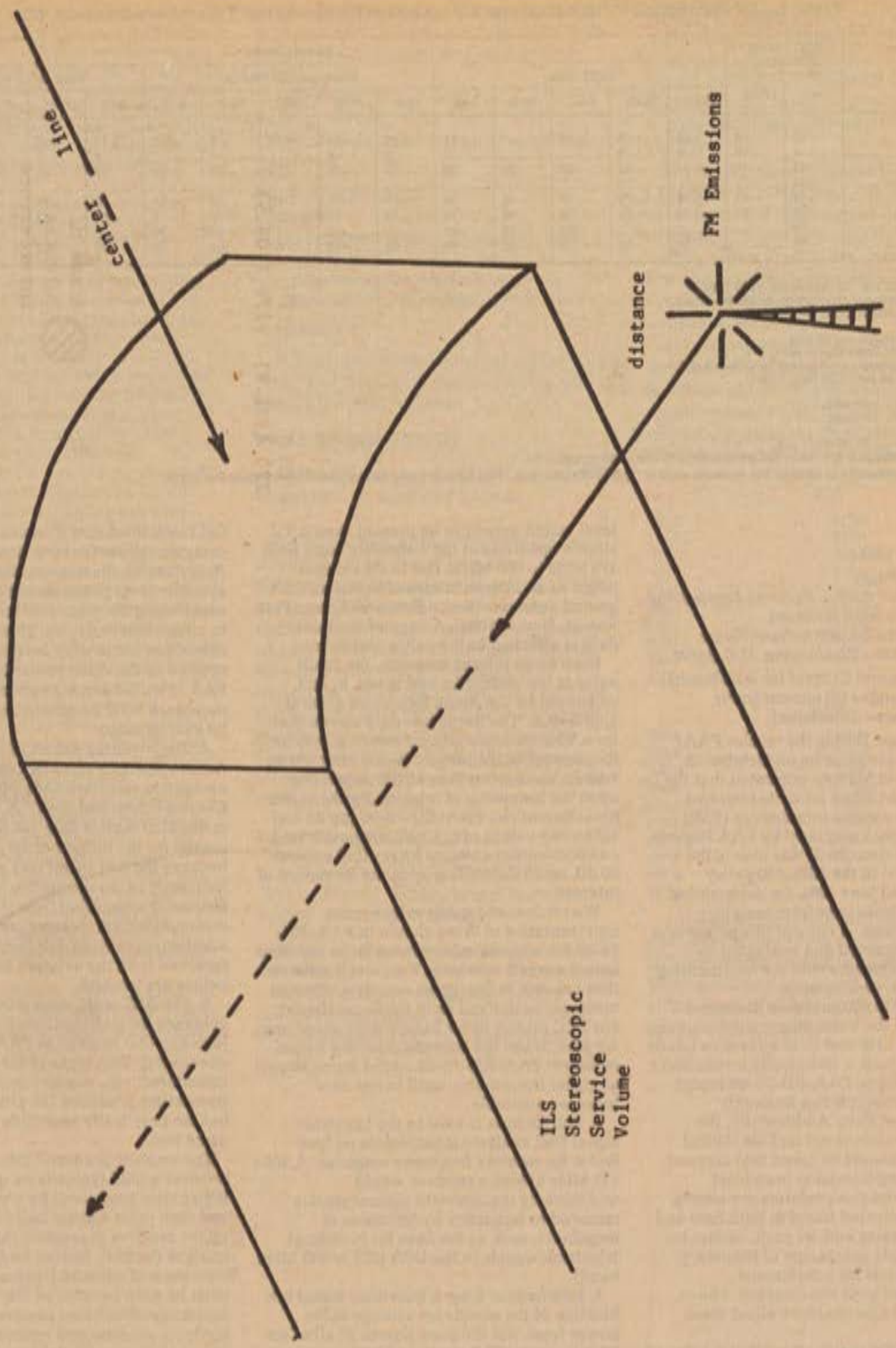

Line
center
distance
FM Emissions
ILS
Stereoscopic
Service
Volume

FIGURE 8

TABLE 1.—RF PROTECTION (D/U) RATIOS FOR ILS LOCALIZER RECEIVERS FOR TYPE A2 INTERFERENCE, dB

f kHz	DOC 10/128 CCIR noise		FAA/TC Tests														
			CCIR noise					Voice program material					Rock music program material				
	RX1	RX2	RXA	RXB	RXC	RXD	RXE	RXA	RXB	RXC	RXD	RXE	RXA	RXB	RXC	RXD	RXE
0	+10	+8	+10	+8	+10	+7	+11	+15	+14	+13	+8	+13	+15	+10	+12	+9	+15
50	−4	−16	−4	−3				−2	−6				−4	−2			
100	−23	−44	−27	−22	−32	−30	−28	−23	−32	−32	−33	−28	−35	−31	−36	−31	−30
150	−66	−73															
200	−74	−77	−72	−76	−77	−76	−56	−73	−71	−78	−74	−55	−76	−76	−80	−75	−55
300	−79	−81	−74	−73	−76	−78	−78	−74	−74	−82	−76	−76	−80	−73	−79	−78	−77
500	−79				−80	−78	−82			−77	−79	−81			−80	−79	−79
800	−80		−86	−69	−78	−83	−69	−84	−69	−86	−82	−68	−92	−69	−78	−84	−68

NOTES:
(1) *Re: Doc. 10/128, 22 September 1983 (Ref 1):*
Interference criterion: $\Delta i = 9$ μamp for DDM = 0.155.
Colored noise as per CCIR Rec. 559–1.
Stereo mode.
Quasi-peak deviation = ±32 kHz.
(2) *Re: FAA/TC Tests March 1984:*
Interference criterion: $\Delta i = 9$ μamp for DDM = 0.093.
Colored noise as per CCIR Rec. 559–1.
Stereo mode.
Peak deviation = ±75 kHz.
Pre-emphasis = 75 μsec.
(3) *General:*
Desired signal = −86 dBm (11 μv).
Receivers A through E are not in the same order as listed in paragraph 4.5.1.
NOTE: No consideration of whether the receivers were in "overload" was given. This oversight may have substantially effected the results.

Appendix 1

November 29, 1984.

Mr. Leland F. Page,
Acting Director, AES–1, Systems Engineering Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591

Reference: General Criteria for Air Hazard Determinations (Electromagnetic Interference—Television)

Dear Mr. Page: During the regular FAA/FCC coordination meeting on October 25, 1984, Mr. Gerald Markey requested that the Commission put into a letter its concerns about electromagnetic interference (EMI) criteria currently being used by FAA Regions. Our particular concern at this time is the criteria outlined in the AES–500 policy statement dated June 1984, for determining potential EMI from *television* (only) broadcast stations. A copy of this policy was just recently received and evaluated by Commission engineers who are coordinating the matter with your agency.

The FAA AES–500 guidance document extends use of the Venn diagram calculations to include the VHF and UHF television bands in a manner which is technically inconsistent with both the basic FAA–RD–78–35 report and the more recent Rome Research Corporation test data. Additionally, the policy statement does not include critical factors which should be taken into account when evaluating television broadcast systems. Television waveforms are among the most complicated found in both time and frequency domains and, as such, cannot be treated as simple extensions of frequency modulated signals for interference evaluations. For your convenience, I have tabulated our basic concerns about these below.

1. The AES–500 policy states that a value of Lr-15 dB (antenna rejection factor due to frequency separation) should be used for either navigation or communication antenna loss when calculating distance (radius) in nautical miles from a broadcast antenna at which a specified interference signal power level would appear to be present from a TV station operating in the frequency band from 175 MHz to 800 MHz. The 15 dB value is noted as an interim standard based on FAA ground antennas (Rome Research Corp., Test Report, Nov. 1, 1982). A copy of the Rome data is attached to the policy statement.

Even as an interim measure, the 15 dB value is too restrictive and is not, in fact, supported by the Rome Report for general application. The Rome test data shows that for a VHF *avionics ground* antenna, loss for frequencies in the range 175–800 MHz varies widely, up to more than 45 dB, depending upon the frequency of interest. Furthermore, Final Report No. FAA–RD–78–35 (pp 41 and 42) shows values of *aircraft navigation and communication* antenna losses that exceed 40 dB, again depending upon the frequency of interest.

We recommend using values more representative of those shown in FAA–RD–78–35 for antenna rejection, as these are from actual aircraft antennas. Frequencies above those shown in the report can, as an interim measure, be derived from the Rome Report. For FCC review of air hazard determinations, we plan to use the antenna rejection values in Report FAA–RD–78–35, or the Rome Report at higher frequencies, until better data becomes available.

2. The formula is used in the television signal EMI analysis incorporates no loss factor for receiver frequency response. A 108–137 MHz avionics receiver would undoubtedly discriminate against signals removed in frequency by hundreds of megahertz, such as the case for broadcast television signals in the USA (175 to 800 MHz band).

3. Interference from a television signal is a function of the *maximum* average video power level, not the peak power. In all of the FAA Regional EMI studies of television signals we have reviewed to date, the levels of synchronizing pulse *peaks* have been used for calculations. The synchronizing power level is 1.68 times the maximum average video power level, for a "worst case" (full black level) television waveform. Of course, full black level *rarely* occurs, and occurrences are for very short durations. Additionally, the 6-microsecond synchronizing pulses would be insignificant considering the relatively long time constants in navigation receivers. Therefore, a correction factor of at least 2.25 dB should be applied to the video power levels used by the FAA in calculations. In practice, with actual non-black level programming, the value will be even greater.

4. The overload values of −10 dBm for communications receivers and −20 dBm for navigation receivers were published by Mr. Charles Cram, and the FAA, for frequency modulated signals near 108 MHz. The only reason for the difference on overload levels is because the test signal was much closer in frequency to the navigation band i.e., the frequency separation from the communications receiver provided 10 dB additional rejection. For frequencies far removed from the aviation bands, both of the values are too high.

5. The AES–500 policy provides no guidance for intermoduation (IM) calculations (perhaps that is given to FAA regions elsewhere). Two types of IM must be considered, viz., receiver-produced IM and transmitter-produced IM. Other types exist, but are practically negligible compared to these two.

For receiver-produced IM, a VHF avionics receiver would typically be driven to non-linear state (overload) by one strong signal and then other signals might be acted upon by the receiver to produce IM. To correctly analyze the EMI, factors for both avionic receiver and antenna frequency response must be used because of the very wide frequency differences involved. After applying antenna and receiver frequency response factors (both being frequency dependent), coefficients of nonlinear transfer (efficiency of conversion), or eqivalent, must be used. These will be nonlinear coefficients themselves, dependent upon the degree of receiver overload. In any event, the conversion efficiency loss will be significant.

Intermodulations studies being conducted by FAA regional offices do not take into account receiver and antenna losses nor conversion efficiency factors. It is important to note that this type of interference is *not* being radiated from FM or TV stations. This interference would occur uniquely because of deficiencies in receiver design. Therefore, as a minimum, the factors described above should be applied.

For transmitter-produced IM, the only meaningful general case is when the transmitters and collocated. These IM products could be from any combination of TV, FM or even other types of transmitters (e.g., land mobile). When television or FM transmitter-produced IM is considered, and transmitters are physically miles apart, space-loss is always sufficient to preclude significant IM production. When physically separated, transmitting antenna frequency response of all stations must be applied, not only with respect to receiving the other strong signals, but with respect to retransmitting any IM product. Additionally, a non-linear conversion efficiency for all signal components contributing to an IM product must be used. The conversion efficiency will be low and generally negligible. For these reasons, significant transmitter-produced IM products do not occur involving TV transmitters that are not collocated. For collocated TV stations, all transmitted products would be at least 60 dB below the power of the station producing the products. The Commission can require additional alttenuation, if required.

In view of the discrepancies, enumerated above, we have serious reservations about restricting the growth of the TV broadcasting service based on FAA air hazard determinations. Evidence is lacking to indicate that a general problem even exists where TV stations are involved in interference. Application of the above mentioned factors and/or more testing may lead to agreed-upon protection criteria: but, for the present, we cannot support the method being employed in general for air hazard determinations involving television stations.

Commission engineers would be happy to discuss further any of the above concerns in the hope of reaching an agreeable solution. In the meantime, we will continue to evaluate the cases and promptly notify you of any air hazard determinations that seem to be in error.

Sincerely,

Ralph A. Haller,

Chief, Technical and International Branch.

cc:

Mr. Sidney Wugalter,

Manager,

Flight Information and Obstructions Branch (AAT-21?), Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591

Appendix 3

It is proposed to amend 47 CFR Parts 0 and 73 of the Commission's Rules and Regulations as follows:

PART 0—[AMENDED]

1. 47 CFR 0.311, paragraph (e) would be revised to read as follows:

* * * * *

(e) The Chief of the Field Operations Bureau is authorized to make determinations and notifications of the presence of harmful interference to radio communications involving safety of life of protection of property which requires temporary suspension of operation under §§ 73.1050 and 74.23 of the Rules. Upon invoking the authority granted pursuant to this section, the Chief of the Field Operations Bureau must immediately inform the Chairman of the Commission.

PART 73—[AMENDED]

2. A new 47 CFR 73.224 entitled "Protection of Aeronautical Services" is added to read as follows:

§ 73.224 Protection of aeronautical services.

(a) FM stations authorized prior to [adopted date] that do not conform to the requirements of this section may continue to operate as previously authorized. Additionally, these FM stations may make such changes as would reduce the potential for causing objectionable interference to aeronautical services as defined in this section.

(b) No application for a FM station on Channels 221–300 (92.1–107.9 MHz) will be accepted if objectional interference is predicted. Objectionable interference occurs when an interference zone of a FM station penetrates the stereoscopic service volume of a protected aeronautical facility.

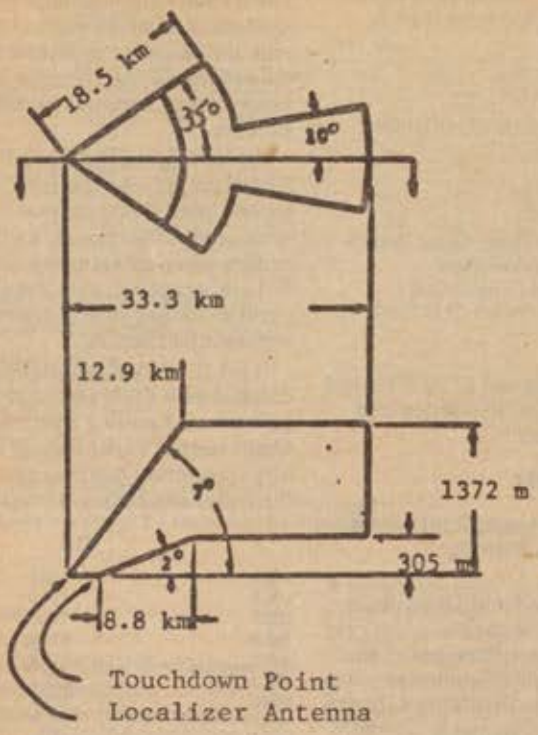
(c) A protected aeronautical facility is defined as a FAA assigned and operated Instrument Landing System (ILS) or VHF Omni-range (VOR) facility used for airport approaches that occupies one of the following frequencies (MHz):

ILS	
108.3	110.3
108.5	110.5
108.7	110.7
108.9	110.9
109.1	111.1
109.3	111.3
109.5	111.5
109.7	111.7
109.9	111.9
110.1	

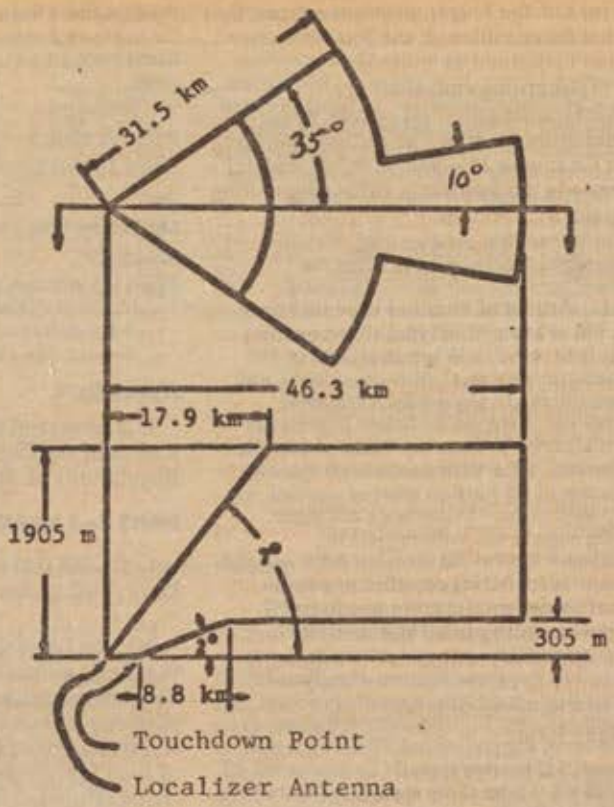
VOR	
108.2	110.2
108.4	110.4
108.6	110.6
108.8	110.8
109.0	111.0
109.2	111.2
109.4	111.4
109.6	111.6
109.8	111.8
110.0	

(d) The dimensions of the stereoscopic service volume to be protected for the ILS (standard and optional) and the VOR facilities are given in the top and side views of the following figures:

BILLING CODE 6712-01-M

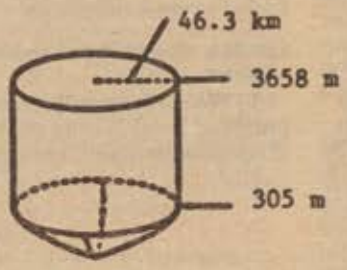


STANDARD SERVICE VOLUME
ILS LOCALIZER
(FRONT COURSE)



OPTION A SERVICE VOLUME
ILS LOCALIZER
(FRONT COURSE)

Note: All elevations shown are with respect to the station's site elevation (AGL).



VOR STANDARD
TERMINAL SERVICE VOLUME

BILLING CODE 6712-01-C

(e) For the four interference types that must be considered, the interference zone is defined as follows:

(1) Spurious emissions type interference potential occurs when the field strength, of a FM station operating on Channels 221–300 (92.1–107.9 MHz), exceeds the following value (depending on the aviation facility of concern):

FS = 18 − P + S for ILS facilities
FS = 25 − P + S for VOR facilities

(2) Adjacent channel type interference potential to a VOR facility operating on 108.2 MHz occurs when the field strength, of a FM station operating on Channel 300 (107.9 MHz), exceeds the following value:

FS = 112 − P for VOR facilities on 108.2 MHz

(3) Intermodulation type interference potential occurs, when two or three FM stations operating on Channels 221–300 (92.1–107.9 MHz) capable of producing third order modulation products corresponding to an ILS or VOR facility, combined according to the following standards:

(i) The intermodulation products are of the form:

$f_x = 2f_1 - f_2$ for two signals
$f_x = f_1 + f_2 - f_3$ for three signals

(ii) For a two signal product, the interference potential occurs where the prime signal level of one FM station intersects the secondary signal level of the other FM station. For a three signal product, the interference potential occurs where the prime signal level of one FM station intersects with an area common to the secondary signal levels of the other two FM stations.

prime: FS = 108.5 − P + L for both ILS and VOR facilities
secondary: FS = 98.5 − P + L for both ILS and VOR facilities

(4) Receiver desensitization type interference potential occurs when the field strength of a FM station operating on Channels 281–300 (104.1–107.9 MHz) exceeds the following value:

FS = 128.5 − P + L − R for both ILS and VOR facilities

Where:

FS = field strength in dBu
f_x = the aviation frequency of concern in MHz
f_1, f_2, f_3 = the frequencies of the FM stations such that $f_1 > f_2 > f_3$
P = effective radiated power of the FM station in dBk (vertical plane when applicable)
S = spurious response in dB at 108.0 MHz (see § 73.317)
L = aviation antenna rejection of 3 dB + 1 dB/MHz
R = aviation immunity values in dB from the following table.

Channel (Frequency in MHz): R (in dB)

281 (104.1): 0.5
282 (104.3): 1.0
283 (104.5): 1.5
284 (104.7): 2.0
285 (104.9): 2.5
286 (105.1): 3.0
287 (105.3): 3.5
288 (105.5): 4.0
289 (105.7): 4.5
290 (105.9): 5.0
291 (106.1): 6.5
292 (106.3): 8.0
293 (106.5): 9.5
294 (106.7): 11.0
295 (106.9): 12.5
296 (107.1): 14.0
297 (108.3): 15.5
298 (107.5): 17.0
299 (107.7): 18.5
300 (107.9): 20.0

(f) The distances to the field strengths, determined in paragraph (e) of this section, are determined by the following formula for free space propagation. This model is valid for distances up to approximately 40 kilometers (25 miles) without regard to transmitted or received antenna heights. Distances are rounded off to the nearest tenth of a kilometer.

$d = \log^{-10}[(107 - FS)/20]$

Where:

d = distance in kilometers
FS = field strength in dBu.

(g) Radiation in any direction in which objectionable interference occurs may be reduced by use of a directional antenna. Application for use of directional antennas must be in conformance with § 73.316(d); and the radiation in any direction must not exceed the maximum permitted under § 73.211(b) for the particular class of station.

3. A new 47 CFR 73.1050 entitled "Interference jeopardizing safety of life" is added as follows:

§ 73.1050 Interference jeopardizing safety of life.

(a) The licensee of any station authorized under this part that causes harmful interference, as defined in § 2.1 of the Commission's Rules, to radio communications involving safety of life must promptly eliminate the interference.

(b) If harmful interference, as defined in § 2.1 of the Commission's Rules, to radio communications involving the safety of life occurs which cannot be promptly eliminated and the Commission finds that there exists an imminent danger to safety of life, operation of the offending equipment shall temporarily be suspended pursuant to the provisions of the Communications Act, *see, e.g.* 47 U.S.C. 316, and shall not be resumed until the harmful interference has been eliminated or the threat to the safety of life has passed. When specifically authorized, short test operations may be made durng the period of suspended operation to check the efficacy of remedial measures.

[FR Doc. 85–10440 Filed 5–7–85; 8:45 am]
BILLING CODE 6712–01–M

---

47 CFR Part 25

[CC Docket No. 85–135; FCC 85–238]

Licensing Space Stations in the Domestic Fixed-Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: This action proposes a rule that specifies the financial qualifications an applicant must demonstrate in order to be granted Commission authorization to construct and operate a domestic fixed-satellite system. Additionally it proposes transponder utilization standards that licensees must demonstrate before the Commission will grant authorizations for expansion satellites. This action was taken to clarify Commission policy on financial eligibility critera and transponder loading requirments for domestic fixed-satellite applicants.

DATES: Comments may be filed on or before June 7, 1985 and reply comments on or before June 27, 1985.

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

FOR FURTHER INFORMATION CONTACT: Rosalee C. Gorman, Cecily C. Holiday or Fern J. Jarmulnek, Satellite Radio Branch, (202) 634–1624.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 25

Satellite radio communication, Satellites.

Notice of Proposed Rulemaking

In the matter of licensing Space Stations in the Domestic Fixed-Satellite Service, CC Docket No. 85–135; FCC 85–238.

Adopted: May 3, 1985.
Released: May 7, 1985.
By the Commission: Commissioner Rivera not participating.

I. Introduction

1. In its *1983 Processing Order*, the Commission established a cut-off for processing new domestic fixed-satellite

space station applications.[1] Any space station application proposing the use of the ¼ GHz and 1 3/14 GHz bands and requesting orbital locations unsable by domestic satellites was required to be submitted on or before November 7, 1983 to be considered in this new processing group. Apendix B of this order specified the information required in these applications. In response, 21 entities submitted applications for 85 domestic satellite authorizations. Public notice was given on March 12, 1984 of the filing of these applications. Comments were solicited on the individual proposals as well as the general processing procedures for the group.[2] In addition to the applicants, 13 other parties submitted comments in this proceeding.[3]

2. It is clearly in the public interest to grant the applications of qualified entities in the pending group as expeditiously as possible. To this end, we have now completed a detailed review of the applications and of the extensive comments submitted in this proceeding. We are in accord with the commenters of the need to complete processing of the pending group as promptly as possible. we find that final authorizations are needed now if companies are to undertake the business commitments to construct the domestic satellite facilities needed to serve the public through the end of the decade.[4] Further delay would only cause uncertainty which could frustrate business planning to the detriment of users who will need satellite services in the late 1980's. We also believe that it is necessary to make such authorizations now to clarify future United States domestic satellite interests at the upcoming Space WARC.[5]

3. In contrast to previous situations when space stations were authorized, we are now faced with more applications than orbital locations available under current spacing criteria. A significant number of these applications appear to be speculative in that the applicant either has not documented firm financial capabilities to construct the proposed satellite system or has requested the assignment of orbital locations in excess of its ability to use them efficiently to provide service to the public. On the other hand, other applications appear to satisfy fully our domestic satellite licensing objectives and merit prompt grant. We have considered all of the alternative processing methods suggested by the commenters. We have concluded that a strict application of qualifications standards will result in the most efficient and expeditious provision of additional domestic satellite services required by the public. We have restated these requirements to ensure that all applicants clearly understand them and have an opportunity to supplement their applications. The Commission then will be in a position to make final ruling on the applications, and to dismiss those not meeting our criteria.[6] We are therefore proposng the rules discussed herein which would require submission of certain additional information from applicants on an expedited basis, enabling us to assign orbital locations as quickly as possible.

II. Summary of Comments

4. The comments submitted in this proceeding suggest a variety of processing approaches. The following is a brief summary and discussion of these comments. Because of the volume of these pleadings, it is neither desirable nor practical to discuss each in detail. However, we have fully considered all of the comments and our decision to proceed with this rulemaking is based on our full evaluation of the record now before us.

5. It has been suggested that the Commission makes a processing distinction between companies with authorized systems and those initially entering the domestic satellite market. Several entities applying for their initial authorizations have advocated a policy favoring new entrants.[7] They associate the benefits of competition and innovation with these applications and suggest that the applications of all qualified new entrants [8] be given expedited treatment.[9] Established carriers,[10] in contrast, have supported the institution of a renewal expectancy similar to that applied in the broadcast field. They argue that such an expectancy is necessary to protect substantial capital investment and unique customer requirements.

6. Several processing approaches have been suggested. These are comparative hearings, lotteries, auctions, or strict application of standards in order to dismiss unqualified applicants. The majority of commenters oppose comparative hearings because of their expense and tendency to delay proceedings. Some, however, suggested that after strict standards were applied to all applicants in order to dismiss those not meeting our criteria, hearings would be appropriate to determine awards to qualified applicants.[11]

7. Parties were concerned that the establishment of a lottery to distribute orbital locations would necessitate major design modifications for applicants awarded a position adjacent to a non-compatible system.[12] In addition, concern was expressed that if all applicants were included in a lottery, there was a substantial possibility of an award to an unqualified company.[13]

---

[1] *Domestic Fixed-Satellite Service*, 93 FCC 2d 1200 (1983). This order was released in conjunction with *Licensing of Space Stations in the Domestic Fixed-Satellite Service*, 54 Rad. Reg. 2d 577 (P&F) (1983) (hereinafter *Reduced Orbital Spacing*) and the individual orders granting the previous round of space station applications. The actual cut-off date was specified by *Public Notice*, Report No. DA-207 (released September 9, 1983).

[2] *Public Notice*, Report No. DS-265 (released March 12, 1984).

[3] A list of these parties is attached as Appendix A.

[4] In our 1983 authorization actions, we noted that the newly authorized satellites would be launched over a 4 to 5 year period. Because of the 3 year construction period required, satellites whose construction was authorized in 1985 would not be available until about 1988.

[5] Such considerations have been taken into account in other Commission proceedings. *See, e.g., Direct Broadcasting Satellite Serive*, 90 FCC 2d 672 (1982).

[6] In the *1983 Processing Order*, 93 FCC 1262, we indicated that applications not supplying the requisite information would be dismissed. In giving public notice of these applications, we reserved the right to dismiss any application if, upon further examination, we determined that it was defective or not in conformance with the Commission's rules, regulations or policies. *Public Notice*, Report No. DS-265 (released March 12, 1984.)

[7] National Exchange, Inc. (NEX), Equatorial Communication Services (Equatorial), Ford Aerospace Satellite Services Corporation (Ford), Federal Express Corporation (Federal Express).

[8] NEX suggests focusing on spectrum efficiency as a method to evaluate new entrants.

[9] We reject a motion filed by Ford, a potential new entrant, for expedited processing of its applications. The processing procedure established by our *1983 Processing Order* is intended to establish a fair and orderly means of authorizing new domestic facilities. We have consistently applied a group approach to processing applications as particular frequency bands become intensively used. We have found this to be the most practical way of authorizing multiple entities in order to provide service to the public as expeditiously as possible. Bifurcation, with some applicants processed and either authorized or dismissed before others, will only lead to business uncertainties and delays in service.

[10] Satellite Business Systems (SBS), GTE Satellite Corporation (GSAT), and GTE Spacenet Corporation (Spacenet). The Western Union Telegraph Company (Western Union) suggests a permanent award of an authorization to be revoked only for good cause.

[11] SBS; *see* Comments of Ford which favor of expedited paper hearings for existing carriers with firm customers needs.

[12] Spacenet; GSAT.

[13] Equatorial, Spacenet.

Other applicants prefer a lottery to comparative hearings because of the higher costs, delays and administrative difficulties caused by the latter method.[14]

8. The possibility of auctioning orbital locations was discussed in some comments. The Bureaus of Economics, Consumer Protection and Competition of the Federal Trade Commission (FTC) advocated this approach based on economic analysis and the assertion that administrative costs would be lower than if a lottery were used.[15] Other parties favored a limited auction for authorizations to existing carriers as opposed to new entrants.[16]

9. The majority of the commenters favored a strict application of the standards set out in the *1983 Processing Order* to eliminate unqualified applicants.[17] The parties asserted that if this approach were followed there would be sufficient orbital positions to accommodate the remaining applications.[18] These standards were discussed by the commenters and included financial,[19] legal and technical criteria.[20] In addition, parties asserted that the Commission should adhere to its policy of awarding two positions to each qualified new entrant and additional locations for non-replacement satellites to existing carriers only where substantial fill and firm customer need were demonstrated.[21]

10. Other possibilities such as expansion of the orbital arc[22] and further reductions in satellite spacings were raised.[23] It was suggested that combinations between applicants be favored.[24] In addition, Systematics General Corporation (SGC) suggested a bifurcated processing procedure which would expeditiously grant those applications requesting positions in the far eastern portion of the orbital arc.[25] Other parties suggested the requirement of due diligence bench marks to insure the timely utilization of all authorizations.[26]

III. Discussion

11. It has been more than a decade since we first established our basic domestic satellite licensing policies.[27] They have served the public well and continue to be flexible enough to allow us to respond promptly to changing technological, market and regulatory conditions.[28] Three groups of domestic satellite authorizations have been granted within this policy framework. The initial domestic satellite authorizations were issued in 1973,[29] another group was authorized in 1980,[30] and our most recent authorization actions were taken in 1983.[31] In considering the current group of domestic satellite applications now before us, we will continue to pursue our long-standing objective as announced in our order in *Domsat II*, 35 FCC 2d 844 (1972), to allow qualified applicants the opportunity to demonstrate the advantages to the public derived from satellite communications. As we cautioned in that order, however, entry into this field is not without limitation and we have a statutory responsibility to set qualification standards. Each applicant must make a sufficient showing that it meets these qualifications and that its proposal will sufficiently benefit the public to justify the assignment of orbital locations.

12. We find that the public interest will be best served by an expeditious grant of authorizations to those qualified applicants who will be able to begin construction of their systems immediately and thus offer satellite services to the public expeditiously.[32] In

[14] Comments submitted by Western Union outline possible procedures by which such a lottery could be conducted. *In accord*, see comments of Huges.

[15] *In accord*, comments filed by Henry Geller and Donna Lampert. Another applicant supporting the use of an auction if unqualified applicants were not included was Huges Communications Galaxy, Inc. (Huges).

[16] Equatorial stated that an auction for all applicants would pose a substantial entry barrier to the market.

[17] 93 FCC 2d at 1262.

[18] *See, e.g.*, Hughes, Ford, GSAT, Spacenet, Comsat General Corporation (Comsat), Equatorial.

[19] Systematics General Corporation (SGC) does suggest that its bifurcated processing procedure based on requested orbital locations would permit immediate grants to new entrants. Strict construction deadlines could be applied to monitor these companies' financial qualifications and progress in completion of satellite systems. Digital Telesat, Inc. (Digisat) states in a Consolidated Opposition to Petition to Deny that an applicant should only be required to demonstrate a reasonable assurance of obtaining financing after a construction permit is awarded. Other parties advocated that a strict financial qualifications standard be applied to all applicants. *See* American Satellite Company (American Satellite) which offered detailed suggestions on the requirements to demonstrate financial qualifications for both new and existing carriers.

[20] For example, Hughes suggested deferring action on hybrid satellites as being inherently inefficient.

[21] American Satellite suggested deferring applications for late launches and denial of requests for contiguous positions.

[22] GSAT, Spacenet.

[23] Parties did not advocate further reduction in spacings although Hughes stated that separations could be slightly narrowed without reducing spacing below 2°. Hughes opposes a reduction below 3° between those satellites serving the cable television industry. Home Box Office (HBO) and the Satellite Television Industry Association (SPACE) requested that spacings between cable satellites be left at 3° and Joint Comments of Cable Television Operators and National Cable Television Association stressed that the move to 2° spacing be made slowly. CBS urged rejection of HBO's proposal. GTE Spacenet suggested that authority be given to fixed-satellite permittees to use frequencies allocated to DBS service. This suggestion was opposed by Satellite Television Corp.

[24] Hughes, Federal Express.

[25] A subsequently filed joint motion of Cablesat General Corporation (Cablesat), Columbia Communications Corporation (Columbia), Digisat and SGC urges that we bifurcate this application proceeding and promptly grant their applications proposing Far Eastern Regional Networks (FERN), *i.e.*, a satellite network using positions east of 55° W.L. FERN applicants argue that their applications are not mutually exclusive with other applicants seeking to provide 48 and 50-state services, because these types of services can be provided only from locations west of 55° W.L. Because all requests for locations east of 55° W.L. can be accommodated, FERN applicants argue that these requests should be immediately granted. GTE Spacenet, Federal Express and RCA Americom, oppose this procedure, contending that FERN locations may be able to be used by non-FERN applicants willing to change their business plans. ISI alleges that its requested orbit assignment will receive unacceptable interference from Digisat. We deny the FERN applicants' motion. Because the orbital locations east of 55° W.L. are usable for domestic satellite services, we do not wish to foreclose non-FERN applicants from the option of modifying their plans. Moreover, we will not, as the FERN applicants suggest, dispense with an independent assessment of FERN applicants' qualifications to the detriment of qualified applicants who may be willing to accept a position east of 55° W.L.

[26] Western Union.

[27] *Domestic Communications Satellite Facilities*, 22 FCC 2d 86 (1970), 35 FCC 2d 844 (1972), *recon. in part*, 38 FCC 2d 665 (1972). (*Domsat I, II*, and *III*, respectively).

[28] *Domestic Fixed-Satellite Service*, 88 FCC 2d 318 (1981).

[29] *American Satellite Corporation*, 43 FCC 2d 348 (1973); *American Telephone and Telegraph Company*, 42 FCC 2d 654 (1973); *Communications Satellite Corp.*, 42 FCC 2d 677 (1973); *GTE Satellite Corporation*, 43 FCC 2d 1141 (1973); *RCA Global Communications*, 42 FCC 2d 774 (1973); *Western Union Telegraph Company*, 38 FCC 2d 1197 (1973).

[30] *Comsat General Corporation*, 84 FCC 2d 547 (1981); *GTE Satellite Corporation*, 84 FCC 2d 562 (1981); *Hughes Communications, Inc.*, 84 FCC 2d 578 (1981); *RCA American Communications, Inc.*, 84 FCC 2d 633 (1981); *Satellite Business Systems*, 86 FCC 2d 180 (1981); *Southern Pacific Communications*, 84 FCC 2d 650 (1981); *Western Union Telegraph Co.*, 86 FCC 2d 196 (1981).

[31] *Advanced Business Communications, Inc.*, 94 FCC 2d 1 (1983); *American Satellite Co.*, 94 FCC 2d 39 (1983); *American Telephone and Telegraph Co.*, 94 FCC 2d 44 (1983); *Hughes Communications, Inc.*, 94 FCC 2d 271 (1983); *Rainbow Satellite, Inc.*, 94 FCC 2d 437 (1983); *RCA American Communications, Inc.*, 94 FCC 2d 441 (1983); *Satellite Business Systems*, 94 FCC 2d 447 (1983); *Southern Pacific Communications Company*, 94 FCC 2d 457 (1983); *United States Satellite Systems, Inc.*, 94 FCC 2d 462 (1983); *Western Union Telegraph Co.*, 94 FCC 2d 467 (1983).

[32] The desirability of expeditious action in the domestic satellite field and avoidance of unnecessary administrative delays in this dynamic industry is well established. *See e.g., U.S. v. FCC*, 652 F.2d 72 (D.C. Cir. 1980).

making this determination, we are fulfilling our legislative mandate to satisfy the public "convenience, interest, or necessity"[33] and an integral part of our public interest conclusion is verifying the qualifications of individual applicants.[34] The explicit licensing standards we are articulating herein constitute the most efficient and reasonable method to judge an applicant's qualifications to proceed expeditiously with the construction, launch and operation of the proposed satellite facilities.[35]

13. Although it has been suggested that either lotteries or auctions are appropriate processing procedures, we have determined that the adoption of either at this time would be premature and could raise substantial problems. Instead, the application of strict qualifications standards might avoid the need to select alternative approaches and therefore, is preferable. As has been pointed out by the parties opposing lotteries, a pool including all applicants probably would result in awarding satellite authorizations to unqualified entities thus causing delays in construction and service, and perhaps even forfeiture of licenses awarded to companies unable to fulfill their application representations. In addition, utilization of a lottery could result in the award of contiguous locations to incompatible systems thus necessitating major design modifications for licensees. In addition, the administrative delays and costs which would result from the institution of a new licensing scheme, such as a lottery, assuming the statutory requirements for using a lottery could be met,[36] militate against its use.

14. Auctions would entail many of the same administrative problems associated with lotteries. In addition, auctions have been proposed as a method for awarding authorizations in other services but have not been employed.[37] Thus, we have no experience by which to evaluate their efficacy in this service. We have concluded that with the assistance of the information requested by the proposed rule, the best approach is to determine expeditiously which applicants meet our strict qualifications. If there are more qualified applicants than we are able to accommodate, we may then need to reexamine these alternatives. The following is a discussion of our proposed rule.

IV. Space Station Licensing Standards

15. The basic information required of each applicant is specified in the *1983 Processing Order*.[38] Applicants were required to file complete and comprehensive proposals for their systems and services, and to demonstrate specifically their ability to proceed promptly with construction and launch of the proposed satellites. Additionally, if more than two orbital locations are requested, applicants were required to submit information on utilization of transponder capacity on in-orbit satellites and firm customer service requirements for additional satellite capacity. Our initial review of the pending applications indicates the information concerning financial qualifications is, in many cases, inadequate to demonstrate an applicant's ability to construct and launch the proposed system promptly. Information with respect to transponder loading is insufficient to demonstrate a need for requested expansion satellites, or of future user requirements.

16. Section 308 of the Communications Act of 1934 authorizes the Commission to grant radio station licenses and section 309(e) provides that if the Commission is unable to make a finding that the public interest, convenience and necessity will be served by granting that application, it "shall formally designate the application for hearing."[39] However, if an application on its face violates a Commission rule, a full hearing is not required. The hearing requirement does not affect the Commission's rulemaking authority.[40] In the *Storer* case, a pending application was dismissed upon the Commission's adoption of multiple ownership rules for broadcast stations because the applicant was already licensed to operate the maximum number of stations permitted. The Court declared that the application could be dismissed without a hearing. Specifically, the Court held: "We do not think Congress intended the Commission to waste time on applications that do not state a valid basis for a hearing."[41] Thus, if applicants in the current domestic satellite system processing group are unable to meet the explicit basic qualifying standards concerning financial qualifications and loading requirements, their applications may be dismissed without a hearing.

A. Financial Qualifications

17. Financial qualifications are required in the domestic satellite field to ensure that the development of the available but unused orbit and spectrum resource is not delayed, and that the public is promptly provided with needed satellite service. Constructing and operating a satellite system requires an enormous capital investment[42] with large risks involved. Close scrutiny of an applicant's financial qualifications assures the Commission that an applicant can immediately begin to construct and operate its system. Without sufficient financial resources at the time a construction permit is granted, an applicant will spend a significant amount of time attempting to raise capital before even beginning to fulfill its representations to the Commission that it can begin constructing its system immediately. Furthermore, experience has demonstrated that there is no guarantee that financing attempts will prove successful even with the issuance of a construction permit by the Commission. In fact, the failure of licensees holding conditional authorizations to obtain financing has resulted in protracted proceedings, placed substantial burdens on other applicants and on our limited processing staff, and delayed the processing of applications for additional facilities. Moreover, grant of an authorization to an applicant who is not financially qualified is now likely to preclude qualified applicants from constructing and operating proposed systems. This, in turn, delays service to the public. Requiring that an applicant demonstrate that it is financially

---

[33] 47 U.S.C. 307(a).

[34] *See FCC* v. *Sanders Brothers Radio Station*, 309 U.S. 470 (1940).

[35] *See* 47 U.S.C. 308(b); *see also Domestic Fixed-Satellite Service*, 77 FCC 2d 956 (1980) (hereinafter *1980 Processing Order*); *1983 Processing Order*, 93 FCC 2d 1260.

[36] The criteria the Commission must meet in employing lotteries is set forth in H.R. Rep. No. 97-765, 97th Cong., 2d Sess. (1982).

[37] *See, e.g., In the Matter of Amendment of Parts 2, 21, 74 and 94 of the Commission's Rules and Regulations in regard to frequency allocation to the Instructional Television Fixed Service, the Multipoint Distribution Service, and the Private Operational Fixed Microwave Service*, 94 FCC 2d 1203, 1260 (1983); *In the Matter of Amendment of the Commission's Rules to Allow the Selection from Among Certain Competing Applications Using Random Selection or Lotteries instead of Comparative Hearings*, 93 FCC 2d 952, 968 (1983). In these proceedings the Commission concluded that the specific grant of authority to use lotteries made that processing method more attractive than auctions.

[38] 93 FCC 2d 1260 (1983). The information specified in this order is designed to update the information that has been required of space station applicants since our initial decision in 1976 to accept such applications. *See Domsat I*, 22 FCC 2d 86, at Appendix D, *1980 Processing Order*, 77 FCC 2d 956, at Appendix B.

[39] 47 U.S.C. 308, 309(e).

[40] *United States* v. *Storer Broadcasting Co.*, 351 U.S. 192 (1956).

[41] *Id.* at 205.

[42] The investment cost for a satellite system averages about $300 million.

qualified also discourages the filing of purely speculative applicants for the purpose of selling a bare license and privately profiting from the regulatory process.

18. Thus, the Commission has, since *Domsat I*, traditionally required all applicants to demonstrate that they are financially qualified to construct, launch and operate their proposed systems promptly.[43] This scrutiny ensures that an applicant is capable of implementing its proposed domestic fixed-satellite system promptly. To aid our assessment, we stated in *Reduced Orbital Spacing* that we believed the standards set forth in *Ultravision*[44] were indicative of the showing that must be made by domestic satellite applicants to demonstrate full financial qualifications.[45]

19. Most parties commenting on this issue affirmatively support close scrutiny of basic financial qualifications. Ford, for example, declares that the Commission should adhere to its statement that it would hold domestic satellite applicants to the *Ultravision* standard for demonstrating full financial qualifications.[46] According to Ford, applications unable to meet this standard should be summarily dismissed. SBS asserts that financial qualifications should include unconditional commitments of sufficient funds to build, launch and operate the proposed systems upon authorization. Many parties, including SBS, American Satellite and Equatorial, oppose any further grant of conditional construction permits such as the ones issued on an experimental basis to three applicants in the previous processing group.[47] SBS points out that the current conditions of scarcity require a more rigorous policy in regard to applicants' qualifications. USSSI states that while it believes that there is some confusion regarding the prevailing standard, the Ultravision "reasonable assurance" test, coupled with a waiver for applicants unable to meet this test, is the prevailing Commission view. SGC is one of the few parties to continue to support the conditional authorizations, at least in the context of FERN applicants, where SGC appears to argue for immediate grant of system authorizations, together with a strict six month deadline for initiating construction. Some applicants, such as Columbia and Rainbow argue that the Direct Broadcast Satellite "due diligence" standard should apply. For reasons discussed in more detail below, we believe that adopting a less stringent standard would be counterproductive. Our experiment with more lenient treatment of applicant qualifications may have been appropriate when the number of competitors was small and it was possible to afford the opportunity to all applicants to pursue their planned systems. Today, however, this is no longer the case.

20. None of the comments in this proceedings convinces us that a lesser standard than *Ultravision* is warranted under current conditions in the 4/6 GHz and 11/14 GHz bands. We believe that only the strictest application of the *Ultravison* standard will allow us to fulfill our regulatory responsibilities and further our long-standing domestic satellite policy objectives.[48] The *Ultravison* test requires that an applicant demonstrate that it has sufficient capital to construct its system and operate it for one year. Until 1983, the documentation of the financial qualifications of applicants was not closely scrutinized because either the applicants' financial resources were a matter of record before the Commission or the applicant clearly had sufficient corporate resources to finance their proposed system. However, in 1983, there of the pending applicants admittedly did not have the financial resources to construct and operate their proposed satellite systems. Rather, they claimed that financial institutions with whom they had been in negotiations were prepared to participate in financing the proposed system once construction permits were granted. Because we were able to grant all applications without delaying any qualified applicant from proceeding with its plans, we were able to try a novel approach for that group, and granted three applicants authorizations conditioned upon their obtaining the necessary financing.[49] We believe, however, that this experiment was not successful.[50] None of the three applicants could arrange conventional financing promptly upon grant, as they had represented they would, nor could any obtain the committed non-contingent financing we would have required under a more traditional approach. Given the existence of applicants who appear to be capable of demonstrating full financial qualifications prior to the issuance of construction permits, the public interest will not be served by repeating this unsuccessful experiment.

21. Based on our extensive experience with the financial qualifications of domestic satellite applicants, and the observations that we have received from the parties in response to our requests for comments on processing methods and individual applications, we believe it desirable to restate and clarify the finacial qualification requirements we stated would apply to future space station applications in *Reduced Orbital Spacing*. Specifically, we propose that each applicant for a domestic satellite space station authorization unequivocally demonstrate, prior to grant, that it has firmly committed financial resources to meet the estimated costs of proposed construction, launch and other initial expenses, as well as the estimated operating expenses for a year. Applicants must demonstrate financial qualifications by submitting audited financial statements or balance sheets for the latest available year demonstrating that the applicant or its parent company, if it is relying on the parent company as a source of financing, has uncommitted current assets sufficient to cover estimated investment costs and the estimated costs of the initial year of operation. Proof must also be submitted that such funds are firmly committed to provide all capital expenditures with respect to the proposed domestic satellite project.[51] This documentation need not be resubmitted if it has already been supplied in the November 7, 1983 application and the applicant certifies that circumstances have not changed. In conjunction with any form of credit arrangement or private equity placement the applicant is relying on the cover initial investment and operating cost, it must also submit the details of the loan or other from of credit or equity arrangement intended to be used to

[43] 22 FCC 2d 84.

[44] *Ultravision Broadcasting*, 1 FCC 2d 544 (1965). That standard basically provides that an applicant must have sufficient capital to construct its system and operate it for one year.

[45] 94 FCC 2d at n. 59.

[46] *See* Consolidated Petitions to Deny or Dismiss and Comments of Ford at 30. Other applicants supporting the full demonstration of financial qualifications include GTE Satellite, GTE Spacenet, American Satellite, Martin Marietta Communications Systems, Inc. (Martin Marietta) and SBS.

[47] *See* para. 20 *infra* for a discussion of this approach.

[48] *See Domsat II*, 35 FCC 2d 844 (1972)

[49] Advanced Business Communications, Inc., 94 FCC 2d 1 (1983); *Rainbow Satellite Inc.*, 94 FCC 2d 437 (1983); *United States Satellite Systems, Inc., 94 FCC 2d 462 (1983).*

[50] *Advanced Business Communications, Inc.*, FCC 85-57 (released February 27, 1985); *Rainbow Satellite, Inc.*, Mimeo No. 2583 (released February 14, 1985); *United States Satellite Systems, Inc.*, Mimeo No. 2584 (released February 14, 1985). (Applications for review pending).

[51] For example, a resolution of the Board of Directors was considered sufficient for this purpose in *RCA Global Communications*, FCC 73-795 (released July 27, 1973).

finance the proposed system. This includes information such as the identity of the creditor (or creditors), letters of commitment, all terms of the transactions including required collateral, and the details of any sale or placement of any equity or other form of ownership interest.

22. Acceptable financial arrangements must demonstrate that financing has been approved and does not rest on contingencies which require further action by either party to the loan.[52] In other words, the instrument of financing must demonstrate that the lender has already determined that the applicant is creditworthy and, absent changed circumstances, is prepared to make the loan immediately on grant of Commission authorization to construct the satellite system.[53] Thus, letters from a financier indicating that it has an interest in the project, or will assist in arranging financing once a construction permit is granted, are not sufficient to demonstrate financial qualifications. Loans contingent on a future action of the applicant, such as marketing a certain number of transponders on the system or entering into contracts with other parties, will also not be considered sufficient. Parties are referred to our discussions in the cases cited in footnote 50 as examples of inadequate financial arrangements. An exact text of the proposed rule is contained in Appendix B.[54]

B. Transponder Loading Requirements

23. Newly authorized systems relying on generalized projections of traffic have consistently been assigned two orbital locations.[55] This policy rests on the basis that two locations are necessary and sufficient to establish a competitive market presence in the absence of firm customer commitments. When an existing operator seeks to expand an authorized system or a new entrant requests more than two orbit locations, however, a concrete showing of need must be made. In *Reduced Orbital Spacing*,[56] citing the *1980 Assignment Order*,[57] we stated that additional locations would be assigned "only upon a showing that in-orbit satellites are essentially filled and that an additional orbit location is needed to satisfy firm customer growth requirements, including reasonable protection requirements."[58] The upper limit on in-orbit spare capacity was set at the equivalent of one spare satellite used for occasional or preemptible services, although we stated that a lower level may be required to enable more satellites to be accommodated. We further stated that forecasted requirements should be related as specifically as possible to the applicant's experience, rather than to general industry forecasts. Thus, applicants requesting more than two locations were required to provide detailed historical use data for their system and projected requirements on a transponder-by-transponder basis.

24. Parties commenting on the general policies that should be followed in authorizing expansion satellites agree that new entrants should continue to be provided two orbital locations. They also agree that warehousing orbital assignments should not be permitted, although they differ in the method proposed to limit the number of expansion satellites granted. Equatorial and NEX argue that capacity of existing locations be utilized to the fullest extent possible and firm customer requirements be demonstrated before additional satellites are authorized. Federal Express argues that existing operators should be limited to the use of locations currently authorized to them until the existing satellites have been replaced with higher capacity satellites and maximum feasible capacity is being used. GSAT and Spacenet believe that expansion should be limited to one assignment in each band, while Martin Marietta asserts that existing operators should be limited to one new orbital assignment upon showing that existing facilities are loaded. SGC argues that assignment of more than one position in each frequency band is unnecessary until an applicant can certify it has binding contracts for non-occasional use of at least 50% of the transponders on a satellite at that location. Finally, American Satellite suggests that no operator should be permitted to obtain more than 25% in-orbit spare capacity in a frequency band.

25. We agree that qualified new entrants in each pair of frequency bands should continue to be initially assigned up to two orbital locations in each band. Further, we agree that requests for additional capacity should be concretely justified and the warehousing of expansion locations prohibited. Requiring licensees to operate their facilities at the maximum feasible capacity will achieve more efficient utilization of the orbit-spectrum resource to the benefit of the using public. Thus, we believe that our traditional policy of authorizing additional locations only when existing satellites are essentially filled and firm customer growth requirements are demonstrated should continue to be applied with certain modifications to facilitate implementation and to recognize that future growth requirements are impossible to predict with absolute certainty.

26. Thus, we propose that applicants requesting an expansion satellite be required to demonstrate that the additional satellite will be 80% filled within three years of launch. This will provide sufficient spare capacity to insure against transponder failure, while maximizing orbit-spectrum use. If no contracts for the additional in-orbit capacity have been executed, the 80% showing may be made by projecting historical customer growth rates for the applicant's existing in-orbit system, taking transponder configuration into account.[59] General industry forecasts will not be sufficient to demonstrate that the additional satellite will achieve the requisite fill. In addition, because transponder sales and long-term leases cannot be projected in the same manner as an applicant's own transponder requirements to serve customers directly, these transactions may not be included in projections of future fill.[60]

---

[52] In particular, applicants with insufficient current capital assets committed to meet the test specified above may rely on project financing only if all necessary contracts have been executed. Reliance on anticipated future transponder sales or lease contracts will not be considered sufficient to demonstrate the applicant's financial ability to meet payments required by the spacecraft manufacturer, launch services provider, and other vendors.

[53] The only circumstances we can foresee as an acceptable limitation on a lender's commitment to make a loan is a change in the applicant's creditworthiness or in general market conditions, *e.g.*, soaring interest rates.

[54] We have attempted here to define precisely the showing an applicant must make to demonstrate its existing financial qualifications to construct and operate its proposed satellite system. Parties are on notice that our intent is to interpret the *Ultravision* standard in a manner that, while not impossible to meet, is more stringent than the interpretation applied in some of the cases that followed *Ultravision*. Thus, to the extent that the standard proposed in the discussion above is inconsistent with these cases, our proposed standard will be followed.

[55] *See 1983 Processing Order*, 93 FCC 2d 1260 (1983); *Domestic Fixed-Satellite Service—Orbit Deployment Plan*, 84 FCC 2d 584 (1981) (hereinafter *1980 Assignment Order*).

[56] 54 Rad. Reg. 2d 577.

[57] 84 FCC 2d 584.

[58] *Reduced Orbital Spacing*, 54 Rad. Reg. 2d at para. 81.

[59] Submitting this information should not pose any problems to pending applicants. Historical use data and usage projections were already required to be submitted under Appendix B of the *1983 Processing Order*. We propose that traffic be based on linear extrapolation of the past three years usage taken from the semi-annual transponder loading reports required to be filed with the Commission employing a simple least squares regression model.

[60] Transponder sales are a recent development in domestic satellite marketing, *see Transponder Sales*

Continued

We believe that this approach, in contrast to limiting artificially the number of expansion satellites that may be granted as several commenters suggest, will ensure that demand for domestic satellite services is being satisfied.

27. We recognize, however, that it is often difficult to project firm customer requirements years in advance of launch, especially when an applicant's in-orbit system is not yet, or has only recently, become operational. Thus, we propose that applicants not able to demonstrate that the additional satellite will be at leaast 80% filled nevertheless be provided with the opportunity for expansion at its own risk. This opportunity will be limited to one expansion satellite in each frequency band in which the applicant is authorized to operate. However, to ensure that these grants do not prevent our authorization of a qualified new entrant or of a demonstrably filled expansion satellite, these authorizations will be conditioned upon the permittee demonstrating prior to launch of the satellite that its existing in-orbit system in that frequency band is 80% filled.[61] This should prevent a satellite not actually needed from being launched and thus inefficiently occupying an orbital location. Failure to make this required demonstration of fill by the specified launch date will render the authorization null and void.

28. In addition, to ensure that in-orbit satellites are being adequately utilized, we propose to require each licensee to maintain 80% fill. This fill requirement must be demonstrated on each satellite, or if circumstances warrant, on an average basis over the system. As we noted in *Reduced Orbital Spacing*, if the required traffic fill is not achieved, the unfilled satellite will be considered as an excess spare.[62] This spare assignment will be cancelled and colocation of in-orbit satellites required if pending applications of qualified new entrants or existing entrants concretely demonstrating that an additional satellite will be 80% filled are ready for grant. If an assignment is cancelled, the licensee will be afforded thirty days to notify the Commission which of its assigned locations should be cancelled. Further, as we have done in the past, we will also condition any grant to require construction, launch and operation of the space station by certain dates.[63] Failure to meet these milestones by the specified dates will render the orbital assignment null and void. In this way, we seek to ensure further that orbital locations are not warehoused. An exact text of our proposed rule is contained in Appendix B.

C. Filing Dates

29. The major objective; of this proceeding is to state as clearly as possible the information required to be included in a application for a satellite space station authorization with respect to financial qualifications and transponder loading. Although some of the pending applications may include sufficient detail with respect to these requirements, we are giving applicants the opportunity to amend their filings in order that they might demonstrate compliance with the proposed standards. Because it is necessary to act expeditiously on these pending applications, we are requiring any supplements to applications or certifications of continued financial qualifications [64] filed in compliance with the rules proposed herein to be filed within the time period designated for comments as specified below. The extensive comments received in this matter have already provided a full opportunity for all parties to be heard. In light of that, and the need for prompt action, we believe that any further delay would disserve the public interest. [65] Thus, no extensions of time will be granted for the submissions specified in this notice.

V. Conclusion

30. Authority for this proposed rulemaking is contained in sections 1, 4 (i) and (j), 301, 303, 307(a), 308(b), 309 and 403 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154 (i) and (j), 301, 303, 307(a), 308(b) 309 and 403.

31. Pursuant to section 605(b) of the Regulatory Flexibility Act, we certify that our proposed rule will not have a significant impact on a substantial number of small entities. We believe this finding is compelled by the large amounts of financial resources which an entity must possess in order to construct and launch a domestic satellite system. [66]

32. Because it appears that the pending applications considered herein may be mutually exclusive on grounds of electrical interference, the processing of these applications and this rulemaking proceeding is considered to be a restricted adjudicative proceeding. *See* 47 CFR 1.1203. Accordingly, the restrictions on *ex parte* communications in §1.1223 of the rules and regulations, 47 CFR 1.1223, apply to these matters with respect to the use of orbital locations and the frequency bands 3700-4200 MHz, 5925-6425 MHz, 11,700–12,200 MHz and 14,000–14,500 MHz. Specifically, all *ex parte* contacts are prohibited with respect to these proposals. An *ex parte* contact is a message (spoken or written) concerning the merits or outcome of any aspect of this proceeding made to a Commissioner, a Commissioner's assistant or other decision-making staff member, other than comments officially filed at the Commission or oral presentations made with an opportunity for all parties to be present.

33. Accordingly, it is ordered that interested parites may file comments according to an expeditied schedule pursuant to § 1.415 of the Commission's rules on or before June 7, 1985 and reply comments on or before June 27, 1985. Any supplemental information must be filed in conjunction with this comment period and must be received on or before June 7, 1985. Comments on supplemental information must be filed on or before June 27, 1985; and reply comments on or before July 8, 1985. In addition to consideration of all relevant and timely comments, the Commission may take into consideration information not contained in the comments provided that evidence of the existence of such information including its nature and sources is placed in the public record and provided that the fact of the Commission reliance on such information is noted in any order taking final action in this matter.

34. It is further ordered that pursuant to §1.419 of the Commission's rules, an original and five copies of all comments, replies, pleadings, briefs or other documents shall be filed with the

---

Order, 90 FCC 2d 1238 (1982), and caution must therefore be applied in extrapolating the initial rate of transponder sales, which may not be reflective of the longer term trend. Because of the highly customized nature of sales and long-term leases, we believe such transactions should be considered as contributing to fill only when contracts have been executed firmly committing purchasers to pay for and use them. Moreover, transponder purchasers and lessees do not report the actual usage data that is necessary to predict future requirements accurately.

[61] This demonstration may be made by referencing the transponder utilization reports required to be filed with the Commission semi-annually or by submitting a separate document.

[62] *Reduced Orbital Spacing*, 54 Rad. Reg. 2d, at para. 84.

[63] *Id.* at para. 82.

[64] *See* para. 21 *supra*.

[65] *See NAB* v. *FCC*, 740 F.2d 1190 (D.C. Cir. 1984). The factors identified in that decision to support concurrent consideration of applications and rulemaking issues are also present here. In this regard, we note that specific U.S. satellite interests will be integral to the United States' negotiating position at the 1985 Space WARC, which convenes August 8, 1985.

[66] *See* para. 17 *supra*.

Commission, and served directly; on the parties listed in Appendix A. Copies of all filings will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

35. It is further ordered that the Chief, Common Carrier Bureau, has delegated authority to require the submission of additional information, make further inquiries and modify the dates and procedures if necessary to provide for a fuller record and more efficient proceeding.

36. It is further ordered that, in addition to the publication of this *Notice of Proposed Rulemaking* in the **Federal Register**, the Secretary shall also cause a copy of this notice to be served by certified mail upon each of the parties listed in Appendix A immediately upon the release of this notice.

37. It is further ordered that the Secretary shall cause a copy of this *Notice of Proposed Rulemaking* to be sent to the Chief Counsel for Advocacy of the Small Business Administration in accordance with section 605(b) of the Regulatory Flexibility Act,. 5 U.S.C. 605(b)

Dated: May 6, 1985.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

Alascom, Inc
American Satellite Company
American Telephone and Telegraph Company
Cablesat General Corporation
Cable Television Operators
CBS, Inc.
Columbia Communications Corporation
Comsat General Corporation
N.H. Correia
Digital Telesat, Inc.
Equatorial Communication Services
Federal Express Corporation
Federal Trade Commission
Ford Aerospace Satellite Services Corporation
GTE Satellite Corporation
GTE Spacenet Corporation
Henry Geller and Donna Lampert
Home Box Office
Hughes Communications Galaxy, Inc.
International Satellite, Inc.
M/A-Com Development Corporation
Martin Marietta Communications Systems, Inc.
Mobile Satellite Corporation
National Cable Television Association
National Exchange, Inc.
National Telecommunications and Information Administration
Rainbow Satellite, Inc.
RCA American Communications Inc.
Satellite Business Systems
Satellite Television Industry Association
Skylink Corporation
Systematics General Corporation
United States Satellite Systems, Inc.
The Weather Channel
The Western Union Telegraph Company

Appendix B

PART 25—[AMENDED]

The authority citation for Part 25 continues to read:

Authority: Secs. 4, 303, 48 stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Part 25 of the Commission's Rules and Regulations (Chapter I of Title 47 of the Code of Federal Regulations, Part 25) is amended as follows:

§ 25.202 [Amended]

In § 25.202 Frequencies, frequency tolerance and emission limitation paragraph (d) is proposed to be revised:

* * * * *

(d) Orbital locations assigned to space stations licensed under this part by the Commission are subject to change by summary order of the Commission on 30 days notice. An authorization to construct and/or to launch a space station becomes null and void if the construction is not begun or is not completed or if the space station is not launched and positioned at its assigned orbital location and operations commenced in accordance with the station authorization, by the respective date(s) specified in the authorization. Frequencies and orbital location assignments are subject to the policies and procedures set forth in the Report and Order, FCC 83-184, adopted April 27, 1983 in CC Docket No. 81-704, and the licensees of such space stations shall comply with the requirements set forth in that decision.

* * * * *

A new Section 25.391 is proposed to be added as follows:

§ 25.391 Qualifications of Domestic Satellite Space Station Licensees.

(a) Radio station applications for new domestic fixed-satellites shall comply with the requirements established in Report and Order in CC Docket No. 81-704. Applications will be unacceptable for filing and will be returned to the applicant if (1) the application is defective with respect to completeness of information, execution, or other matters of a formal matter; or (2) the application does not substantially comply with the Commission's rules, regulations, specific requests for information, or other requirements, such as those specified in the Report and Order in CC Docket No. 81-704.

(b) Each applicant for a space station authorization in the domestic Fixed-Satellite Service must demonstrate, on the basis of the documentation contained in its application, that it is legally, financially, technically, and otherwise qualified to proceed expeditiously with the construction, launch and/or operation of each proposed space station facility immediately upon grant of the requested authorization in the form specified below. Failure to make such a showing shall result in the dismissal of the application.

(c) Each application for authority to construct and/or to launch and operate a space station in this service shall include a detailed statement of estimated investment and operating costs for the expected lifetime of the facility, and shall demonstrate in accordance with paragraph (d) of this section the applicant's current financial ability to meet the:

(1) Estimated costs of proposed construction and/or launch, and any other initial expenses for the space stations(s); and

(2) Estimated operating expenses for one year after launch of the proposed space station(s).

(d) Except as provided in paragraph (e) of this section, each application for authority to construct and/or launch a space station shall demonstrate an applicant's current financial ability to meet the costs specified in paragraph (c) of this section by submitting the following financial information verified by affidavit:

(1) A balance sheet current within ninety (90) days of the date of the application or any amendment and copies of any financial commitments reflected in the balance sheet (such as, for example, loan agreements and service contracts) together with an exhibit demonstrating that the applicant has uncommitted capital assets, sufficient to satisfy the requirements of paragraph (c) of this section, together with an explicit commitment by management that these assets will be used for the proposed satellite program; and

(2) If the submissions of paragraph (d)(1) of this section do not satisfy paragraph (c) of this section, the applicant shall submit additional

information, for the period of proposed construction plus an initial year of operation, by a statement of committed non-contingent sources of financing as is necessary to demonstrate financial ability through intended credit arrangement or private equity placements by submission of the following detailed information for each of these arrangements:

(i) The terms of any executed loan or other form of credit arrangement intended to be used to finance the proposed construction, acquisition, or operation of the requested facilities including such information as the identity of the creditor (or creditors), the amount committed, letters of commitment, detailed terms of the transaction, including the details of any contingencies, and a statement that paragraph (e) of this section is complied with:

(ii) The terms of any executed sale or placement of any equity or other form of ownership interest, including the sale, or long-term lease for the lifetime of the satellite, of proposed satellite transponder capacity in the level of detail as specified in paragraph (d)(2)(i) of this section.

(iii) Any financing arrangements contingent on further action or performance by either party, including marketing of satellite capacity or raising additional financing, will not satisfy the requirements of subsection (c) of this section.

(3) Whatever other information or details the Commission may require.

(e) Any loan or other credit arrangement providing for a chattel mortgage or secured interest in any proposed facility must include a provision for a minimum of ten (10) days prior written notification to the licensee or permittee, and to the Commission, before any such equipment may be repossessed under default provision of the agreement.

(f) An applicant found to be qualified pursuant to paragraph (b) of this section may be initially assigned up to two orbital locations in each pair of frequency bands proposed and may be authorized to construct up to two ground spares. Authorizations to construct ground spares are at the applicant's risk that launch authorizations will not be granted by the Commission.

(g) Applicants requesting an additional orbital location beyond those initially assigned purusant to paragraph (f) above, must demonstrate, using projections of historical use data for its in-orbit system, that the additional satellite will be 80% filled 3 years after the scheduled launch date. A transponder will be considered full if it is carrying the following amount of active traffic: 2892 voice channels if the transponder is configured to carry FDM-FM; 5000 channels if configured for CSSB; 60 Mbps if configured for digital transmissions; or 1 full-time television channel if configured for FM-TV. If the transponder is configured for frequency division multiple access, the total baseband information carried must be at least 4 MHz if configured for analog transmission or 30 Mbps if configured for digital transmission. Transponders that have been sold or leased for the expected lifetime of the satellite may be considered "full," but such transactions may not be included in projections of future fill. For other types of transponder arrangements, the appropriate fill requirements may be specified by the Commission based on the current state-of-the-art.

(h) A licensee who is now providing domestic satellite service to the public, and is unable to make the showing required in paragraph (g) of this section may be assigned one additional orbital location in each pair of frequency bands in which it is currently providing service. However, this authorization will be conditioned upon the permittee demonstrating, prior to the launch of the additional satellite, that its existing in-orbit satellites in that band are 80% filled. Failure to do so will result in the launch authorization and orbital assignment becoming null and void.

(i) Every orbital assignment is subject to the requirement that the licensee continue to maintain an 80% fill. The 80% fill requirement may be demonstrated on an average basis over all of the licensee's satellites in a particular pair of frequency bands.

(j) In the event that one or more applications satisfying the requirements of paragraphs (b), (c), (f) and/or (g) of this section are ready for grant, any orbital location occupied by a satellite not satisfying the requirement of parargraph (i) of this section may be cancelled and colocation of in-orbit satellites may be required. The Commission will take this action if in so doing, it would allow the grant of applications pending which satisfy the requirements of paragraphs (b), (c), (f) and/or (g). If a cancellation is made, the licensee will be afforded a period of 30 days to notify the Commission which of its assigned locations should be cancelled.

[FR Doc. 85-11197 Filed 5-7-85; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 31

[CC Docket No. 85-64; FCC 85-120]

Judgments and Other Costs Associated With Antitrust Lawsuits; Conforming Amendments to Annual Report Form M

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to amend Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies, to provide accounting instructions for judgments and other costs associated with antitrust lawsuits.

The rule changes would create a rebuttable presumption that judgments arising from a violation of the antitrust laws, or payments in settlement of suits arising from cases brought under an antitrust cause of action, would not be passed on to the ratepayer at the ratemaking proceeding. Also, the Commission is calling for comments on whether litigation expenses incurred in defense of an antitrust proceeding should continue to be recorded in above-the-line accounts.

The rule changes would end case-by-case determinations of accounting treatment of antitrust lawsuit costs.

DATES: Comments shall be filed by June 24, 1985.

Reply comments shall be filed by July 15, 1985.

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

FOR FURTHER INFORMATION CONTACT: Clifford M. Rand, Accounting and Audits Division, Common Carrier Bureau, (202) 634-1861.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 31

Uniform system of accounts.

Proposed Rulemaking

In the matter of notice of proposed rulemaking to amend Part 31 Uniform System of Accounts for Class A and Class B Telephone Carriers to account for judgments and other costs associated with antitrust lawsuits, and conforming amendments to the Annual Report Form M; CC Docket No. 85-64.

Adopted: March 14, 1985.

Released: May 3, 1985.

By the Commission: Commissioner Rivera concurring in part and issuing a statement at a later date.

I. Introduction

1. This Notice initiates a rulemaking proceeding to revise the accounting rules contained in Part 31, "Uniform System of Accounts for Class A and Class B Telephone Companies." These accounting changes are being proposed to clarify the accounting treatment for judgments and other costs associated with antitrust lawsuits. Essentially, we are proposing to require that adverse judgments arising from antitrust suits and payments arising from antitrust settlements be recorded in Account 370, a below-the-line account.[1] We also call for comments on the appropriate treatment of litigation costs incurred in defense of antitrust lawsuits (which are now recorded in Accounts 664, 665, and 671, above-the-line accounts). We are also proposing to make conforming amendments to the Annual Report Form M (Annual Report for Class A and Class B Telephone Companies).

II. Background

2. This is not the first time this Commission has addressed litigation expenses. In 1979 we initiated a proceeding by Notice of Inquiry designed to study broadly whether the existing ratemaking treatment of a wide array of litigation expenses was in the public interest. *Common Carrier Litigation Expenses*, 70 FCC 2d 1961 (1979). Litigation expenses at that time were allowed to be booked above-the-line, but those expenditures had generally been insignificant. We were influenced to open our inquiry by the magnitude of the litigation expenses already incurred and likely to be incurred in the future in connection with the government and private antitrust suits then pending against AT&T. *Id.* at 1962. We wanted to determine whether all those expenses—potentially millions and millions of dollars—were reasonably includable in common carrier rates.

3. In 1982 we terminated our proceeding without announcing any policy or altering the *status quo*. *Common Carrier Litigation Expenses*, 92 FCC 2d 140 (1982). Instead, we decided that the treatment of litigation expenses, as well as settlements of antitrust lawsuits should be explored by the Telecommunications Industry Advisory Group (TIAG) in connection with its task of rewriting the Uniform System of Accounts (USOA). Pending recommendations from the TIAG, we found that the public was adequately protected by existing ratemaking and accounting and practices. *Id.* at 144–46. As it turned out, TIAG did not recommend substantive action but rather limited itself to proposing separate expense accounts for litigation costs and antitrust lawsuits. It being apparent that summary disposal of the issues was not warranted, and that exploration of the issues in the USOA proceeding would not elicit the attention or the specific policy analysis that they merited, we announced that we would initiate a separate proceeding in the near future.[2] This NPRM begins that proceeding.

4. In a related proceeding, the Commission recently considered, under the existing accounting rules, the accounting treatment to be given the judgment and other costs incurred by AT&T that arose from the antitrust case *Litton Systems, Inc.* v. *AT&T*.[3] *Order*, FCC 84–477, released October 2, 1984 (hereinafter *Litton Order*). In that decision, we concluded that liability for actions in violation of the antitrust laws should not be regarded as a routine part of operating a business, and we ordered that both the judgment and the litigation expenses be recorded in Account 370, "Extraordinary income charges," a below-the-line account. Petitions for reconsideration of the *Litton Order* are now pending before the Commission, and we are not addressing those pleadings herein.

III. Discussion

5. *Regulatory Objective.* It is our objective to clarify our accounting rules in regard to antitrust lawsuit litigation, judgment and settlement costs so that subject telephone companies are certain as they proceed in antitrust litigation how their costs are accounted for. While antitrust cases tend to expose the parties to very high litigation and judgment expenses, many federal laws establish civil or criminal penalties for violators, and statutes or courts frequently require unsucessful defendants to reimburse plaintiffs' attorney fees as part of the judgement. The policies and accounting classifications we adopt in this proceeding shall apply broadly to litigation costs, judgments and settlements emanating from alleged civil or ciminal violations of any federal law, even though we focus on antitrust cases for purposes of our analysis. We do not here address judgments and costs arising in the ordinary course of business out of contract disputes, tort liability for accidents, workman's compensation, and the like.[4]

6. The crux of our inquiry here is, of course, whether ratepayers or shareholders must bear the financial consequences associated with certain acts by the firm's directors, officers or employees. While accounting classifications for categories of expenses not clearly allowed or disallowed for ratemaking purposes only create presumptions, as a practical matter the presumptions are difficult to rebut. In the proposals below, we give due regard to the impact our accounting rules may have upon decisions whether to initiate, defend and settle antitrust cases. Desiring not to influence unduly these important corporate decisions, we ask commenters to pay particular attention to the incentives or disincentives our rules may create. On the other hand, we have no intention of permitting companies and their owners to avoid the financial consequences of their unlawful acts by foisting the costs upon captive ratepayers.

7. *Adverse Judgments.* We propose to clarify that, when a subject company has been adjudged guilty of a violation of the antitrust laws, the amount of the judgment, including treble damages and any plaintiffs' attorneys' fees awarded, shall be recorded in Account 370, "Extraordinary income charges." Our reasons for specifying this account are set forth in *Litton Order*, at paras. 5–12. Briefly, we found that the type of liability in question "should [not] be regarded as a routine part of operating a business," and Account 370 explicity provides that "penalties and fines for violations of statutes" shall be recorded there. *Id.* at para. 9.[5]

---

[1] A below-the-line account creates a presumption that the expenses listed in it will not be passed on to the ratepayer. An above-the-line account creates a presumption that the expenses listed will be passed on to the ratepayer. At such time as a carrier, in the former case, seeks to include the expenses in its revenue requirement, it may try to rebut the presumption. In the latter case, the burden lies with those who believe the expenses should not be included in the revenue requirement. A tariff filing or other rate proceeding typically provides the forum for reviewing the expenses.

[2] Further Notice of Proposed Rulemaking in Revision of the Uniform System of Accounts, FCC 84–634, 50 FR 1590, released January 3, 1985, at para. 77.

[3] 700 F.2d 785 (2d Cir. 1983), *cert. denied*, 104 S. Ct. 984 (1984).

[4] Expenses associated with judgments and settlements for liabilities of this type are normally recorded in Account 668, "Accidents and Damages," an operating expense account. See 47 CFR 31.869 for a more detailed tabulation of the items recorded in this account. In questionable cases, the carriers may, of course, request interpretations from our staff.

[5] We rejected the arguments of AT&T and the RBOCs that Account 668, "Accidents and Damages," was the proper account for adverse judgments.

8. We intend that Account 370 be used whether a decision is affirmed on appeal as in *Litton Systems* or the company reaches a settlement after an initial finding of guilty by judge or jury. In the latter situation, the amount of the settlement, as well as plaintiff's attorneys' fees, should be recorded in Account 370. The linchpin for the accounting treatment is the finding of guilty, that is, the establishment at trial (or by the defendant's admission) of a violation of the antitrust laws. A post-verdict settlement does no more than fix the defendant's liability and avoid the time and expense associated with appeals; it does not vitiate the finding of guilt.

9. *Settlements.* Settlements before trial, or after trial but before verdict, are more problematic because no liability is established or admitted. Although settlements ordinarily do not include admissions of liability, we believe that most are reached under the realization that the plaintiff has a substantial likelihood of prevailing in court despite the difficult burdens of proof that antitrust plaintiffs have to bear, and that a finding or admission of guilt is likely to precipitate more suits under the same cause of action.[6] Consequently, we do not believe that defendants enter into settlements casually but rather that most settle under the real specter of the consequence of losing the case. On that basis, we propose that settlement amounts even without any finding of liability be recorded in Account 370.

10. We recognize that we depart from prior practice insofar as we permitted AT&T to record antitrust settlements in Account 669 in the *Carterfone* and *Wyly/DATRAN* cases.[7] The Commission has already questioned the propriety of that accounting treatment,[8] and we now have an opportunity to reevaluate on the record that prior treatment. Were we to allow settlements to be booked above the line with the presumption that the ratepayers would absorb the costs, we would be creating a strong incentive for companies to settle regardless of their assessment of the merits of plaintiff's case. Requiring settlements to be recorded below the line is, we believe, more consistent with the treatment of adverse judgments than accepting above-the-line accounting. It rests on the presumption that a carrier settles an antitrust case because it is likely to lose the litigation. If a carrier believes that its reasons for entering into a settlement were of such a nature that the settlement amount should be borne by ratepayers, it can assert its reasons when it seeks to include the amount in its revenue requirement.

11. *Litigation Costs.* We seek comments in this proceeding as to whether litigation expenses associated with the defense of antitrust lawsuits should continue to be recorded in above-the-line accounts, particularly when a carrier is unsuccessful in its defense. As noted in paras. 2–4 *supra*, we have considered this issue two times recently—once in a general rulemaking and once with respect to a specific judgment against AT&T. We believe that this proceeding is the proper forum for prescribing how litigation expenses are to be recorded in the future. We emphasize, however, that we have not arrived at a tentative position herein, and we accordingly do not set forth the text of a proposed rule. We are open to considering a variety of positions in this regard, and after reviewing the comments we will make whatever rule changes, if any, are necessary to reflect our decision.

12. Although we do not now propose any position on litigation expenses, we will set forth some of the arguments which parties may wish to address in their comments. We also encourage additional arguments. Some parties may view antitrust litigation expenses as a necessary, recurring and, in a sense, involuntary cost for a successful company operating in a competitive environment. Moreover, such costs for a particular case may be spread over a long period during which time the carrier's liability is unknown. It might be thought to be contrary to our system of justice to record all such expenses below the line during this period of uncertainty. Moreover, those who favor above-the-line treatment might argue that antitrust litigation involves complex and changing economic concepts of fairness in competition, and that the import of decisions in civil cases may vary from court to court and may also vary over time because of changes in the industry which redefine anticompetitive behavior.

13. Those who favor below-the-line treatment, however, might argue that any other treatment is a form of compensation to the carrier for conduct which may be found to be contrary to Federal antitrust policy—in effect, a reward for violating a statute. Following this reasoning, above-the-line recording would allow carriers to pour millions of dollars into the defense of unlawful activity at no cost to the stockholders, thus providing no stockholder check against management impropriety in decisions involving competitors. However, since this position hinges on the outcome of the case, the question remains as to how to account for the costs pending outcome of the case. Another alternative is to accrue the costs in a balance sheet deferral account until the decision becomes final. If the case is resolved for the carrier, the costs could be amortized above-the-line over a reasonable period. If the judgment is against the carrier, the costs would be charged below-the-line. In any event, below-the-line recording of litigation costs would not necessarily deprive the carrier of recovery thereof in a rate proceeding, as it could argue for recognition of the costs associated with specific antitrust lawsuits.

14. Finally, a case might be made for dividing the litigation expenses equally between ratepayers and shareholders by requiring that the carrier book 50 percent above the line and 50 percent below the line. This approach would be predicated upon a recognition that the issue is not clear-cut and that it is not feasible either to demonstrate or to rebut in a rate proceeding the validity of above- or below-the-line assignment of these costs. Commenters should address all these options and may propose any variations they deem desirable.

15. *Interest.* We do not propose to examine the accounting for interest on antitrust judgments in this proceeding for two reasons. First, there has been no disagreement between the telephone companies and the Commission about the proper account for this type of interest; Account 336 [9] explicitly covers interest on claims or judgments. Second, interest is a part of the return component. To the extent it is consistent with allowable debt financing, interest is included in the return component; to the extent it is not, interest is excluded. Thus, a ratemaking procedure already exists for including or excluding interest based on the underlying debt. However, we propose to require that interest on antitrust judgments be listed in a footnote to Schedule 11 of Annual Report Form M.

16. We are proposing to make the accounting revisions effective six months after a final decision is issued in this proceeding . We are aware that there are some antitrust cases currently

[6] Jack Faucett Associates, Inc. v. AT&T, 744 F.2d 118 (1984)

[7] Carter v. Am. Tel. & Tel. Co., Civ. A. No. 3–1294 (N.D. Tex 1969); Wyly Corp. v. Am. Tel. & Tel. Co., Civ. Action No. 76–1544 (D.D.C. 1980).

[8] *Common Carrier Litigation Expenses*, 92 FCC 2d at 146 n. 7.

[9] As stated in Litton Order, at para. 3, Account 336 ("Other interest deductions") is a below-the-line account which has special ratemaking treatment for purposes of calculating the average cost of debt in the allowable rte of return element.

pending for which the affected telephone companies must account prior to the effective date of these rules. Until these rules become effective, we will continue to conduct case-by-case determinations using the principles of the *Litton Order* as our guide. We are proposing to make the Form M revisions effective with the 1985 Form M.

17. In compliance with the provisions of Section 605(b) of the Regulatory Flexibility Act, 5 U.S.C. 605(b), we believe the above discussion sets forth the purpose of the proposed amendments. We certify that the accounting changes can be readily implemented by all carriers subject to Part 31 without significant economic impact.

18. For purposes of this nonrestricted 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 or 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 proceedings. 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 written comments previously filed in the proceeding 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 oral presentation. Each such *ex parte* presentation described above must state on its face that the Secretary has been served, and must also state the docket number of the proceeding to which it relates. *See generally*, Section 1.1231 of the Commission's Rules, 47 C.F.R. 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, D.C. 20554.

19. In reaching its decisions, 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 providing that the fact of the Commission's reliance on such information is noted in the Report and Order.

20. Accordingly, it is ordered, that pursuant to the Provisions of sections 4(i) and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a), there is hereby instituted a notice of proposed rulemaking into the foregoing matters.

21. It is further ordered, that interested persons may file comments on the specific proposals discussed in this Notice on or before June 24, 1985. Reply comments shall be filed on or before July 15, 1985. In accordance with the provisions of § 1.419 of the Commission's Rules and Regulations, 47 CFR 1.419, an original and five (5) copies of all comments shall be furnished to the Commission. Copies of the comments will be available for public inspection in the Commission's Docket Reference Room, 1919 M Street NW., Washington, D.C.

22. It is further ordered, pursuant to section 220(i) of the Communications Act of 1934, as amended, 47 U.S.C. 220(i), that the Secretary shall serve a copy of this Notice on each state commission.

Federal Communications Commission.

William Tricarico,

Secretary.

Appendix

PART 31—[AMENDED]

Part 31, Uniform System of Accounts for Class A and Class B Telephone Companies is proposed to be amended as follows:

1. The authority citation for Part 31 continues to read:

Authority: Secs. 4(i) and 220(a) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 220(a).

2. Section 31.370 is revised to read as follows:

§ 31.370 Extraordinary income charges.

This account shall include charges to income resulting from nonrecurring transactions that are not customary business activities of the company. This account shall also include penalties and fines paid on account of violations of statutes, including judgments arising from a violation of the U.S. antitrust laws, and payments in settlement of suits arising from cases brought under the antitrust cause of action.

[FR Doc. 85-11102 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-01-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1175

[Ex Parte No. 397]

Exemption of Railroads From Securities Regulation Under 49 U.S.C. 11301

AGENCY: Interstate Commerce Commission.

ACTION: Notice of extension of time to file comments.

SUMMARY: In the **Federal Register** notice of April 8, 1985, (50 FR 13841), the date comments were due in this proceeding was set 30 days after **Federal Register** publication on May 8, 1985. At the request of the Association Of American Railroads, the due date has been postponed 30 days to June 7, 1985.

DATES: Comments are due June 7, 1985.

ADDRESSES: An original and 15 copies of comments referring to Ex Parte No. 397 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

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

By the Commission, Reese H. Taylor, Jr., Chairman.

Dated: May 1, 1985.

James H. Bayne,

Secretary.

[FR Doc. 85-11182 Filed 5-7-85; 8:45 am]

BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 50, No. 89
Wednesday, May 8, 1985

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Service Advisory Committee.
Date: May 29, 1985.
Place: Minneapolis Grain Exchange, Room 135, 400 South 4th Street, Minneapolis, Minnesota 55415.
Time: 10:00 a.m.
Purpose: A subcommittee to review and prepare recommendations to the Federal Grain Inspection Service Advisory Committee on dust handling.

The agenda includes a review of methods used for dust handling after inspection and weighing of U.S. grain exports.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Benny Echelbarger, Subcommittee Chairman, Post Office Box 185, Reardon, WA 99029, telephone (509) 796–4141.

Dated: May 2, 1985.

K.A. Gilles,

Administrator, Federal Grain Inspection Service.

[FR Doc. 85–11064 Filed 5–7–85; 8:45 am]

BILLING CODE 3410-EN-M

Advisory Committee Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), a notice is hereby given of the following committee meeting:

Name: Federal Grain Inspection Sevice Advisory Committee.
Date: June 10, 1985.
Place: Agri Industries Office, 2829 West Town Parkway, West Des Moines, Iowa 50306.
Time: 1:00 p.m.
Purpose: A subcommittee to review and prepare recommendations to the Federal Grain Inspection Service Advisory Committee on corn moisture.

The agenda includes a review of a more accurate laboratory method than the USDA air oven method for calibrating electronic moisture meters used for official testing of corn moisture.

The meeting will be open to the public. Public participation will be limited to written statements unless otherwise requested by the Committee Chairman. Persons, other than members, who wish to address the Committee at the meeting or submit written statements before or at the meeting should contact Ray W. Chartier, Subcommittee Chairman, 1107 Sycamore Ave., Dallas Center, IA 50063, telephone (515) 992–3767.

Dated: May 2, 1985.

K.A. Gilles,

Administrator, Federal Grain Inspection Service.

[FR Doc. 85–11065 Filed 5–7–85; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Termination of Seven-Year Action Plan, Mapleton Ranger District, Siuslaw National Forest, OR

AGENCY: Forest Service, USDA.

ACTION: Notice of termination of action plan.

SUMMARY: The Forest Service hereby gives notice that it is terminating the Seven-Year Action Plan on the Mapleton Ranger District of the Siuslaw National Forest in Oregon.

EFFECTIVE DATE: May 8, 1985.

FOR FURTHER INFORMATION CONTACT: George M. Leonard, Director, Timber Management Staff, Forest Service, USDA, P.O. Box 2417, Washington, DC 20013, (202) 448–6893.

SUPPLEMENTARY INFORMATION: At the present time, the Forest Service is not offering, nor does it contemplate offering for sale in the near future, any of the timber included in the Seven-Year Action Plan for the Mapleton Ranger District of the Siuslaw National Forest in Oregon. Termination of the Seven-Year Action Plan will leave all major decisions respecting future timber harvesting in the Mapleton Ranger District to be made after completion of appropriate environmental analysis, as required by the National Environmental Policy Act, for the forthcoming Forest Land and Resource Management Plan (Forest Plan) for the Siuslaw National Forest.

In view of the recent decision in *Thomas, et al.* v. *Peterson, etc., et al.*, No. 84–3887, in the Ninth Circuit Court of Appeals (February 11, 1985), involving required environmental analysis, and the pending litigation involving the Seven-Year Action Plan, the Forest Service has decided to reconsider timber harvests in the Mapleton District. Such reconsideration requires the preparation of an environmental impact statement (EIS). However, an EIS on the Seven-Year Action Plan could not be ready prior to completion of the Forest Plan and the resources used to produce an EIS for the Seven-Year Action Plan might delay completion of the Forest Plan. In addition, because the Forest Plan will supersede all previous planning decisions for the Siuslaw National Forest, any decisions made in reevaluating the Seven-Year Action Plan would have to be reconsidered in the Forest Plan. Therefore, the Forest Service has decided to reconsider timber harvesting on the Mapleton District in the context of the Forest Plan.

Dated: May 2, 1985.

R. Max Peterson,

Chief, Forest Service.

[FR Doc. 85–11175 Filed 5–7–85; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office Of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration
Title: Evaluation of EDA Technical-Assistance Information on Dissemination Programs
Form number: Agency—NA; OMB—NA
Type of request: New
Burden: 1,147 respondents; 574 reporting hours
Needs and uses: This collection will be used to evaluate methods used by EDA-funded organizations to disseminate information on economic development techniques, strategies, etc. to state and local organizations.
Affected public: State and local governments
Frequency: One time
Respondents's obligation: Voluntary
OMB Desk Officer: Timothy Sprehe, 395–4814

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377–4217, Department of Commerce, Room 6622, 14th and Constitution Aveune, NW., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to Timothy Sprehe, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 2, 1985.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 85–11106 Filed 5–7–85; 8:45 am]

BILLING CODE 3510-CW-M

Office of the Secretary

[Docket No. 50469-5069]

Review of Commercial Activities

AGENCY: Department of Commerce.

ACTION: Notice.

SUMMARY: The U.S. Department of Commerce announces that it has inventoried the activities operated by it which provide a product or service which could be obtained from a commercial source ("commercial activities") and that it is reviewing, or plans to initiate reviews for, these activities during fiscal years 1985 and 1986 to determine which, if any, should be performed by commercial sources under Government contract instead of being performed "in house" by Government personnel using Government facilities.

This notice is not an invitation for sealed bids or a request for proposals.

FOR FURTHER INFORMATION CONTACT: Betsy Menin, Office of Finance and Federal Assistance, U.S. Department of Commerce, Herbert C. Hoover Bldg., Room H–6823, 14th St. between Penn. & Constitution Avenues, NW., Washington D.C. 20230. (202) 377–0641.

SUPPLEMENTARY INFORMATION: This notice is issued under the authority of the Budget and Accounting Act of 1921 (31 U.S.C. 1 *et seq.*); the Office of Federal Procurement Policy Act Amendments of 1979 (41 U.S.C. 401 *et seq.*); Office of Management and Budget (OMB) Circular No. A–76, Performance of Commercial Activities; and Department of Commerce Administrative Order (DAO) No. 201–41, "Performance of Commercial Activities". Commercial activities are those which are operated by the agency and which provide a product or service which could be obtained from a commercial source.

The following chart is the inventory of, and review schedule for, the Department's commercial activities. Each activity is listed by the Department's identifier number keyed to the operating unit which performs the activity, the name, location, and description of the activity, approximately how many full time equivalents are currently performing the activity, and the scheduled review start date and the original and revised review end date.

Abbreviations appearing on the chart are as follows:

FTE's—Full Time Equivalents
BEA—Bureau of Economic Analysis
CEN—Bureau of the Census
EDA—Economic Development Administration
ITA—International Trade Administration
NBS—National Bureau of Standards
NOAA—National Oceanic and Atmospheric Administration
NTIS—National Technical Information Service
OS—Office of the Secretary

Dated: May 2, 1985.

Sonya G. Stewart,

Director, Office of Finanace and Federal Assistance.

DEPARTMENT OF COMMERCE PRODUCTIVITY IMPROVEMENT PROGRAM REVIEW LIST

Identifier	Name of activity	Location of activity	Description of activity	Approximate number of FTE's	Review start date	Review end date	Revised review end date
BEA-W001	Data conversion	Washington, DC	Key-to-disk operation converting surveys, coding forms, etc. to machine readable form.	13.0	9/01/86	3/31/87	
CEN-8515	Library	Suitland, MD	Planning, directing, and coordinating library services	21.0	5/01/85	10/01/86	
CEN-8516	Warehousing/stock handling	do	Receiving, shipping, warehousing, packing, and stock handling services.	16.0	6/01/85	11/01/86	
CEN-8517	Warehousing/Stock handling	Jeffersonville, IN	Receiving, shipping, warehousing, packing, and stock handling services.	34.0	6/01/85	11/01/66	
CEN-8518	Motor pool/vehicle maintenance.	Suitland, MD	Provide transportation for employees, mail, supplies, and equipment.	16.0	3/01/85	7/01/86	
CEN-8519	do	Jeffersonville, IN	Provide for the transportation of employees, mail, supplies, and equipment.	13.0	4/01/86	9/01/86	
EDA-ISS4	Loan application review and processing	Washington/Field	Loan Application Review and Processing	44.0	4/01/88	9/30/87	
NBS-09	Grounds maintenance	Boulder, CO	Maintain the grounds at the Boulder facility; landscape; snow removal.	8.0	6/30/84	9/01/84	9/30/85
NBS-10	do	Gaithersburg, MD	Maintain the NBS grounds in Gaithersburg; landscape; snow removal.	19.0	6/30/84	9/30/85	
NBS-14	Instrument shops	do	Provide instrument design, fabrication, modification, and repair for research and development programs.	31.0	1/15/85	6/01/86	
NBS-16	Janitorial services	Boulder, CO	Clean the Boulder offices and laboratories	15.6	6/30/84/	9/30/85	
NBS-17	Mail service	Gaithersburg, MD	Pick up and deliver mail throughout NBS in Gaithersburg; sort outgoing mail.	13.8	1/31/84	9/30/85	4/30/85
NBS-18	Supply Operations	do	Package and ship material from the Gaithersburg facility; receive and accept material mailed to the Gaithersburg facility and distribute it to the technical units. Purchase, care, sale and control of inventory in the Gaithersburg, NBS storerooms.	22.6	4/30/86	7/31/87	
NBS-21	Instrument shops	Boulder, CO	Provide instrument design, fabrication, modification, and repair for research and development programs.	16.0	1/15/86	4/30/87	

DEPARTMENT OF COMMERCE PRODUCTIVITY IMPROVEMENT PROGRAM REVIEW LIST—Continued

Identifier	Name of activity	Location of activity	Description of activity	Approximate number of FTE's	Review start date	Review end date	Revised review end date
NBS-25	Central steam chilled water generation plant.	Gaithersburg MD	Provide round-the clock service to insure the continuous and uninterrupted environmental conditioning of all NBS lab and other spaces and to meet utilities systems emergencies.	19.0	12/31/85	12/31/86	
NBS-26	Electric Shop	Gaithersburg, MD	Ensure the continuous operation of site elevators and provide continuous IIV (13,700 volt) electrical distribution system service all NBS buildings, labs, and support spaces. Also maintains security, fire alarm and similar supervisory systems. Immediate response is required for emergency situations.	29.0	9/30/86	9/30/87	
NBS-27	Pipe shop	do	Ensure operational reliability of all piping systems (water, chilled water, vacuum, compressed air, gases, etc.) for specialized lab needs.	15.0	3/31/86	3/31/87	
NBS-28	Construction shop	do	Provides prompt facility modification response to changing programmaic needs.	14.0	9/30/85	9/30/86	
NBS-31	Air conditioning and refrigeration shop.	do	Provides continuous environmental control (temperature and humidity) to many laboratories involved in precise measurements and long-term experiments.	17.0	6/30/86	6/30/87	
NBS-33	Visual arts	do	Produces scientific and technical illustrations, technical drafting, record photography film processing and production of material for presentation.	14.3	2/15/86	1/15/87	
NBS-36	Technical support for scientific computer.	do	Provides the human link between the user community and the hardware, software, and procedures which comprise the computing facility.	16.0	9/30/86	9/30/87	
NOA-A003	WASC supply activity	Seattle, WA	Provides warehousing and supply support for ten Western States including Alaska and Hawaii.	16.0	5/01/83	10/01/83	7/01/85
NOA-A004	MASC library	Boulder, CO	Provides library and information services in the fields of interest of the Boulder, CO complex (MASC).	15.0	9/01/83	9/30/84	7/01/85
NOA-A005	MASC supply services	do	Provides supply management services (excluding procurement) for the MASC.	38.0	9/01/83	9/30/84	7/01/85
NOA-E001	National climatic data center	Asheville, NC	Provides ADP, archival, and technical support services for the National Climatic Center.	114.0	4/01/83	9/30/84	7/01/85
NOA-E002	Library and information services.	Rockville, MD	Provides library and information services for both NOAA and non-NOAA interests.	28.0	04/01/83	9/30/84	7/01/85
NOA-E003	NODC ADP operations	Washington, DC	Provides scientific illustrations and ADP support service for NODC.	22.0	4/01/83	9/30/84	4/01/85
NOA-E004	National Geophysical Data Center.	Boulder, CO	Provides Centralized ADP and information services for NGSDC.	4.5	9/01/83	10/01/84	3/01/85
NOA-E005	Office of Satellite Operations	Suitland, MD*	Environmental satellite operations. *Also Wallops Island, VA and Fairbanks, AK.	171.0	4/01/85	10/01/86	
NOA-E006	Office of Satellite Data	Suitland, MD	Satellite data collection, processing and distribution	142.0	4/01/85	10/01/86	10/01/87
NOA-E007	Office of satellite Research and Applications.	Suitland, MD	ADP Services, sensor calibration and technical services	32.0	4/01/85	10/01/86	
NOA-E009	National Climatic Data Center	Asheville, NC, Suitland, MD	Climate records processing, systems programming, climate library and satellite data operations.	94.0	4/01/86	10/01/87	
NOA-E010	National Oceanographic Data Center.	Washington, DC	Data base management, product delivery, and systems development.	60.0	4/01/86	10/01/87	
NOA-F001	NW and Alaska fisheries activities.	Seattle, WA	Provides ADP support and facilities maintenance for the Northwest and Alaska Fisheries Center, NMFS. Provides editing and publication coordination services for NMFS scientific publications.	60.0	3/21/83	9/30/84	1/01/86
NOA-F002	SE Fisheries Center activities	Miami, FL	Provides ADP support and facilities maintenance for the Southwest Fisheries Center, NMFS. Provides editing services for NMFS scientific publications.	30.0	4/01/83	9/30/84	4/01/85
NOA-F003	NE Fisheries Center activities	Woods Hole, MA	Provides ADP and facilities maintenance support for the Northwest Fisheries Center, NMFS.	39.0	4/01/83	9/30/84	9/01/85
NOA-F004	SW Fisheries Center activities	LaJolla, CA	Provides ADP support for the Southwest Fisheries Centers, NMFS.	33.0	4/01/83	9/30/84	6/01/85
NOA-F006	Office of Data and Information Management.	Washington, DC	ADP support	7.0	10/01/85	10/01/86	
NOA-F007	Financial Services Division	Nationwide	Fisheries obligations, guaranteed loans, and Fishery Loan Fund processing in Washington, DC and the regions.	30.0	4/01/85	4/01/86	
NOA-N004	Aeronautical Chart Branch	Rockville, MD	Constructs and maintains aeronautical charts and related publications to meet the requirements of civil-military aviation.	148.0	3/31/83	9/30/84	10/01/85
NOA-N007	Marine Chart Branch	Rockville, MD	Constructs and maintains nautical charts, Coast Pilots, and other related marine publications.	52.0	3/31/83	9/30/84	10/01/85
NOA-N008	Geodetic Resources Management.	do	Establishes, improves, and maintains a basic horizontal and vertical network of geodetic control. Provides technical and logistical support to geodetic field units and compiles, publishes, and maintains information for the geodetic user community.	282.0	3/31/83	9/30/84	10/01/85
NOA-N010	Atlantic Marine Center	Norfolk, VA	Provides operational and technical support (including ship operation) for all hydrographic, oceanographic, and marine resource activities at AMC.	142.0	3/31/83	9/30/84	10/01/85
NOA-N012	Pacific Marine Center	Seattle, WA	Provides operational and technical support (including ship operations) for all hydrographic, oceanographic, and marine resource activities at the PMC.	576.0	3/01/84	4/01/85	1/01/86
NOA-N014	Photogrammetry Branch	Rockville, MD	Photogrammetry	110.0	4/01/86	10/01/87	
NOA-N021	Office of Marine Operations	do	Engineering	35.0	10/01/85	4/01/87	
NOA-N022	Office of Aircraft Operations	Miami, FL	Aircraft operations	66.0	4/01/85	10/01/86	
NOA-R001	GFDL Computer Operations	Princeton, NJ	Provides ADP support for the research activities conducted at GFDL.	16.0	5/01/83	9/30/84	11/01/85
NOA-R002	Atlantic Oceanographic Meteorological Laboratory.	Miami, FL	Facilities management and maintenance	12.0	4/01/85	4/01/86	7/01/86

DEPARTMENT OF COMMERCE PRODUCTIVITY IMPROVEMENT PROGRAM REVIEW LIST—Continued

Identifier	Name of activity	Location of activity	Description of activity	Approximate number of FTE's	Review start date	Review end date	Revised review end date
NOA-W001	NWS engineering activities	Washington, DC [1]	Provides maintenance, reconditioning and quality control in support of the NWS technical equipment program. Provides engineering, facilities, and instrumentation support to NWS field installations. Provides a full spectrum of engineering support activities for the National Weather Service.	214.0	5/01/83	9/30/84	10/01/85
NOA-W004	Test and Evaluation Division	Sterling, VA	Conducts and evaluates laboratory and field tests of meteorological instruments and equipment, and observational methods and procedures.	39.0	4/01/83	9/30/84	4/01/85
NOA-W005	Weather Chart Reproduction	Camp Springs, MD	Provides technical support and weather chart reproduction services for MWS and other weather interests.	13.0	4/01/83	9/30/84	4/15/85
NOA-W007	Communications Operations	Suitland, MD	Provides for the installation, operation, adjustment, and maintenance of communications equipment for NWS.	44.0	4/01/83	1/09/84	4/01/85
NOA-W011	Alaska Regional Weather Service Activities	Anchorage and Fairbanks, AK	Provides engineering facilities and instrumentation support to NWS field installations. Provides electronic maintenance for NWS instrumentation in the Anchorage, AK area. Provides electronic maintenance for NWS instrumentation at the WSFO, Fairbanks, AK. Provides aviation observations at the Fairbanks WSFO.	35.0	3/01/84	5/01/85	7/01/85
NOA-W013	Hawaii Regional Weather Service Activities	Honolulu, HI	Provides electronic maintenance for NWS instrumentation at the WSFO, Honolulu, HI. Provides weather observations and communications support for the WSFO, Honolulu, HI.	21.0	11/01/83	12/01/84	7/01/85
NOA-W015	NWS New York Area Airport Observations.	New York, NY and Newark, NJ.	Provides aviation observations at the NY/Kennedy WSO, the Newark WSO, and the NY/LaGuardia WSO.	12.0	4/01/84	5/01/85	6/01/85
NOA-W017	NWS LA Area Airport Observations.	Los Angeles and Long Beach, CA.	Provides aviation observations at the Los Angeles International WSO/AU, and the Long Beach WSO.	10.0	4/01/84	5/01/85	6/01/85
NOA-W018	Dulles Airport Observations	Chantilly, VA	Provides aviation observations at the Wash/Dulles International WSO.	9.0	5/01/83	09/30/84	6/01/85
NOA-W019	NWC Computer Operations	Suitland, MD	Provides comprehensive comuter servcies to NOAA components as well as other DOC organizations. Responsibilities include installation, testing, modification, and operation of IMS computers.	50.0	10/01/84	12/01/85	2/01/86
NOA-W020	O'Hare Airport Observations	Chicago, IL	Provides aviation observations at the Chicago/O'Hare WSO.	6.0	5/01/83	9/30/85	6/01/85
NOA-W021	NWS Overseas Operations	Silver Spring, MD	Support of overseas weather operations	31.0	4/01/85	10/01/88	
NOA-W022	NWS Intergrated Systems Laboratory.	do	Systems development engineering	37.0	4/01/86	10/01/87	
NOA-W023	NWS AFOS Operations Division.	do	Operation of communications systems	65.0	10/01/85	4/01/87	
NOAW024	NWS Training Center	Kansas City, MO	Electronics and meteorological training	42.0	1/01/86	7/01/87	
NTIS-001	Information analysis	Springfield, VA	Provide subject analysis and discipline classification for all documents entering NTIS/ colection; maintain the integrity of the NTIS Bibliographic Data Base; design and execute on-line custom subject searches; create microthesauri; develop and produce NTIS Data Base User Guide; develop and maintain customer profiles for the selective dissemination of information (SRIM); key of bibliographic information.	13.0	6/01/83	9/30/84	3/10/85
NTIS-002	Distribution	do	Process orders, store and ship documents and other NTIS products being offered for sale.	34.0	5/01/83	9/30/84	3/10/85
NTIS-004	Automated data processing	do	Plan and operate the agency's automated data processing systems used to process the bibliographic data file, publications and edit programs. Perform studies and analysis of total NTIS systems needs with emphasis on adaptation of automated data processing systems to satisfy needs. Develop detailed systems and associated computer programs to support those processes selected for automated data processing. NOTE.—Study on hold pending completion of requirements study and acquisition of large-scale mainframe.	45.0	6/01/86	12/01/87	
OS-DCSI	Computer services	do	Operates central ADP resource facility to support Office of the Secretary and designated operating units and provide computer resources for selected automated applicstions of other Government agencies.	26.0	6/01/86	12/01/87	
OS-OMB1	Operations and maintenance	Washington, DC	Provides craftsmen to operate and maintain mechanical systems of HCHB.	20.0	10/01/86	9/20/87	

[1] Also Kansas City, MO; Ft. Worth, TX; Salt Lake City, UT; Garden City, NY.

[FR Doc. 85-11107 Filed 5-7-85; 8:45 am]
BILLING CODE 3510-BR-

International Trade Administration

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Issuance of Export Trade Certificates of Review.

SUMMARY: The Department of Commerce has issued export trade certificates or review to World-Wide Sires, Inc. ("WWS") and to Marine Midland Trade, Inc, ("MMT"). This notice summarizes the conduct for which certification has been granted.

ADDRESS: The Department requests public comments on the certificate. Interested parties should submit their written comments, original and five (5) copies, to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, D.C. 20230.

Comments should refer to these certificates as "Export Trade Certificates of Review, application number 85-00001 (WWS) and/or 85-00003 (MMT)."

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International

Trade Administration, 202–377–5131. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 ("the Act") (Pub. L. 97–290) authorizes the Secretary of Commerce to issue export trade certificates of review. The regulations implementing the Act are found at 15 CFR Part 325 (50 FR 1804, January 11, 1985).

The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.5(b), which requires the Secretary of Commerce to publish in the **Federal Register** a summary of each certificate issued. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Certified Conduct

WWS—Application No. 85–00001

Export Trade

Frozen bull semen.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands), Canada, Mexico, the Caribbean Islands and all of Central and South America.

Members

Atlantic Breeders Cooperative; Eastern A.I. Cooperative; Kansas Artificial Breeding Service Unit; Louisiana Animal Breeders Cooperative, Inc.; MBC–MVBA Cooperative (formerly Midwest Breeders Cooperative and Minnesota Valley Breeders Association); Noba, Inc.; Select Sires, Inc.; Sire Power, Inc.; and Tri-State Breeders Cooperative.

Export Trade Activities and Methods of Operation

(1) WWS may enter into exclusive agreements with one or more Members wherein:

(a) WWS will purchase frozen bull semen from such Members, and such Members will sell the same to WWS, at prices set by each individual Member, for resale by WWS in the Export Markets, and wherein WWS will market and sell the frozen bull semen in the Export Markets directly or through foreign representatives at prices and on such terms as WWS shall set; and/or

(b) Each Member is prohibited from exporting independently of WWS, either directly or indirectly, and selling, either directly or indirectly, through any other export intermediaries into the Export Markets in which WWS exclusively represents the Members, or to any of WWS's competitors in Export Trade; and/or

(c) WWS agrees to sell in the Export Markets only the frozen bull semen that it obtains from Members and to purchase from Members all frozen bull semen required by WWS for sale in the Export Markets; WWS also agrees not to represent any competitors of such Members in any Export Market, unless authorized by the Members.

(2) The exclusive agreements described in paragraph 1 may have provisions which permit WWS or a Member to terminate said agreement and withdraw therefrom at the end of a period not exceeding three (3) years after giving notice of intent to terminate and to withdraw. Such exclusive agreements may have provisions which require WWS to purchase a minimum amount of frozen bull semen from a Member giving notice of termination during the period commencing with the giving of notice and ending with the effective date of termination. Such exclusive agreements may also have provisions which require WWS and at least a majority of the other Members to such agreement to consent before a Member which gave notice of termination to be readmitted to the group, or before additional Members may be admitted to the group.

(3) WWS may enter into exclusive agreements in which WWS appoints foreign representatives as sales agents, brokers, and distributors for frozen bull semen in the Export Markets, wherein:

(a) WWS agrees to deal in any portion of the Export Markets only through such foreign representatives; and/or

(b) Foreign representatives may agree not to represent WWS's competitors in the Export Markets, unless authorized by WWS.

(4) Periodically, WWS and its Members may meet to discuss general matters specific to exporting (not related to price and supply arrangements between WWS and individual Members) such as relevant facts concerning the Export Markets (e.g. demand conditions in the Export Markets, prices in the Export Markets, transportation costs to the Export Markets), policies and procedures between WWS and its Members, health standards, and changes in import regulations in the Export Markets, subject to certain terms and conditions. Such discussions may be summarized in written form and provided to Members.

(5) In addition to the activities described in paragraph (4) above, WWS may hold annual meetings with its Members to advise Members of WWS's sales results and orders shipped for the previous fiscal year in each Export Market, the amount of frozen bull semen purchased by WWS from each of its Members, the identity of the bull that produced each unit of semen, and the price paid per unit by WWS for such semen. At the annual meetings, WWS and its Members may discuss strategies related to making sales for the Export Markets during the next fiscal year, and discuss issues related to making sales for the Export Markets, subject to certain terms and conditions. At such meetings, the Members may act as a group, or appoint a coordinator to deal with WWS.

MMT—Application No. 85–00003

Export Trade

All products and services

Export Trade Facilitation Services (as they relate to the export of goods and services)

Communication and processing of foreign orders to and for exporters and foreign purchasers, financing, marketing, consulting, international market research, advertising, product research and design, legal assistance, foreign exchange transactions, insurance, transportation and packaging of goods, trade documentation, freight forwarding, and warehousing.

Export Markets

The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Island, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Members

Marine Midlands Banks, Inc., a Delaware corporation, and Marine Midland Bank, N.A.

Export Trade Activities and Methods of Operation

1. MMT may enter into exclusive agreements with individual U.S. manufacturers and suppliers of products and services, wherein:

(i) MMT agrees not to represent any competitors of such supplier as an

Export Intermediary unless authorized by the supplier; and/or

(ii) The supplier agrees not to sell, directly, or indirectly through any other intermediary, into the Export Markets in which MMT represents the supplier as an Export Intermediary and, if such sales do occur, to pay a commission to MMT.

2. MMT may enter into nonexclusive agreements with U.S. suppliers of products and services, wherein MMT may appoint distributors or sales agents for the Export Markets.

3. MMT may enter into agreements with individual Export Intermediaries (including buyers, distributors and sales agents), wherein:

(i) MMT agrees to deal in particular products and services in particular export markets only through that intermediary, and/or

(ii) That intermediary agrees not to deal in particular products and services in particular export markets with anyone except MMT.

4. MMT may establish prices of products and services in the Export Markets based on its determination of market costs, overhead and profits.

A copy of each certificate is available for inspection and copying in the International Trade Administration's Freedom of Information Records Inspection Facility , Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230.

Dated: May 2, 1985.

Richard H. Shay,

Acting General Counsel.

[FR Doc. 85-11070 Filed 5-7-85; 8:45 am]

BILLING CODE 3510-DR-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897; 15 CFR Part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Docket No. 85-145. Applicant: University of Oklahoma, 600 Parrington Oval, Norman, OK 73019. Instrument: Gas Chromatograph/Mass Spectrometer with Data System, Model ZAB-HS (11/250). Manufacturer: VG Analytical Instruments, Ltd., United Kingdom. Intended use: The instrument is intended to be used for studies of pure chemical compounds and mixtures of chemical compounds. These will include, but are not limited to, polynuclear aromatic carcinogenic materials, highly polar oxygenated derivatives of nucleotides and other chemicals of biological/biochemical origin and trace compounds from marine organisms and bacteria. The objectives of these studies are to determine the structure of molecules, whether available in pure form or in mixtures. Application received by Commissioner of Customs: April 3, 1985.

Docket No. 85-146. Applicant: Stanford Linear Accelerator Center, P.O. Box 4349, Stanford, CA 94305. Instrument: Streak Camera, Model IMACON 500 with Accessories. Manufacturer: Hadland Photonics, Ltd., United Kingdom. Intended use: The instrument is intended to be used for studying the temporal bunch length of the electron and positron bunches accelerated by the linac which is highly relevant to the operation of the SLC. Application received by Commissioner of Customs: April 3, 1985.

Docket No. 85-147. Applicant: University of Illinois at Chicago, Department of Ophthalmology, 1855 W. Taylor, Chicago, IL 60612. Instrument: Electron Microscope, Model H-600-2 with Accessories. Manufacturer: Hitachi, Japan. Intended use: The instrument is intended to be used for diagnostic and research study of eye tissues to assist management of patients and to investigate causes and development of eye diseases in patients and animal models. The objectives pursued in the course of investigations are to:

(1) Employ the ultrastructure investigative techniques to improve diagnosis for the management of patients with eye diseases, (2) demonstrate the different diseases in cornea, lens, retina and trabecular meshwork in animal models to develop insight for these diseases of the eye, (3) employ various cytochemical, histochemical electronprobe microanalytical techniques for enzymatic changes in various eye diseases, (4) show by various ultrastructure tracer tenchiques in the study of blood-retinal barrier and (5) detect antigen-antibody complexes in autoimmune diseases of the eye. Application received by Commissioner of Customs: April 3, 1985.

Docket No. 85-148. Applicant: National Bureau of Standards, B268 Physics Building, Gaithersburg, MD 20899. Instrument: Quartz Beam Splitter and Si-Detector. Manufacturer: Bomem, Inc., Canada. Intended use: The articles are accessories to be used to extend the operating range of a fourier transform spectrometer. These items will permit spectroscopic research on free radicals, electronic absorption and emission spectra, laser induced fluorescence spectra, Raman spectroscopy of gases and other areas of spectroscopy in the near infrared and visible regions. Application received by Commissioner of Customs: April 5, 1985.

Docket No. 85-149. Applicant: National Bureau of Standards, Room B268 Physics Building, Gaithersburg, MD 20899. Instrument: DTGS Pyroelectric Detector. Manufacturer: Bomem, Inc., Canada. Intended use: The article is intended to be used for infrared spectroscopy to be done in the 10-700 cm^{-1} region. The detector is liquid cooled and will be employed in the study of matrix isolation spectra of radicals and ions at moderately high resolution. Application received by Commissioner of Customs: April 5, 1985.

Docket No. 85-150. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, 506 S. Wright Street, Urbana, IL 61801. Instrument: Electron Spectrometer, Model LSH-10 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products Inc., West Germany. Intended use: Studies of rare gases, halogens or alkali metal adsorbed on a variety of metal surfaces at sub monolayer coverages. Experiments to be conducted will involve measuring differences in the energy distribution of electron emission when a metal surface is covered by submonolayer additions of the adsorbates above. The main objective of these experiments is to determine the way electrons in metals respond to the shock of an optically excited adsorbate. In addition, the instrument will be used in Physics 499 Independent Research for training purposes. Application received by Commissioner of Customs: April 5, 1985.

Docket No. 85-151. Applicant: The University of Utah, Purchasing Department, Room 151, Annex Building, Salt Lake City, UT 84112. Instrument: Magnetometer, Model RS-232. Manufacturer: Molspin Ltd., United Kingdom. Intended use: The instrument will be used for the study of Natural Remanent Magnetization of geologic

specimens in rock magnetic and paleomagnetic investigations. Application received by Commissioner of Customs: April 10, 1985.

Docket No. 85–152. Applicant: Illinois Environmental Protection Agency, 2200 Churchill Road, Springfield, IL 62706. Instrument: Conductivity Meter, Model EM 34–3 with Accessories. Manufacturer: Geonics Limited, Canada. Intended use: Study of groundwater conductivity anomalies in the vicinity of waste management facilities. The differences in conductivity between contaminated and uncontaminated groundwater and the conductivity differences between different subsurface strata will be investigated. Application received by Commissioner of Customs: April 10, 1985.

Docket No. 85–153. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, MA 02139. Instrument: Mass Spectrometer, Model JMS–HX110HF with Accessories. Manufacturer: JEOL, Ltd., Japan. Intended use: Studies of complex organic molecules of biological interest. The mass spectra of these compounds are to be measured. Experiments will be conducted to determine the structure of these biomolecules. Application received by Commissioner of Customs: April 9, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11161 Filed 5–7–85; 8:45 am]

BILLING CODE 3510–DS–M

Consolidated Decision on Applications for Duty-Free Entry of Scientific Articles

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C.

Decision: Denied. Applicants have failed to establish that domestic instruments of equivalent scientific value to the foreign instruments for the intended purposes are not available.

Reasons: Section 301.5(e)(4) of the regulations requires the denial of applications that have been denied without prejudice to resubmission if they are not resubmitted within the specified time period. This is the case for each of the listed dockets.

Docket No. 82–326R. Applicant: National Aeronautics and Space Administration, Pasadena, CA 91109. Instrument: Excimer Laser System, Model EMG–101E and Accessories. Date of denial without prejudice to resubmission: February 1, 1985.

Docket No. 84–83. Applicant: National Institutes of Health, Bethesda, MD 20205. Instrument: Data System for a Mass Spectrometer, Model VG 11/250. Date of denial without prejudice to resubmission: February 21, 1985.

Docket No. 84–153. Applicant: National Aeronautics & Space Administration, Pasadena, CA 91109. Instrument: Laser, Model TEA 820–M and Accessories. Date of denial without prejudice to resubmission: February 1, 1985.

Docket No. 85–13. Applicant: Montana State University, Bozeman, MT 59717–0002. Instrument: Electromagnetic Soil Conductivity Meter, Model EM 38. Date of denial without prejudice to resubmission: February 1, 1985.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials)

Frank W. Creel,

Acting Director, Statutory Import Programs Staff.

[FR Doc. 85–11160 Filed 5–7–85; 8:45 am]

BILLING CODE 3510–DS–M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscope

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. 84–278. Applicant: Cornell University, Ithaca, NY 14853. Instrument: Electron Microscope, Model JEM–4000 EX/TES with TTH 40 Holder. Manufacturer: JEOL, Japan. Intended use: See notice at 50 FR 9476. Instrument ordered: June 19, 1984.

Docket No. 85–062. Applicant: Yale University School of Medicine, New Haven, CT 06510. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 1262. Instrument ordered: October 15, 1984.

Docket No. 85–063. Applicant: U.S. Air Force, MAQCE, San Antonio, TX 78241. Instrument: Electron Microscope, Model H–800 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See notice at 50 FR 1262. Instrument ordered: August 22, 1984.

Docket No. 85–065. Applicant: USDA–ARS, Appalachian Fruit Research Station, Kearneysville, WV 25430. Instrument: Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Nissei Sangyo America, Ltd., Japan. Intended use: See notice at 50 FR 7363. Instrument Ordered: August 2, 1984.

Docket No. 85–070. Applicant: St. Francis Hospital Memphis, TN 38119. Instrument: Electron Microscope/TV Scanning Attachment, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany Intended use: See notice at 50 FR 6230. Instrument ordered: October 15, 1984.

Docket No. 85–072. Applicant: The University of Texas Health Science Center at Dallas, Dallas, TX 75235. Instrument: Electron Microscope with Eucentric Side Entry Goniometer Stage, Model JEM–1200 EX/SEG–10 and Accessories. Manufacturer: JEOL, Ltd., Japan, Intended use: See notice at 50 FR 4996. Instrument ordered: October 17, 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 Untied States in 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 or 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. 85–11158 Filed 5–7–85; 8:45 am]

BILLING CODE 3510–DS–M

Withdrawal of Applications for Duty-Free Entry of Scientific Articles

The following applications have been withdrawn by the applicant. Accordingly, further administrative proceedings will not be taken by the

Department of Commerce with respect to these applications.

Docket No. 84–98. Applicant: Massachusetts Institute of Technology. Instrument: X-ray Microanalysis System, Model MICBEAM 53115A with Accessories. See notice at 49 FR 10138.

Docket No. 84–88. Applicant: University of Chicago, Operator of Argonne National Laboratory. Instrument: 2 Gamma Ray Detector Systems, Model M500A. See notice at 49 FR 10139.

(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. 85–11159 Filed 5–7–85; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Mid-Atlantic and New England Fishery Management Councils; Public Meetings

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Mid-Atlantic and New England Fishery Management Councils will convene public meetings at the Carousel Hotel, on the beach at 118th Street, Ocean City, MD; telephone: 301–524–1000, as follows;

May 21 1985—Mid-Atlantic Council (separate public meeting).

Discuss the Surf Clam and Ocean Quahog Fishery Management Plan (FMP); Squid, Mackerel and Butterfish FMP; Atlantic Demersal Finfish FMP; joint venture applications and policy, as well as other fishery management and administrative matters.

May 21, 1985—New England Council (separate public meeting).

Discuss reports of the Lobster and Enforcement Committees; reports of the Swordfish Working Panel; status of the Magnuson Fishery Conservation and Management Act (MFCMA) amendments, as well as other fishery management and administrative matters.

May 22–23, 1985—Mid-Atlantic and New England Fishery Management Councils (joint public meeting).

Discuss the status of each Council's FMPs; limited entry considerations; MFCMA reauthorization; enforcement matters, as well as other fishery management and administrative matters.

The public meetings may be lengthened or shortened depending upon progress on agenda items. A detailed agenda will be made available to the public around May 10. The Councils also may convene closed sessions to discuss personnel and/or national security matters.

FOR FURTHER INFORMATION CONTACT: John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115—Federal Building, 300 South New Street, Dover, DE 19901; telephone: 302–674–2331

Dated: May 3, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85–11190 Filed 5–7–85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Temporary Visa Waiver for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products Produced or Manufactured in Indonesia

May 1, 1985.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on May 8, 1985. For further information contact Jane Corwin, International Trade Specialist (202) 377–4212.

Background

A CITA directive dated February 6, 1980 (45 FR 8084), as amended, established an export visa requirement for certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Indonesia and entered or withdrawn from warehouse for consumption in the United States. A problem has arisen in the implementation of this requirement. To allow time to resolve this problem, it has been decided to waive shipments of non-import controlled categories of cotton, wool and man-made fiber textiles and textile products in Categories 300–369, 400–469 and 600–669, exported from Indonesia prior to March 27, 1985 and entered before July 1, 1985, which have a pentagon-shaped visa stamp. The letter to the Commissioner of Customs which follows this notice establishes this waiver procedure.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the TARIFF SCHEDULES OF THE UNITED STATES ANNOTATED (1985).

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

May 1, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: This directive further amends, but does not cancel, the directive of February 6, 1980, as amended, which directed you to prohibit entry into the United States of certain cotton, wool and man-made fiber textiles and textile products, produced or manufactured in Indonesia, for which that government had not issued an appropriate export visa.

Effective on May 8, 1985, and until further notice, the directive of Feburary 6, 1980, as amended, is hereby further amended to waive the previously established export visa requirement for categories of cotton, wool and man-made fiber textiles and textile products not currently under import control, which were exported from Indonesia before March 27, 1985 and are entered or withdrawn from warehouse for consumption in the United States before July 1, 1985, which are visaed using a pentagon-shaped stamp.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–11157 Filed 5–7–85; 8:45 am]

BILLING CODE 3510-DR-M

COMMODITY FUTURES TRADING COMMISSION

Chicago Board of Trade Major Market Index Maxi Futures Contract; Availability of Terms

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of availability of the terms and conditions of proposed commodity futures contract.

SUMMARY: The Chicago Board of Trade ("CBT") has applied for designation as a contract market in the Major Market

Index Maxi. The proposed terms and conditions of the CBT's Major Market Index Maxi futures contract are substantially identical to the terms and conditions of the CBT's Amex Major Market Index futures contract approved by the Commission on June 19, 1984, with the exception of contract size. The existing Amex Major Market Index futures contract has a per unit value of $100 "times" ($100×) the Index. The proposed Major Market Index Maxi futures contract would have a per unit value of $250 "times" ($250×) the Index. In accordance with sections 2(a)(1)(B)(iii) and 2(a)(1)(B)(iv)(II) of the Commodity Exchange Act, 7 U.S.C. 2a(iii), 2a(iv)(II) (1982), as amended, the Commodity Futures Trading Commission ("Commission") is making available the proposed contract for public inspection and comment.

DATE: Comments must be received on or before June 7, 1985.

ADDRESS: Interested persons should submit their views and comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Reference should be made to the CBT Major Market Index Maxi futures contract.

FOR FURTHER INFORMATION CONTACT: Naomi Jaffe, Division of Economic Analysis, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, (202) 254–7227.

A copy of the terms and conditions of the proposed CBT Major Market Index Maxi futures contract will be available for inspection at the Office of the Secretariat, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Copies of the terms and conditions can be obtained through the Office of the Secretariat by mail at the above address or by phone at (202) 254–6314.

Other materials submitted by the CBT in support of its application for contract market designation may be available upon request pursuant to the Freedom of Information Act (5 U.S.C. 552) and the Commission's regulations thereunder (17 CFR Part 145 (1984)), except to the extent that they are entitled to confidential treatment as set forth in 17 CFR 145.5 and 145.9. Requests for copies of such materials should be made to the FOI, Privacy and Sunshine Acts Compliance Staff of the Office of the Secretariat at the Commission's headquarters in accordance with 17 CFR 145.7 and 145.8.

Any person interested in submitting written data, views or arguments on the terms and conditions of the proposed futures contract, or with respect to other materials submitted by the CBT in support of its application, should send such comments to Jean A. Webb, Secretary, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581, by June 7, 1985.

Issued in Washington, D.C., on May 3, 1985.

Jean A. Webb,

Secretary to the Commission.

[FR Doc. 85-11115 Filed 5-7-85; 8:45 am]

BILLING CODE 6351-01-M

CONSUMER PRODUCT SAFETY COMMISSION

Request for Extension of Approval of Information Collection Requirements; Cellulose Insulation Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1981 (44 U.S.C. 3501 *et seq.*), the Consumer Safety Commission has submitted to the Office of Management and Budget a request for extension of approval through May 31, 1988 of information collection requirements in regulations implementing the Amended Interim Safety Standard for Cellulose Insulation. The regulations are codified at 16 CFR Part 1209, and prescribed requirements for testing and recordkeeping by persons and firms issuing certificates of compliance for products subject to the amended standard for cellulose insulation.

Details About the Requested Extension of Approval of Requirements for Collection of Information

Agency address: Consumer Product Safety Commission, 1111 18th Street, NW., Washington, D.C. 20207.

Title of information collection: Amended Interim Safety Standard for Cellulose Insulation, 16 CFR Part 1209.

Type of request: Extension of approval.

Frequency of collection: Varies depending upon volume of production.

General Description of respondents: Manufacturers and importers of cellulose insulation.

Estimated number of respondents: 250.

Estimated average number of hours for each respondent: 25 per year.

Comments: Comments on this requested extension of approval of information collection requirements should be addressed to Andy Valez-Rivera, Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503; telephone: (202) 395–7313. Copies of the request for extension of information collection requirements are available from Francine Shacter, Office of Budget, Planning, and Program Evaluation, Consumer Product Safety Commission, Washington, D.C. 20207; telephone: (301) 492–6529.

This is not a proposal to which 44 U.S.C. 3504(h) is applicable.

Dated: May 3, 1985.

Sheldon D. Butts,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 85-11108 Filed 5-7-85; 8:45 am]

BILLING CODE 6355-01-M

Public Hearing Concerning Hazards Associated With All Terrain Vehicles

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of public hearing.

SUMMARY: The Consumer Product Safety Commission will hold a public hearing in Jackson, Mississippi, on May 30, 1985, to obtain safety related information on All Terrain Vehicles (ATVs). This will be the first of five hearings on the hazards associated with ATVs the Commission plans to hold across the United States. The second hearing will be held in Dallas, Texas, in June 1985. The Commission also plans to hold hearings in Concord, New Hampshire; Milwaukee, Wisconsin; and Los Angeles, California during the next several months.

The Commission is aware of at least 125 deaths associated with ATVs occurring between January, 1982 through December 1984. Estimates on the number of hospital emergency room treated injuries associated with ATVs in 1984 were 66,956. This is almost two and one half times the number of injuries in 1983 and more than seven times the number in 1982. The Commission is primarily concerned about accidents which result from: (1) Loss of control of the ATV; (2) the ATV overturning by flipping over backward, tipping over forward, or rolling over sideways; and (3) the rider being thrown from the vehicle.

The Commission requests members of the public to participate in this hearing. The Commission is particularly interested in participation from recreational and occupational owners and users of ATVs; persons who have been involved in accidents or who have been injured while riding an ATV; state

and local government officials or organizations involved with ATV safety and training or state legislation; persons or organizations involved in the testing and evaluation of ATVs; and manufacturers, distributors, importers and retailers of ATVs. The hearing will specifically focus on the hazards associated with ATVs and ways the industry, the Commission, state and local governments or voluntary standards organizations can address these hazards.

DATE AND ADDRESS: The hearing will be held on Thursday, May 30, 1985, beginning at 9 a.m. in the State Capitol building, Old Supreme Court Room, (Second Floor), Jackson, Mississippi. Requests from persons who wish to make presentations must be received by the Office of the Secretary no later than May 24, 1985. Persons who wish to testify must submit a written copy or summary of their testimony to the Office of the Secretary not later than May 28, 1985. Presentations at the hearing should be limited to approximately 5 minutes.

FOR FURTHER INFORMATION CONTACT: For information about the hearing or to request an opportunity to make a presentation at the hearing, contact Sheldon Butts, Deputy Secretary, Consumer Product Safety Commission, Washington, D.C. 20207; or call Mr. Butts on the Commission's toll free hotline number at 800–638–2772 or the Commission's commercial number at 301–492–6800.

SUPPLEMENTARY INFORMATION:

A. Background

The Commission is holdig a series of five public hearings across the United States to assist it in obtaining safety-related information of ATVs and in deciding what, if any, regulatory or voluntary action is warranted. The Consumer Product Safety Commission is concerned about whether the performance characteritics of ATVs, including dynamic stability and handling, and adequately safe. To address this concern, the Commission will shortly issue an advance notice of proposed rulemaking (ANPR), which formally commences a rulemaking proceeding. In the ANPR, the Commission intends to discuss methods by which any unreasonable risks of injury associated with ATVs could be adequately reduced or eliminated. These methods include the promulgation of a performance standard, a labeling or warning standard, a ban of ATVs, the development of a voluntary standard, an administrative recall proceeding under section 15 of the CPSA, an imminent hazard action under section 12 of the CPSA, or the dissemination of safety related information.

An ATV is a motorized machine intended to be ridden by a single person and designed for off-road use. The majority of ATVs have three wheels in a tricycle configuration, although there has been a large increase in the available number of ATVs with four wheels. (The Commission's inquiry at this time is focused only on three and four wheel ATVs.) ATVs typically have gasoline-powered engines of between 50 and 250 cubic centimeters displacement. Currently, ATVs use large, soft, low pressure tires. Most ATVs have no rear axle differential and limited suspension systems.

Sales of all terrain vehicles have increased substantially since the mid-1970s. From 1980 to 1983 sales more than tripled with an average rate of growth over this period of 55% per year. While the number of sales increased sharply in 1984, the percentage rate of growth slowed somewhat to 24%.

The Commission staff estimates that by the end of 1985, 2,480,000 to 2,540,000 ATVs will be available for use, based on an average product life expectancy of 7 to 8 years and on a normally distributed rate of product survival.

The Commission's National Electronic Injury Surveillance System (NEISS) estimates that the number of hospital emergency room treated injuries associated with ATVs in 1984 was 66,956. This is almost two and one half times the number of injuries in the previous year and more than seven times the number in 1982. At least 125 ATV associated fatalities are known to the Commision to have occurred from January 1982 through December 1984. The Commission staff review of these 125 reported deaths revealed that 53 victims were under 16 years of age and 27 were under 12 years of age. Almost three-fourths of the victims of ATV-related injuries were between the ages of 5 and 24 years.

The Commission staff believes that the basic configuration of ATVs, and their unique performance characteristics including dynamic stability and handling, appear to play a major role in accidents involving ATVs. Many serious injuries and deaths reported in in-depth investigations conducted by the Commission staff resulted from loss of control of the ATV following an abrupt change in the equilibrium of the vehicle. A number of different factors, such as a change in terrain, or a sudden change in direction can contribute to the change in equilibrium. The subsequent loss of control follows a pattern in which the machine overturns or the rider is thrown off. In many of these accidents, other factors such as drinking, riding with passengers, or operating the vehicle illegally on paved roads, may obscure the pattern of loss of control as the critical element in the incident.

B. Request for Public Participation at Hearing

The Commission requests the public to provide it with information on ATVs and on what action, if any, it should take to adequately reduce or eliminate hazards associated with ATVs. The Commission is particularly interested in the views of persons who own or use ATVs in recreational and occupational applications and who have specific observations about ATV handling characteristics; persons who belong to ATV clubs and/or racing associations; persons who have been involved in accidents or who have been injured while riding an ATV; state and local government officials such as police officers, health and safety officials and legislators who are involved with ATV safety, training or legislation concerning ATVs; persons or organization involved in the testing and evaluation of ATVs; and manufacturers, distributors, importers and retailers of ATVs.

The hearing will focus on the following areas:

(1) Information which identifies the degree, if any, to which the general design of ATVs as well as specific design and operational features of individual models of ATVs influence the performance characteristics of ATVs and contribute to the risk of injury;

(2) Information identifying any changes in general or specific design characteristics of ATVs, including the costs of these changes, that would reduce or eliminate the risks of injury;

(3) Information concerning the handling characteristics of ATVs and the ability of users at various ages and levels of experience to maintain control of ATVs under various conditions of terrain and speed;

(4) Information relating to techniques of evaluating and testing the performance of ATVs;

(5) Information on current activities to educate or train users of ATVs, including children, in the proper method of operation and ways these efforts could be improved;

(6) Information on any accidents involving ATVs, including information on specific injuries sustained in ATV accidents and the nature, degree, duration, treatment and outcome of such injuries. Copies of physicians' and hospital records are sought;

(7) Information identifying any voluntary standard applicable or adaptable to ATVs which could reduce or eliminate the risk of injury;

(8) Information concerning any state or local licensing requirement, restriction or legislation involving ATVs.

(9) Information concerning the development of the three and four wheel ATVs including information relating to design features which take into account the hazards of overturning, and loss of control; and

(10) Information on the sale, marketing and distribution of ATVs, particularly for use by children.

Presentations should be limited to approximately 5 minutes. The Commission reserves the right to impose further time limitations on all presentations and to impose further restrictions to avoid duplication of presentations.

Persons unable to attend the hearing may submit their comments in writing, for the record. Written comments for the record must be received in the Office of the Secretary no later than May 30, 1985. Also, persons who cannot attend the hearing or make a presentation should be aware that they will have an opportunity to submit written comments in response to the ANPR.

Dated: May 3, 1985.

Sheldon Butts,

Acting Secretary, Office of the Secretary.

[FR Doc. 85-11100 Filed 5-7-85; 8:45 am]

BILLING CODE 6355-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

New

Voluntary Questionnaire, Department of Defense Overseas Dependents School—DS Form 5012

Responding to the questionnaire is voluntary. Information provides a means of evaluating the effectiveness of Federal EEO program, including handicapped applicants, and DODDS recruiting efforts.

Individuals

Responses 5,500

Burden hours 917

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301-4000, telephone (202) 695-0643. This collection is not for contract.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85-11150 Filed 5-7-85; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision of a Currently Approved Collection

Professional Evaluation—Department of Defense Overseas Dependents Schools—DS Form 5011.

Information provides means for evaluating the applicant's abilities and personal traits which may predict success in an overseas teaching assignment with Department of Defense Overseas Dependents Schools.

Individuals

Responses 11,000

Burden hours 5,500

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1213 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202-4302, telephone (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301-4000, telephone (202) 695-0643. This collection is not for contract.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85-11151 Filed 5-7-85; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of Submission; (2) Title of Information Collection and Form Number, if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision of a Currently Approved Collection

Supplemental Application for Employment with Department of

Defense Overseas Dependents Schools—DS Form 5010.

Information collection is to provide brief, personal, professional, and academic data for use in screening applications for employment with the Department of Defense Overseas Dependents Schools

Individuals

Responses 5,500

Burden hours 2,750

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503, and Mr. Daniel Vitiello, DOD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302, telephone (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. Robert L. Newhart, OASD MI&L(PI), Room 3C800, Pentagon, Washington, DC 20301–4000, telephone (202) 695–0643. This collection is not for contract.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85–11152 Filed 5–7–85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force on Follow-on Forces; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force on Follow-on Forces will meet in closed session on 30–31 May 1985 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will examine the technical and programmatic aspects as well as conceptual applications of the capabilities and systems to accomplish attacking follow-on forces.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85–11146 Filed 5–7–85; 8:45 am]

BILLING CODE 3810-01-M

Defense Science Board Task Force On-Site Inspection; Advisory Committee Meetings

SUMMARY: The Defense Science Board Task Force On-Site Inspection will meet in closed session on 28 May 1985 at the Lawrence Livermore National Laboratory, Livermore, California.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will continue to examine concepts for on-site inspection technical sensor systems which could verify possible arms control limits.

In accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85–11147 Filed 5–7–85; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8) The point of contact from whom a copy of the information proposal may be obtained.

Revision

Marksmanship Club Annual Report, DA Forms 1275, 1275–1, and 1277

Affiliated marksmanship clubs are issued government-owned material in support of the Army program. Based upon membership and club activities, clubs are provided with requested supplies to promote marksmanship training. Statistics are collected in order to supply information to the Director for congressional and budgetary actions.

Non-profit Institutions: (Marksmanship Clubs)

Responses: 2,500

Burden hours: 2,700

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202–4302, telephone number (202) 746–0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. David O. Cochran, DAIM–ADI, Room 1D667, The Pentagon, Washington, DC 20310–0700, telephone (202) 695–5111.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85–11148 Filed 5–7–85; 8:45 am]

BILLING CODE 3810-01-M

Public Information Collection Requirement Submitted to OMB for Review

SUMMARY: The Department of Defense has submitted to OMB for review the following proposal for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Each entry contains the following information: (1) Type of submission; (2) Title of Information Collection and Form Number if applicable; (3) Abstract statement of the need for and the uses to be made of the information collected; (4) Type of Respondent; (5) An estimate of the number of responses; (6) An estimate of the total number of hours needed to provide the information; (7) To whom comments regarding the information collection are to be forwarded; and (8)

The point of contact from whom a copy of the information proposal may be obtained.

Revision

Civilian Marksmanship Program Enrollment, DA Forms 1271, 1271-1, 1271-2, 1272, 1273 and 1274.

Enrollment forms are used to screen applications and provide a record that the requirements of section 4307 Title 10 USC are met.

Non-profit Institutions (Marksmanship Clubs).

Responses 200.

Burden hours 200.

ADDRESSES: Comments are to be forwarded to Mr. Edward Springer, Office of Management and Budget, Desk Officer, Room 3235, New Executive Office Building, Washington DC 20503 and Mr. Daniel J. Vitiello, DoD Clearance Officer, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302, telephone number (202) 746-0933.

FOR FURTHER INFORMATION CONTACT: A copy of the information collection proposal may be obtained from Mr. David O. Cochran, DAIM-ADI, Room 1D667, The Pentagon, Washington, DC 20310-0700, telephone (202) 695-5111.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 3, 1985.

[FR Doc. 85-11149 Filed 5-7-85; 8:45 am]

BILLING CODE 3810-01-M

Corps of Engineers, Department of the Army

Coastal Engineering Research Board; Open Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee meeting:

Name of Committee: Coastal Engineering Research Board.

Date of Meeting: May 22-24, 1985.

Place: Magnolia-Best Western Hotel, Vicksburg Mississippi.

Time: 8:30 a.m. to 4:45 p.m. on May 22; 8:00 a.m. to 5:20 p.m. on May 23; 8:00 a.m. to 11:45 a.m. on May 24.

Proposed agenda: The May 22 session will consist of a review of Coastal Engineering Research Board (CERB) business, orientation on Repair, Evaluation, Maintenance and Rehabilitation Program (REMR), new CERB issues, coastal engineering responsibilities of Corps functional elements, CERB plan of action, and Cresent City Dolos Project.

The morning of May 23 will be devoted to a tour of the U.S. Army Engineer Waterways Experiment Station (WES), including various modeling and flume studies and field data collection facility.

On the afternoon on May 23 discussions will include future Coastal Engineering Research Center facilities plan; research programs for Directional Spectral Wave Generator, Coastal Flooding and Storm Protection, Harbor Entrances and Coastal Channels, Shore Protection and Restoration, Coastal Structures Evaluation and Design; the Duck '86 Experiment; and Coastal Field Data Collection and Monitoring Completed Coastal Projects.

The session on May 24 will consist of a presentation of research needs by the Lower Mississippi Valley Division, discussion of the tour of WES, research programs and facilities plan, and recommendations by the members of the Board.

This meeting is open to the public; participation by the public is scheduled for 9:00 a.m. on May 24. The public may attend the tour but must provide their own transportation.

The entire meeting is open to the public subject to the following:

1. Since seating capacity of the meeting room is limited, advance notice of intent to attend, although not required, is requested in order to assure adequate arrangements for those wishing to attend.

2. Oral participation by public attendees is encouraged during the time scheduled on the agenda; written statements may be submitted prior to the meeting or up to 30 days after the meeting.

Inquiries and notice of intent to attend the meeting may be addressed to Colonel Robert C. Lee, Executive Secretary, Coastal Engineering Research Board, Waterways Experiment Station, P.O. Box 631, Vicksburg, Mississippi 39180-0631.

Robert C. Lee,

Colonel, Corps of Engineers, Executive Secretary.

[FR Doc. 85-11156 Filed 5-7-85; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

National Advisory Committee on Accreditation and Institutional Eligibility; Accrediting Agencies for Review Under a Special Procedure

AGENCY: Notice of accrediting agencies for review under a special procedure.

ACTION: Department of Education.

SUMMARY: The Secretary of Education (the Secretary) publishes a list of nationally recognized accrediting agencies based on the recommendations of the National Advisory Committee on Accreditation and Institutional Eligibility. Recommendations to the Secretary concerning interim reports submitted by recognized accrediting agencies already on the list are handled under a special review procedure. The Advisory Committee relies on the Division of Eligibility and Agency Evaluation staff analyses of these interim reports and public comment on the analyses to formulate its recommendations to the Secretary.

DATE: Comments on these analyses must be received on or before June 7, 1985.

ADDRESS: Comments should be addressed to Morris L. Brown, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3030, ROB-3), Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Morris L. Brown, Telephone: (202) 245-9703.

SUPPLEMENTARY INFORMATION: This document is intended to advise the public that the National Advisory Committee on Accreditation and Institutional Eligibility, in making recommendations to the Secretary regarding his responsibility for listing accrediting agencies as required by 20 U.S.C. 1141(a), 20 U.S.C. 1094(b)(3) and other statutes, is following a special review procedure regarding some agencies.

Usually the Advisory Committee reviews in detail each report and each staff analysis and hears oral presentations from the petitioning agencies and interested third parties before making recommendations to the Secretary.

The Special Procedure will reduce the depth of review by the Advisory Committee of agencies that were requested to submit interim reports following their last full review. The Advisory Committee will use both staff analyses and public comment before submitting final recommendations to the Secretary regarding the list of these agencies as required under 34 CFR Part 603.

This notice provides the names of agencies to be reviewed under this special procedure. The Department's Division of Eligibility and Agency Evaluation staff has prepared analyses of the reports according to the criteria for recognition in 34 CFR 603.6, and has prepared recommendations on these agencies.

The public is invited to comment on these analyses before the Advisory Committee makes final recommendations to the Secretary.

The reports of the following agenices are under review:

I. Nationally Recognized Accrediting Agencies and Associations

Accreditation Board for Engineering and Technology, Inc.
Proposed Recommendation: Accept the report.
American Board of Funeral Service Education, Committee on Accreditation
Proposed Recommendation: Accept the report.
American Medical Association, Committee on Allied Health Education Accreditation, in cooperation with the following review committees:
Cytotechnology Programs Review Committee, American Society of Cytology
Proposed Recommendation: Accept the report.
Joint Review Committee on Education in Diagnostic Medical Sonography
Proposed Recommendation: Accept the report.
Joint Review Committee on Education in Electroencephalographic Technology
Proposed Recommendation: Accept the report.
Joint Review Committee on Educational Programs in Nuclear Medicine Technology
Proposed Recommendation: Accept the report.
Joint Review Committee on Education in Radiologic Technology
Proposed Recommendation: Accept the report.
Joint Review Committee on Education for the Surgical Technologist
Proposed Recommendation: Accept the report.
American Society of Landscape Architects, Landscape Architectural Accreditation Board
Proposed Recommendation: Accept the report.
National Association of Schools of Art and Design, Commission on Accreditation and Membership
Proposed Recommendation: Accept the report.
National Association of Schools of Dance, Commission on Accreditation
Proposed Recommendation: Accept the report.
National Association of Schools of Music
Proposed Recommendation: Accept the report.

II. State Agencies for the Approval of Public Postsecondary Vocational Education

Delaware State Board of Education
Proposed Recommendation: Accept the report. Invitation to Comment: A copy of the analysis of any of the reports submitted by the agencies listed in this Notice may be obtained from Morris L. Brown, Director, Division of Eligibility and Agency Evaluation, Office of Postsecondary Education, U.S. Department of Education, 400 Maryland Avenue SW., (Room 3030, ROB-3), U.S. Department of Education, Washington, D.C. 20202.

Dated: May 2, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-11140 Filed 5-7-85; 8:45 am]
BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Services State-Operated Programs for Handicapped Children; Intent To Compromise Claim

AGENCY: Department of Education.

ACTION: Notice of intent to compromise claim.

SUMMARY: Notice is given that the Secretary intends to compromise a claim of less than $50,000 against the Colorado Department of Education now pending before the Education Appeal Board (EAB), Docket No. 2-(67)-81 (31 U.S.C. 3711; 20 U.S.C. 1234a(f)).

DATE: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before June 24, 1985.

ADDRESSES: Comments should be addressed to Ms. Ann Marie Reilly, Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue SW., (Room 4091, FOB-6), Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit conducted by the U.S. Department of Health, Education and Welfare Audit Agency. The audit, covering the period of July 1, 1974 through August 31, 1977, concerned the following grant programs administered by the Colorado Department of Education (State educational agency; SEA): the State-Operated Program for Handicapped Children, Section 121 of Title I of the Elementary and Secondary Education Act, Pub. L. 89-10, as amended (20 U.S.C. 241a *et seq.* (1976)) and the program for Assistance to States for the Education of Handicapped Children, Part B of the Education of the Handicapped Act, Pub. L. 91-230, as amended (20 U.S.C. 1411 *et seq.* (1976)).

In his Final Determination Letter (FDL) of December 3, 1980, based upon the audit, the Deputy Assistant Secretary for Special Education issued a claim that the SEA must refund $14,003 to the Department of Education based upon a violation of the maintenance of effort requirement in section 143(c)(2) of Title I (20 U.S.C. 241g(c)(2)) in the Fort Logan Mental Health Center, a recipient of funds under Section 121 of Title I (Title I handicapped program; 20 U.S.C. 241c-1).

In that FDL, the Deputy Assistant Secretary also issued a number of non-monetary determinations against the SEA concerning both the Title I handicapped program and the program for Assistance to States for the Education of Handicapped Children. Those non-monetary determinations are neither the subject of the appeal at issue nor of the claim intended to be compromised.

Under the Title I handicapped program, funds are provided to State agencies which are directly responsible for providing free public education to handicapped children (20 U.S.C. 241c-1(a)). Funds are provided to the State agencies through the SEA for ". . . programs and projects . . . designed to meet the special educational needs of such [handicapped] children . . ." (20 U.S.C. 241c-1(c)). These funds are provided on the basis of a statutory percentage of State average per pupil expenditure multiplied by the number of handicapped children in average daily attendance, as determined by the Secretary (then Commissioner) of Educaition (20 U.S.C. 241c-1(b)).

Under the statute and applicable Title I general provisions regulations (45 CFR Part 116 (1976)), an SEA may not provide Title I funds to an applicant agency unless the SEA finds that the combined fiscal effort of that applicant agency and the State with respect to the provision of free public education by that applicant agency for the preceding fiscal year was not less than such combined fiscal effort for that purpose for the second preceding fiscal year (20 U.S.C. 241g(c)(2); 45 CFR 116.19(a)).

Prior to November 12, 1976, the Title I statute stated that "combined fiscal effort" was to be determined in accordance with Departmental regulations; the Title I general provisions regulations required that that effort was to be measured by the amount of the current expenditures *per pupil* by the applicant agency (emphasis added) (20 U.S.C. 241g(c)(2); 45 CFR 116.19(b).

Effective November 12, 1976, section 323(a)(1) of Pub. L. 94–482 amended the Title I maintenance of effort provision to specifically allow a combined fiscal effort determination on a per pupil or aggregate expenditure basis.

In the FDL, the Deputy Assistant Secretary determined that the SEA had provided $14,003 in Title I handicapped program funds for fiscal year 1976 to the Fort Logan Mental Health Center despite that Center's failure to maintain effort in accordance with the Title I statute and regulations. Although the Center's aggregate expenditures had increased (as had the count of children in average daily attendance under the Title I handicapped program), the Center did fail to maintain effort on a per pupil expenditure basis for fiscal year 1976.

In the audit report upon which the FDL was based, the federal auditors also had concluded that the SEA must refund $14,146 in fiscal year 1977 Title I handicapped program funds expended at the Center because the Center, although increasing aggregate expenditures, had failed to meet the maintenance of effort requirement on a per pupil expenditure basis.

As noted above, effective shortly after the start of fiscal year 1977, the Title I statute was amended to permit a determination of maintenance of effort on either an aggregate expenditures or per pupil basis.

Taking into account that amendment, the Deputy Assistant Secretary did not uphold in the FDL the auditors' findings concerning fiscal year 1977 funds.

For the fiscal year 1976 claim at issue, the SEA has argued in its application for review, filed before the EAB on December 30, 1980, that the Center's change in the method of counting children in average daily attendance resulted in an unrealistic review of and effect on the determination of maintenance of effort on a per pupil expenditure basis.

Beginning in fiscal year 1976, the subject of this audit claim, the Center changed from counting handicapped children on a full-time-equivalent basis to a pupils-served basis. This resulted in an increase in the count of handicapped children in average daily attendance which disproportionately affected the determination of maintenance of effort on a per-pupil basis.

The SEA has indicated that it may be possible to recalculate the fiscal year 1976 count of handicapped children at the Center on a full-time-equivalent basis and that, this being done, the Center would be shown to have met the maintenance of effort requirement for that fiscal year on a per pupil expenditure basis.

Of the $14,003 sought to be recovered in the FDL, approximately $6,000 is barred from recovery by the Statute of Limitations (section 452(g) of the General Education Provisions Act; 20 U.S.C. 1234a(g) (1980)). However, we expect that data can be submitted to show a larger amount is barred from recovery. The Statute of Limitations bars the recovery by the Department of funds expended more than five years prior to the receipt of the FDL by the SEA. The SEA received the FDL on December 8, 1980.

The SEA has offered to repay the Department $3,000 in full settlement of the claim. The Secretary proposes to accept the SEA's offer and to compromise the claim.

Given the relatively low amount of funds that could be recovered by the Department even were it to prevail in this appeal on all issues, given the amount of the recovery under the intended compromise (approximately 40% of that portion of the claim not barred from recovery), and given the fact that through a recalculation of the count of handicapped children, the SEA may show that no funds should be owed, the Secretary has determined that it would not be practical or in the public interest to continue this proceeding. In addition, the Secretary has also taken into account the costs of litigating this claim through the appeal process.

Moreover, the Assistant Secretary for Special Education and Rehabilitative Services is satisfied, given the statutory amendment which permits the SEA to determine maintenance of effort in the manner which is the subject of the claim at issue, that the violation has been corrected.

Because of the specific facts of this case, the proposed compromise will not adversely affect any other audit proceeding currently pending before the EAB.

FOR FURTHER INFORMATION: The public is invited to comment on the Secretary's intent to compromise this claim. Additional information may be obtained by writing to Ms. Ann Marie Reilly at the address given at the beginning of this notice.

(31 U.S.C. 3711; 20 U.S.C. 1234a(f))

(Catalog of Federal Domestic Assistance No. 84.009, Programs for the Education of Handicapped Children in State Operated or Supported Schools)

Dated: May 2, 1985.

[FR Doc. 85–11139 Filed 5–7–85; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. PP–76A]

Intent To Prepare an Environmental Impact Statement and Conduct Public Scoping Meetings

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of intent by the Department of Energy to prepare an Environmental Impact Statement (EIS) and to hold public scoping meetings to assess the environmental effects of the construction and operation of an electric transmission line crossing the Canadian border.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 and the regulations of the Council on Environmental Quality at 40 CFR 1501.7, the Department of Energy (DOE) intends to prepare an Environmental Impact Statement (EIS) to assess the environmental impacts of a proposed DOE action: To grant (with terms and conditions) or to deny an amendment to a Presidential permit authorizing Vermont Electric Transmission Company (VETCO), New England Hydro-Transmission Corporation (NEHTC) and New England Hydro-Transmission Electric Company, Inc. (NEHTEC) to construct, connect, operate and maintain new facilities in Massachusetts and New Hampshire for the transmission of electric energy between Hydro-Quebec, a public agency of the Province of Quebec, and the New England Power Pool (NEPOOL), an association of New England utilities.

Written comments should be addressed to: Anthony J. Como, Office of Fuels Programs (RG–22), Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252–5935.

For general information on the EIS process contact: Elizabeth V. Jankus, Office of Environmental Compliance (PE–251), Department of Energy, 1000 Independence Ave., SW., Washington, D.C. 20585, (202) 252–6374.

DATE: Scoping meetings—2:00 p.m. and 6:30 p.m., June 4, 1985, in Concord, New Hampshire at the Legislative Office Building, 33 N. State Street, Room 210–211; 9:30 a.m., June 5, 1985, in Boston, Massachusetts at the John F. Kennedy Federal Building, Federal Center, Room E–226. Written comments due: July 22, 1985.

SUPPLEMENTARY INFORMATION: On April 5, 1984, DOE issued Presidential permit PP–76 to VETCO granting it permission, subject to certain conditions, to

construct, connect, operate and maintain at the international border of the United States and Canada, one ±450 kilovolt (kV) direct current (dc) transmission line. Presidential permit PP–76 also authorized the construction of a converter terminal at the southern terminus of the dc transmission line in Monroe, New Hampshire, to convert the dc power to alternating current (AC) power.

These facilities (known as Phase I) are currently under construction. The Phase I converter terminal was designed with a capacity of 690 MW to match the capability of the New England ac transmission system to absorb power delivered to Monroe, New Hampshire. The ±450 kV dc line was designed with the capability to transmit additional power should further contracts with Hydro-Quebec be deemed desirable.

Subsequent to the issuance of Presidential permit PP–76, NEPOOL concluded that additional purchases of hydro electric energy would be desirable. In this connection, NEPOOL, on behalf of its member utilities, recently has reached an agreement in principle with Hydro-Quebec for the purchase of an additional 70 billion KWH of energy over a ten-year period, currently scheduled to begin in 1990. In order to accept delivery of this additional hydro electric energy, it will be necessary for the international interconnection authorized in Presidential permit PP–76 to operate at power levels above the authorized level. In addition, it will be necessary to construct certain new facilities to transmit this additional hydro electric energy to load centers in central New England. Consequently, on March 4, 1985, VETCO applied to ERA to amend the Presidential permit in Docket PP–76, authorizing an increase in the nominal operating level of the previously permitted facilities and the construction of certain new facilities required to implement the new energy purchase agreement with Hydro-Quebec.

The proposed new facilities, referred to as Phase II, consist of three principal elements. The first element is the extension of the ±450 kV dc transmission line predominantly along an existing transmission corridor between the town of Monroe, New Hampshire and the town of Groton, Massachusetts, a distance of approximately 133.1 miles. The second element is the construction of an 1800 MW dc/ac converter terminal at the terminus of the proposed dc line on a site straddling the town line between Groton and Ayer, Massachusetts, adjacent to an existing 345 kV ac substation. The third element is the construction of two new 345 kV ac transmission lines with a combined length of 51.8 miles along existing transmission corridors. These new transmission lines are needed to reinforce the existing New England 345 kV ac transmission system. In addition to these principal elements, other miscellaneous new facilities, such as a communication system and a grounding system, would be required to assure successful operation of the Phase II facilities. DOE intends to prepare an EIS to assess the impact that the construction and operation of the Phase II facilities will have on the environment.

Interested agencies, organizations, and other members of the general public desiring to submit written comments or suggestions for consideration in connection with the preparation of this EIS are invited to do so and are encouraged to attend the public scoping meetings which will be held on June 4, 1985, in Concord, New Hampshire, and on June 5, 1985, in Boston, Massachusetts. Parties who desire to present oral comments at the scoping meetings should provide advance notice to DOE as described below under **"Comments and Scoping Meeting."** Upon completion of the draft EIS, its availability will be announced in the **Federal Register**, at which time further comments will be solicited.

The primary purpose of the Phase II facilities, as stated by VETCO, is to reduce oil consumption in the New England region by approximately 12 million barrels per year.

The applicant contends that the construction and operation of the proposed Phase II facilities would increase overall transmission system efficiency and reduce by 900 MW, New England's need to construct new generating capacity which would otherwise be required to meet NEPOOL reliability criteria.

Additional benefits which the construction of the Phase II facilities will provide are: (1) The opportunity for energy banking, whereby NEPOOL members could transmit inexpensive energy north to Quebec during off-peak periods and receive equal amounts of energy during on-peak periods; (2) increased energy interchange, whereby if Hydro-Quebec has additional surpluses of energy, it could sell the surpluses to New England at some percent (less than 100 percent) of New England's avoided fuel cost; and (3) increased capability for emergency transfers of power to either side of the border for mutual reliability purposes.

Preliminary Definition of Environmental Issues

The purpose of this notice is to solicit comments and suggestions for consideration in preparation of the EIS. As background for public comment and suggestions, it is useful to list those environmental issues which have been tentatively identified for analysis and assessment in the EIS. This list is not intended to be all inclusive or to imply any predetermination of impacts.

Additional issues for analysis may be identified as the result of public comment.

A. Environmental Issues Associated With Transmission Line Construction

(1) Permanent removal of growing vegetation from the existing right-of-way, and of all vegetation from tower footings, access roads and substation sites;

(2) Minor relocations and alterations to other existing facilities along the right-of-way;

(3) Temporary disruption of wildlife communities, agricultural production and other land uses along the line route during actual construction;

(4) Temporary socioeconomic perturbations due to the influx of construction workers into sparsely populated areas; and

(5) Temporary noise and air pollution resulting from operation of construction equipment and from burning of rights-of-way slash.

B. Environmental issues Associated With Transmission Line Operation and Maintenance

(1) Continuing limitation on the feasibility or efficiency of some agricultural activities within the right-of-way, particularly of irrigation devices;

(2) Periodic interference with plant and wildlife communities along the rights-of-way, due to required maintenance activities, particularly vegetation control;

(3) Generation of acoustic noise and electromagnetic interference to radio and television reception along the rights-of-way;

(4) Possible biological effects such as reduced growth or viability for plant and animal species resident within or in proximity to the rights-of-way;

(5) Possible long-term effects due to the use of herbicides for vegetation control;

(6) Indirect ecological and socioeconomic effects resulting from easier unauthorized human access to some areas via access roads and rights-of-way, such as increased hunting or use by motorcycles or snowmobiles; and

(7) Permanent visual impacts.

C. Other Specific Environmental Issues

(1) The possibility of affecting threatened or endangered species or critical habitats for such species;

(2) Identification and review of alternatives to construction within a 100-year floodplain or identified wetland and identification and review of mitigating measures to be taken if it is found that there are no practicable alternatives to construction in a floodplain or wetland;

(3) Possible direct and adverse effects on the values for which a wild scenic or recreational river was established;

(4) Environmental factors relevant to any proposed construction in or over navigable rivers, or to any proposed actions resulting in the discharge of dredge or fill materials into any waters of the U.S.;

(5) Actions having an impact on the continued use and viability of prime and unique farmlands;

(6) Possible effects on sites or properties included on, nominated for, or eligible for inclusion in the National Register of Historic Places, or on historical, architectural or archeological sites of national significance; and

(7) Possible adverse impacts on National Forest lands.

Preliminary Definition of Alternatives

The major purpose of an EIS is to define the reasonable alternatives to the proposed action, and the environmental impacts to be expected from each reasonable alternative. As background for public comments and suggestions concerning reasonable alternatives to be considered, the broad classes of alternatives which have been tentatively identified are described briefly below:

(1) *Proposed Action by VETCO* to construct and operate the interconnection which would purportedly reduce New England's need to construct new generation capacity which would otherwise be required to meet NEPOOL reliability criteria;

(2) *The traditional course of action* of continuing the operation of oil and coal-fueled generating plants as necessary to meet load, and the construction of new plants as necessary to satisfy future increases in load;

(3) *Develop and construct new types of generating plants*, for example, driven by sun and wind, which could reduce the need for generating electric energy by oil or coal or for future construction of conventional generating plants;

(4) *Load management* by energy storage or conservation, or replacement of some end uses of electricity by other sources of energy, which would reduce seasonal variations in load and total annual electrical energy requirements; and

(5) *Purchases from utilities within the United States* which have differing peaking periods.

Mitigation Alternatives

The environmental impacts which would result from construction and operation of the proposed project would depend on the choice among a number of alternative possibilities as to where, when and how the project was constructed, as well as the choice of alternative maintenance and repair procedures during operation. Tentatively identified groups of alternatives for consideration in the EIS include: (a) Design, (b) route selection, (C) construction practices and (seasonal) timing, (d) right-of-way clearing procedures, and (e) right-of-way maintenance practices.

Comments and Scoping Meeting

The scoping meetings will be conducted informally with the presiding officer affording all interested individuals in attendance an opportunity to speak. A transcript of the meetings will be recorded. The DOE has designated Mr. Robert L. Davies as presiding officer at these meetings. The presiding officer will establish the order of speakers and provide any additional procedures necessary for the conduct of the meetings.

Speakers will be alloted approximately 15 minutes for their oral statement. Should any speaker desire to provide for the record further information which cannot be presented within the designated time limit, such additional information may be submitted in writing by July 22, 1985. Written comments will be considered and given equal weight with oral comments.

A transcript for the scoping meetings will be retained by DOE and made available for inspection at the Freedom of Information Library, Room 1E-090, Forrestal Bldg., 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday. In addition, anyone may make copies.

Draft EIS Schedule and Availability

The draft EIS (DEIS) will be completed by January 31, 1986, at which time its availability will be announced in the **Federal Register** and public comments will again be solicited.

Those individuals who do not wish to submit comments or suggestions at this time but who would like to receive a copy of the DEIS for review and comment when it is issued should notify Mr. Anthony J. Como at the address given in the prior section.

One of the requirements placed on the applicant for a Presidential permit (or amendment) is the submission of an Environmental Report. This and other documents to be used in preparation of the DEIS will be made available for public inspection at several public libraries or reading rooms within Vermont and New Hampshire and at other DOE locations throughout the U.S. A notice of the locations for such availability will be provided in the **Federal Register** at a later date.

Issued in Washington, D.C. On April 29, 1985.

William A. Vaughan,

Acting Assistant Secretary for Policy, Safety, and Environment.

[FR Doc. 85-11069 Filed 5-7-85; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-85-013; OFP CASE No. 67042-9269-20-24]

Acceptance of Petition for Exemption and Availability of Certification by United Cogen, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice.

SUMMARY: On March 21, 1985, United Cogen, Inc. (UCI), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requsting a permanent cogeneration exemption for a proposed electric powerplant to be located at the United Airlines Maintenance Operations Center (UALMOC), San Francisco International Airport in San Francisco, 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 petroleum 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 powerplant for which the petition was filed is to consist of one General Electric (GE) LM 2500 21.8 MW combustion turbine generator system, a

supplementary fired waste heat recovery boiler (20.0 MMBtu per hour maximum), and a 6.0 MW extraction condensing steam turbine generator system. It is estimated that approximately 1.2 MW of electrical energy prduced will be consumed, onsite, making the net electric output of the facility 26.6 MW.

The UALMOC maintains an existing steam boiler plant to service the present steam demand. All current plant electrical requirements (approximately 9 MW) are presently supplied through Pacific Gas and Electric Company (PG&E) power grid. The congeneration facility would eliminate the need for the UALMOC steam powerplant and the power from the new plant would be sold to PG&E.

The proposed facility would be fired primarily on natural gas, but would also be designed to burn, a "Jet A" fuel for emergency standby in the event of a natural gas supply disruption. The supplementary firing system (duct burner) will be exclusively fired on natural gas.

The project will exceed the heat input threshold and is expected to sell more than 50 percent of the net annual electrical power to PG&E causing the new cogeneration facility to be classified as a powerplant under FUA.

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 DEO, 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 24, 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-85-013 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, Phone (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, Phone (202) 252-6947.

SUPPLEMENTARY INFORMATION: UCI, proposes to install a cogeneration system at the UALMOC, San Francisco International Airport in San Francisco, California. The facility will (1) generate electrical power for sale to PG&E and (2) produce steam to meet the Operations Center heating and cooling requirements. The proposed cogeneration system will be operated by UCI. The facility will consist of a combustion turbine generator system, a supplementary fired waste heat recovery boiler and an extraction/condensing steam turbine generator system. The power from the new plant would be sold to PG&E.

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), UCI 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 certification discussed above), UCI 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) and 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 be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as 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 UCI 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 30, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-11072 Filed 5-7-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order and Opportunity for Objection; Oxnard Refining Co.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of issuance of proposed remedial order to Oxnard Refining Company and notice of opportunity for objection.

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to Oxnard Refining Company (Oxnard). This Proposed Remedial Order charges

Oxnard with unlawful receipt of small refiner bias entitlements arising from Oxnard's improper reporting of 1,395,000 barrels of crude oil refined pursuant to processing agreements with another refiner. The reporting period was August to December 1976 and February, April, May 1977.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from Avrom Landesman, Director, Office of Enforcement Programs, ERA (RG–16), U.S. Department of Energy, 1000 Independence Avenue SW., Washington, D.C. 20585, (202) 252–2967.

Within fifteen (15) days of publication of this notice, any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F–055, 1000 Independence Avenue SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193. A person who fails to file a Notice of Objection shall be deemed to have admitted the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 10th day of April 1985.

Avrom Landesman,

Director, Office of Enforcement Programs Economic Regulatory Administration.

[FR Doc. 85–11145 Filed 5–7–85; 8:45 am]

BILLING CODE 6450–01–M

Rodgers Hyrdocarbon Corp. and Ray V. Rodgers, Jr.; Proposed Remedial Order

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy hereby gives notice of a Proposed Remedial Order which was issued to Rodgers Hydrocarbon Corporation, Ray V. Rodgers, Jr. This Proposed Remedial Order alleges violations in the amount of $2,782,495.73 plus interest in connection with the resale of uncertified and improperly certified crude oil in violation of the certification provision of 10 CFR Part 212 during the time period September 1977 through January 1980.

A copy of :the Proposed Remedial Order, with confidential information deleted, may be obtained from James F. Murphy, Economic Regulatory Administration, Department of Energy, 1403 Slocum, Second Floor, Dallas, Texas 75207 or by calling (214) 767–4646. Within fifteen (15) days of publication of this notice any aggrieved person may file a Notice of Objection with the Office of Hearing and Appeals, Department of Energy, Forrestal Bulding, 1000 Independence Avenue SW., Room: 6F–078, Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Washington, D.C., on the 26th day of April 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85–11144 Filed 5–7–85; 8:45 am]

BILLING CODE 6450–01–M

Proposed Remedial Order; Tampimex Oil International, Ltd.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of proposed remedial order to Tampimex Oil International, Ltd.

SUMMARY: Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice of a Proposed Remedial Order which was issued to Tampimex Oil International, Ltd. (Tampimex) doing business at 11 Greenway Plaza, Suite 1506, Houston, Texas 77046. This proposed Remedial Order alleges that Tampimex charged prices in excess of its actual purchase price in violation of 10 CFR 212.186, 210.62(c) and 205.202 during the period January 1978 through December 1980 in the amount of $169,025.41. In addition, the Proposed Remedial Order alleges violations in the pricing of crude oil of 10 CFR 212.182 during the same period in the amount of $3,290,801.38.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from: U.S. Department of Energy, Economic Regulatory Administration, Attn: Sandra K. Webb, Director, One Allen Center, Suite 610, 500 Dallas Street, Houston, Texas 77002.

Within fifteen (15) days of publication of this Notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, in accordance with 10 CFR 205.193.

Issued in Houston, Texas, on the 11th day of April 1985.

Sandra K. Webb,

Director, Houston Office, Economic Regulatory Administration.

[FR Doc. 85–11143 Filed 5–7–85; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. EF85–2021–000]

United States Department of Energy, Bonneville Power Administration; Filing

May 3, 1985.

Take notice that the Bonneville Power Administration (BPA) of the United States Department of Energy, on May 1, 1985, tendered for filing proposed transmission rates. BPA requests that these rates be approved on a final basis to become effective as of July 1, 1985, pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(i) and § 300.21 of the Commission's regulations, 18 CFR 300.21. BPA requests that the Commission grant interim approval of the proposed rates, effective July 1, 1985, pending Commission review of the proposed rates, pursuant to section 7(i)(b) of the Northwest Power Act and § 300.20 of the Commission's regulations, 18 CFR 300.20. BPA has also filed its General Rate Schedule Provisions that are incorporated by reference in its various individual rate schedules.

BPA states that the proposed transmission rates are designed to decrease revenues in FY 1987 by approximately $21 million, a decrease of approximately 17 percent.

The proposed rate approval period is for July 1, 1985 through June 30, 1990. BPA requests waiver, pursuant to § 300.13, of §§ 300.10(e) and 300.11(b)(1) of the Commission's regulations, 18 CFR Part 300, so that its filed revenue data for 27 months may be used rather than data for the entire five year rate period. BPA states that it is also requesting extension of Commission approval of the ET–2, UFT–2, FPT–83.3, TGT–1 and UFT–83 transmission rate schedules. BPA states that the TGT–1 and UFT–83 wheeling rate schedules are formulas that eliminate the need for rate schedule adjustments. BPA requests that approval of the TGT–1 and UFT–3 rate schedules be extended through June 30, 1990, pursuant to § 300.1(b)(5) of the Commission's regulations. BPA states that the ET–2, UFT–2 and FPT–83.3 rate schedules are referenced in existing agreements and are not subject to adjustment by BPA at this time. BPA requests approval of these three rate schedules be extended through October 1, 1987. BPA states that it does not at this time anticipate any major changes in costs or rates over the next few years, but that if a revenue shortfall should

develop, it will promptly initial new rate proceedings under the Northwest Power Act.

The designations of the rate schedules which are the subject of this proposed rate adjustment are as follows: FPT–85.1, Formula Power Transmission; IR–85, Integration of Resources; IS–85, Southern Intertie Transmission; IN–85, Northern Intertie Transmission; IE–85, Eastern Intertie Transmission; and ET–85, Energy Transmission.

Any person desiring to be heard or to protest these filings should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 28, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspections.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–11141 Filed 5–7–85; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EF85–2011–000]

United States Department of Energy, Bonneville Power Administration; Filing

May 3, 1985.

Take notice that the Bonneville Power Administration (BPA) of the United States Department of Energy, on May 1, 1985, tendered for filing proposed wholesale power rates. BPA requests that these rates be approved on a final basis to become effective as of July 1, 1985, pursuant to section 7(a)(2) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(i) and § 300.21 of the Commission's regulations, 18 CFR 300.21. BPA requests that the Commission grant interim approval of the proposed rates, effective July 1, 1985, pending Commission review of the proposed rates, pursuant to section 7(i)(6) of the Northwest Power Act and § 300.20 of the Commission's regulations, 18 CFR 300.20. BPA has also filed its General Rate Schedule Provisions that are incorporated by reference in its various individual rate schedules.

BPA states that the proposed wholesale power rates are designed to decrease revenues in FY 1987 by approximately $50 million, a decrease of approximately 2 percent. BPA further states that its annual revenue requirement is approximately $2.9 billion for FY 1986 and for the FY 1987 test year.

The proposed rate approval period is for July 1, 1985 through June 30, 1990. BPA requests waiver, pursuant to § 300.13, of §§ 300.10(e) and 300.11(b)(1) of the Commission's regulations, 18 CFR Part 300, so that its filed revenue data for 27 months may be used rather than data for the entire five year rate period. BPA states that it is requesting approval of the Special Industrial Rate though June 30, 1990, independently of its request for its other wholesale rates, because of the nature of the Special Industrial Rate. BPA further states that it is requesting that the prior approval of the Hanford Contract Rate formula be extended through June 30, 1990. BPA states that it does not at this time anticipate any major changes in costs or rates over the next few years, but that if a revenue shortfall should develop, it will promptly initiate new rate proceedings under the Northwest Power Act.

The designations of the rate schedules which are the subject of this proposed rate adjustment are as follows: PF–85, Priority Firm Rate; IP–85, Industrial Firm Power Rate; SI–85, Special Industrial Power Rate; CF–85, Firm Capacity Rate; CE–85, Emergency Capacity Rate; NR–85, New Resources Firm Power Rate; SP–85, Surplus Firm Power Rate; SE–85, Surplus Firm Energy Rate; NF–85, Nonfirm Energy Rate; SS–85, Share-the-Savings Energy Rate; EB–85, Energy Broker Rate; and RP–85, Reserve Power Rate.

Any person desiring to be heard or to protest these filings should file a protest or a motion to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 28, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–11142 Filed 5–7–85; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[PF–410; FRL–2829–6]

Pesticide Tolerance Petitions; Certain Companies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received pesticide and food/feed additive petitions relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–410] and the petition number, attention Product Manager (PM–21), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 204670.

In person, bring comments to:

Information Services Section (TS–757C), Environmental Protection Agency, 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 filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m., to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail Henry Jacoby, (PM–21), Registration Division (TS–767C), Environmental Protection Agency,

Office of Pesticide Programs, 401 M St., SW., Washington, D.C. 20460. Office location and telephone number: Rm. 229, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–1900).

SUPPLEMENTARY INFORMATION: EPA has received pesticide (PP) and food/feed additive petitions (FAP) relating to the establishment and/or amendment of tolerances for certain pesticide chemicals in or on certain agricultural commodities.

I. Initial Filings.

1. *PP 5F3227.* Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. Proposes to amend 40 CFR Part 180 by establishing tolerances for the combined residues of:

a. The fungicide beta-[1,1'-biphenyl]-4-yloxy}-alpha-(1,1dimethylethyl)-1*H*-1,2,4-triazole-1-ethanol in or on the commodities as follows:

Commodities	Parts per million (ppm)
Apples	7.0
Apricots	3.0
Almonds, hulls	0.2
Almonds, meat	0.01
Cherries	9.0
Nectarines	3.0
Peaches	5.0
Peanut, dry vines	55.0
Peanut, hulls	0.75
Peanut, meat	0.05
Pears	5.0
Plums	3.0

b. The fungicide and its triazole-containing moieties in or on the following commodities:

Commodities	Part per million (ppm)
Meat, fat, and meat byproducts (mbyp) of cattle, goats, hogs, horses and sheep	1.0
Meat, fat, and mbyp of poultry	0.5
Milk	0.1

The proposed analytical method for determining residues is gas chromatography employing a nitrogen specific alkali flame detector.

2. *FAP 5H5461.* Mobay Chemical Corp. Proposes to amend 21 CFR Parts 193 (food) and 561 (feed) by establishing regulations permitting residues of the fungicide beta-([1,1'-biphenyl]-yloxy)-alha-(1,1–dimethylethyl)-1*H*1,2,4-triazole-1-ethanol in or on the following commodities:

CFR Affected	Commodities	Parts per million (ppm)
21 CFR Part 193	Prunes	15.0
21 CFR Part 561	Apple pomace (wet and dry)	62.0

3. *FAP 5H5462.* BASF Wyandotte Corp., 100 Cherry Hill Road, P.O. Box 181 Parsippany, NJ 07054. Proposes amending 21 CFR Part 193 by establishing a regulation permitting residues of the fungicide 3-(3,5-dichlorophenyl)-5-ethenyl-5-methyl-2,4-oxazolidinedione and its 3,5-dichloroaniline containing metabolites in or on the commodity dried prunes at 75.0 ppm.

II. Amended Petition

1. *PP 4F3129.* Rhone-Poulenc Inc., P.O. Box 125, Black Horse Lane, Monmuth Junction, NJ 08852. In the **Federal Register** of December 12, 1984 (49 FR 48374), EPA issued a notice, which annouced that Rhone-Poulenc submitted pesticide petition 4F3129 proposing to establish tolerances for the combined residues of the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboximide] in or on certain agricultural and animal-derived commodities.

The petition is amended as follows:

a. The tolerance expression for residues of the fungicide for animal-derived commodities is revised to read "for combined residues or iprodione and its metabolites containing the 3,5-dichloroaniline moiety (expressed as iprodione equivalents)."

b. The proposed tolerances for the following commodities at the level indicated are deleted. Tolerances for these commodities have already been established under 40 CFR 180.399 at the same or higher levels:

Commodities	Parts per million (ppm)
Eggs	0.01
Fat, meat and meat byproducts (mbyp) of poultry	0.05
Kidney of cattle, goats, hogs, horses, and sheep	3.0
Liver of cattle, goats, hogs, horses, and sheep	2.0

c. Decreasing the proposed tolerance levels for meat, fat, and mbyp (excluding liver and kidney) of cattle, goats, hogs, horses, and sheep from 0.6 ppm to 0.5 ppm.

d. Increasing the proposed tolerance level for milk from 0.4 ppm to 0.5 ppm.

2. *FAP 4H5440.* Rhone-Poulenc Inc. EPA issued a notice published in the **Federal Register** of December 12, 1984 (49 FR 48375) which announced that Rhone-Poulenc Inc. had submitted food/feed additive petition 4H5440 to the Agency proposing to amend 21 CFR Parts 193 (food commodity) and 561 (feed commodity), by establishing a regulation permitting the combined residues the fungicide iprodione [3-(3,5-dichlorophenyl)-*N*-(1-methylethyl)-2,4-dioxo-1-imidazolidinecarboximide], its isomer [3-(1-methylethyl)-*N*-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide], and its metabolite [3-(3,5-dichlorophenyl)-2,4-dioxo-1-imidazolidinecarboximide] in or on the commodities as follows:

Petition ID	CFR Affected	Commodities	Parts per million (ppm)
FAP 4H5440	21 CFR Part 193	Oil, crude (of peanut fractions)	1.0
FAP 4H5440	21 CFR Part 561	Soapstock (of peanut fractions)	10.0

Rhone-Poulenc Inc. has amended this petition by deleting FAP 4H5440 under 21 CFR Part 193, the commodity oil, crude (of peanut fractions) at 1.0 pp.

(Secs. 408(d)(2) 68 Stat. 512, (21 U.S.C. 346a(d)(2)); 409(c)(1), 72 Stat. 1786 (21 U.S.C. 348(c)(1)))

Dated: April 25, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–10798 Filed 5–7–85 8:45 am]

BILLING CODE 6560–50–M

[OPP–240050; PH–FRL 2829–2]

Special Local Need Registrations; Voluntary Cancellations

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: This notice lists names of registrants requesting voluntary cancellation of section 24(c) registrations of their pesticide products in compliance with section 6(a)(1) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended. The State registration for each of these products has already been cancelled by

the issuing State. Distribution or sale of these products by the registrant, using the section 24(c) label, after the effective date of cancellation will be considered a violation of the FIFRA.

EFFECTIVE DATE: June 7, 1985.

ADDRESS: By mail submit comments to:

Information Servies 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.

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 to the submitter. 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:

Sandra English, 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. 728, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703–557–7716).

SUPPLEMENTARY INFORMATION: The following registrants have requested that EPA voluntarily cancel section 24(c) registrations:

1. Abbott Laboratories, North Chicago, IL 60064.

2. Arizona Dept. of Health Services, 411 N. 24th St., Phoenix, AZ 85008.

3. Avitrol Corp., 7644 E. 46th St., Tulsa OK 74145.

4. Ben Lomond State Forest Nursery, 13665 Empire Grade, Santa Cruz, CA 95060.

5. Borderland Products, Inc., 560 Fulton St., P.O. Box 366, Buffalo, NY 14240.

6. Burroughs Welcome Co., Wellcome Animal Health Div., 2000 S. 11th St., Kansas City, KS 66103.

7. Calif. Assn. of Nurserymen, 1419 21st St., Sacramento, CA 95814.

8. Cargill, Inc., Box 9300, Minneapolis, MN 55440.

9. Caribe Biochemicals, Inc., Brandywine Bldg., B–12205, Wilmington, DE 19889.

10. The Chas. H. Lilly Co., 7737 N.E. Killingsworth, Portland OR 87218.

11. Chevron Chemical Co., 940 Hensley St., Richmond CA 94804.

12. Clorox Co., P.O. Box 493, Pleasanton, CA 94566.

13. Connecticut Nurserymen's Assn., Inc., Rm. 109, 30 Lafayette Square, Vernon, CT 06066.

14. Del Norte County Agricultural Commissioner, 2650 Washington Blvd., Crescent City, CA 95331.

15. Pennwalt Corp., Three Parkway, Philadelphia, PA 19102.

16. Dowstown Aerocrop Service, Inc., Rd. #1/U.S. 40, Vineland, NJ 08360.

17. East Side Mosquito Abatement District, 2000 Santa Fe Ave., Modesto, CA 95355.

18. Ed J. Lyng Co., Inc., 625 Kearney Ave., P.O. Box 377, Modesto, CA 95352–3777.

19. Falsy and Besthoff, Inc., 143 River Rd., Edgewater, NJ 07020.

20. Farmcraft, Inc., 8900 SW. Commercial, Tigard, OR 97233.

21. FMC Corp., 2000 Market St., Philadelphia, PA 19103.

22. Fresco County Dept. of Agriculture, 1730 South Maple Ave., Fresco, CA 93702.

23. Georgia Dept. of Agriculture, Agriculture Bldg., Capital Square, Atlanta, GA 30334.

24. Gold-Kist, Inc., 244 Perimeter Center Pkwy., NE., P.O. Box 2210, Atlanta, GA 30301.

25. Great Lakes Chem. Corp., P.O. Box 2200, Highway 52, NW., W. Lafayette, IN 47906.

26. Haynes Chemical Co., P.O. Box 30, East Grand Forks, MN 56721.

27. Hopkins Agricultural Chemical Co., P.O. Box 7532, Madison, WI 53707.

28. Kansas State University, Extension Entomology, Waters Hall, Manhattan, KS 66506.

29. Kocide Chem. Corp., P.O. Box 45539, 12701 Almeda Rd., Houston, TX 77045.

30. MFA Oil Co., 200 South Seventh, Columbia, MO 65201.

31. Mobay Chemical Corp., Agricultural Chemicals Div., P.O. Box 4913, Hawthorn Rd., Kansas City, MO 64120.

32. Monsanto Co., 1101 17th St., NW., Washington, DC 20036.

33. Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803.

34. Pennwalt Corp., Three Parkway, Philadelphia, PA 19102.

35. Perkinson Coptors, Inc., Box 338, Warrensburg, IL 62573.

36. Platte Chemical Co., P.O. Box 667 Greeley, CO 80632.

37. Polk Co. Farmers Cooperative, P.O. Box 47, 8870 Rickreall Rd., Rickreall, OR 97371.

38. Prentiss Drug and Chemical Co., Inc., C.B. 2000, Floral Park, NY 11001.

39. Purdue University, Dept. of Biochemistry, West Lafayette, IN 47907.

40. Riverside Chemical Co., P.O. Box 171376, Memphis, TN 38117.

41. Sacramento County Dept. of Agriculture, 4137 Branch Center Rd., Sacramento, CA 95827.

42. Staple Cotton Cooperative Association P.O. Box 547, Greenwood, MS 38930.

43. Stephenson Chemical Co., Inc., P.O. Box 87188, College Park, GA 30337.

44. Thomas S. Castle Farms, Inc., 190 Mast St., Morgan Hill, CA 95037.

45. Tennessee Dept. of Conservation, 701 Broadway, Nashville, TN 37203.

46. Triangle Chemical Co., P.O. Box 4528, 206 Lower Elm St., Macon, GA 31208.

47. Tri-Cal, Inc., P.O. Box 2, Morgan Hill,. CA 95037.

48. University of Hawaii at Manoa, College of Tropical Agriculture and Human Resources, 3050 Maile Way, Honolulu, HI 96822.

49. Velsicol Chemical Corp. 341 East Ohio St., Chicago, IL 60611.

50. Yolo County Dept. of Agriculture, 1220 N. St., Sacramento, CA 95814.

51. Y-Tex Corp., P.O. Box 1450, Cody, WY 82414.

The following section 24(c) registrations have been voluntarily cancelled:

Special local need Reg. No.	Product name	Registrant	Date registered
Alabama			
AL 77 0006	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	3/14/77
AL 78 0001	Soilbrom 90 EC	Great Lakes Chemical	1/17/78
AL 78 0005	Roundup	Monsanto	4/10/78
AL 80 0018	Atroban WP	Burroughs Wellcome	6/16/80
AL 81 0006	Atroban Cattle Ear Tags	do	3/25/81

Special local need Reg. No.	Product name	Registrant	Date registered
AL 81 0010	Aquathol K Aquatic Weed Killer	Pennwalt	3/30/81
	Arizona		
AZ 76 0009	Cythion Insecticide The Premium Grade Malathion	Arizona Department of Health Services	11/12/76
AZ 76 0009	Malathion ULV Conc. Insecticide	do	11/12/76
AZ 77 0005	Dipel WP	Abbott Laboratories	3/30/77
AZ 78 0016	Niagara Furadan 10	Mobay Chemical	6/29/78
AZ 78 0017	Kocide SD Seed Dressing Ag. Fungicide	Kocide Chemical	6/08/78
AZ 79 0020	Dipel WP	Abbott Laboratories	6/06/79
AZ 80 0018	Atroban WP	Burroughs Welcome	5/13/80
AZ 80 0025	Orthene Forest Spray	Chevron Chemical	5/27/80
AZ 81 0014	Atroban Cattle Ear Tags	Burroughs Welcome	5/21/81
AZ 81 0023	Spencer Sprayule	Mobay Chemical	8/18/81
	Arkansas		
AR 76 0001	Avitrol Corn Chops-99	Avitrol	4/13/76
AR 76 0002	Kocide 101	Kocide Chemical	4/23/76
AR 76 0003	Kocide 404	do	4/23/76
AR 77 0004	Evershield T Seed Protectant	Cargill	3/15/77
AR 77 0020	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	12/19/77
AR 78 0008	Nemacur 3 Emulsifiable Nematicide	Mobay Chemical	3/07/78
AR 78 0009	Nemacur 15 percent Granular Turf Nematicide	do	3/07/78
AR 78 0012	Roundup	Monsanto	6/17/78
AR 78 0019	Bushwack Microencapsulated Insecticide	Pennwalt	7/18/78
AR 81 0005	Soilbrom 90	Great Lakes Chemical	3/09/81
	California		
CA 76 0003	Tri-Brom	Tri-Cal	1/09/76
CA 76 0022	Sodium Hypochlorite	Del Norte Co. Agriculture Commissioner	2/25/76
CA 76 0031	Orthocide 75 Seed Protectant	Ed J. Lyng Co	3/02/76
CA 76 0044	Di-Syston Liquid Conc. Systemic Insecticide	Mobay Chemical	3/19/76
CA 76 0112	Kryocide Natural Cryolite	Pennwalt	5/03/76
CA 76 0117	Dipel WP	Abbott Laboratories	/5/19/76
CA 76 0118	Di-Syston Systemic Liquid Conc. Insecticide	Thomas S. Castle Farms	4/27/76
CA 76 0136	Di-Syston Liquid Conc. Systemic Insecticide	do	5/19/76
CA 76 0190	Terr-O-Gas 67 Pretplant Fumigant	Great Lakes Chemical	9/16/76
CA 76 0199	Pyrocide Mosquito Adulticide Conc. For ULV Fogg	Eastside Mosquito Abatement District	10/06/76
CA 76 0200	Cythion 8 Aquamal	do	10/06/76
CA 76 0202	A-Gel TG-67 Preplant Soil Fumigant	Great Lakes Chemical	10/14/76
CA 76 0212	Kocide 101	Kocide Chemical	11/22/76
CA 76 0217	Ortho BHC 10 Wettable	California Association of Nurserymen	12/09/77
CA 77 0005	Amchem Ambien	Yolo Co. Department of Agriculture	1/10/77
CA 77 0041	Terr-O-Gas 33 Preplant Soil Fumigant	Great Lakes Chemical	3/10/77
CA 77 0042	Terr-O-Gas 50	do	3/10/77
CA 77 0043	GLC Terr-o-gas 75 Preplant Soil Fumigant	do	3/10/77
CA 77 0092	Guthion 50 percent Wettable Powder Crop Insecticide	Mobay Chemical	5/12/77
CA 77 0135	Terr-O-Gas 100 Preplant Fumigant	Great Lakes Chemical	5/23/77
CA 77 0140	Carbon Bisulfide Rodent Fumigant	Yolo Co. Department of Agriculture	5/26/77
CA 77 0141	Methyl Bromide Rodent Fumigant	Yolo Co. Department of Agriculture	5/27/77
CA 77 0215	Dipel WP	Abbott Laboratories	6/15/77
CA 77 0237	That Flowable Sulfur	Kocide Chemical	6/22/77
CA 77 0255	Rodent Bait Block Diphacinone Treated Grain/Paraffin	Fresno Co. Department of Agriculture	6/28/77
CA 77 0266	Carbon Bisulfide Rodent Fumigant	do	6/28/77
CA 77 0325	Gas Cartridges Code 1.1	Sacramento Co. Department of Agriculture	8/08/77
CA 77 0439	Rodent Bait Block Fumarin Treated Grain/Paraffin (.025 percent)	do	9/15/77
CA 77 0440	Rodent Bait Fumarin Treated Grain (0.25 percent)	do	9/15/77
CA 77 0441	Rodent Bait Zinc Phosphide Treated Grain/Paraffin (1.00 percent)	do	9/15/77
CA 77 0442	Rodent Bait Zinc Phosphide Treated Grain (2.00 percent)	do	9/15/77
CA 77 0530	Rodent Bait Block Diphacinone Treated Grain/Paraffin (0)	do	11/17/77
CA 77 0531	Rodent Bait Diphacinone Treated Grain (.005 percent)	do	11/17/77
CA 78 0053	Modown 80 percent Wettable Powder	Ben Lomond State Forestry Service	3/16/78
CA 79 0004	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	2/2/79
CA 79 0049	Bromo-O-Gas Methyl Bromide Soil Fumigant	Great Lakes Chemical	4/12/79
CA 80 0175	Orthene Forest Spray	Chevron Chemical	11/4/80
	Colorado		
CO 77 0005	Kocide Flowable Sulfur	Kocide Chemical	5/02/77
CO 78 0004	Clean Crop Conifer Tree Spray	Platte Chemical	2/16/78
CO 78 0010	Orthene Tree and Ornamental Spray	do	3/21/78
CO 79 0002	Penncap-E Microencapsulated Insecticide	Pennwalt	1/08/79
CO 80 0004	Roundup	Monsanto	3/04/80
	Connecticut		
CT 76 0003	Kocide 101	Kocide Chemical	12/10/76
CT 77 0002	Chlordane 10 G	Connecticut Nurserymen's Association	4/07/77
	Delaware		
DE 77 0005	Lasso EC	Monsanto	6/14/77
DE 78 0001	Pencap M Microencapsulated	Pennwalt	4/19/78
DE 78 0005	Roundup	Monsanto	4/28/78
DE 78 0007	Lasso EC Herbicide	do	5/01/78
DE 78 0010	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	5/08/78

Special local need Reg. No.	Product name	Registrant	Date registered
	Florida		
FL 77 0013	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	5/17/77
FL 78 0001	Soilbrom 90 EC	Great Lakes Chemical	1/27/78
FL 83 0005	Atroban 11 percent EC	Burroughs Wellcome	5/02/83
	Georgia		
GA 76 0005	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	6/18/76
GA 77 0001	Fire Ant Bait (Mirex .1 percent)	Georgia Department of Agriculture	2/28/77
GA 78 0020	Sencor 50 percent W.P. Herbicide	Mobay Chemical	5/22/78
GA 78 0024	Excite Methomyl Bait	Triangle Chemical	7/14/78
GA 79 0012	Parathion 10G	Gold-Kist	9/28/79
GA 80 0006	Bayleton 50 percent Wettable	Mobay Chemical	3/17/80
GA 80 0009	Penncap M	Pennwalt	4/7/80
	Hawaii		
HI 77 0028	Orthene Tree and Ornamental Spray	University of Hawaii	7/15/77
	Idaho		
ID 77 0007	Mesurol 75 percent WP	Mobay Chemical	9/29/77
ID 78 0006	Evershield RTU 1050 Seed Protectant	Cargill	4/20/78
ID 78 0010	Mesurol 50 percent Hopper-Box Treater	Mobay Chemical	4/27/78
ID 78 0013	Penncap M Microencapsulated	Pennwalt	5/05/78
ID 78 0017	Mesurol 75 percent WP	Mobay Chemical	5/23/78
ID 78 0018	Sencor 4 FL	do	5/23/78
ID 79 0027	Chemgro Di-Syston 8	do	10/15/79
	Illinois		
IL 77 0008	Roundup	Monsanto	11/17/77
IL 78 0006	Lasso	do	4/27/78
IL 78 0007	Penncap M Microencapsulated	Pennwalt	8/28/78
IL 79 0016	Mokob 2G	Perkinson Coptors	10/03/79
IL 79 0017	Mokor 5G	do	10/03/79
IL 82 0015	Zinc Phosphide	Hopkins Agricultural Chemical	6/17/82
	Indiana		
IN 77 0005	Field Mouse Bait	Purdue University	5/24/77
IN 77 0007	Red Squill Rat Bait	do	5/24/77
IN 78 0003	Roundup	Monsanto	1/23/78
IN 78 0015	Furadan 10 Granules	Mobay Chemical	10/06/78
IN 80 0009	Knox Out 2FM Insect	Pennwalt	7/03/80
IN 80 0013	Lasso & Atrazine & Bladex Tank Mix	Monsanto	9/15/80
IN 81 0002	IKnox Out 2FM	Pennwalt	3/12/81
IN 81 0003	Furadan 4 Flowable	Mobay Chemical	3/12/81
IN 81 0017	Gardstar	Y-Tex	3/12/81
IN 83 0006	Di-Syston 8	Mobay Chemical	9/02/83
	Iowa		
IA 77 0005	Roundup	Monsanto	12/01/77
IA 83 0009	Di-Syston 8	Mobay Chemical	8/26/83
	Kansas		
KS 76 0004	Sevin Brand Sprayable Carbaryl Insecticide	Kansas State University	8/23/76
KS 77 0001	Penncap M Microencapsulated	Pennwalt	4/18/77
KS 77 0008	Roundup	Monsanto	11/08/77
KS 78 0007	Penncap E Insecticide	Pennwalt	4/19/78
KS 78 0010	Evershield RTU 1050 Seed Protectant	Cargill	6/28/78
KS 78 0012	Penncap M	Pennwalt	7/27/78
KS 78 0013	Furaden 4F	Mobay	1/18/78
KS 78 0020	Evershield RTU 1050 Seed Protectant	Cargill	9/19/78
KS 79 0005	LVG Ester Weed Killer	Platte Chemical	3/27/79
KS 79 0011	Penncap M	Pennwalt	6/19/79
KS 80 0001	Sencor 50 percent WP	Mobay Chemical	2/05/80
KS 80 0003	Roundup	Monsanto	2/25/80
KS 80 0026	Clean Crop Lo-Vol. 4 lbs	Platte Chemical	12/12/80
KS 80 0027	Clean Crop Amine 4-D	do	12/12/80
KS 81 0019	Gardstar	Y-Tex	3/30/81
KS 81 0024	Banvel*Herbicide for Between Cropping System Uses	Velsicol Chemical	4/23/81
KS 82 0010	Penncap ETM insect	Pennwalt	6/01/82
	Kentucky		
KY 77 0002	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	9/23/77
KY 78 0008	Brom-O-Gas Methyl Bromide Soil Fumigant	Great Lakes Chemical	3/09/78
KY 78 0009	Meth-O-Gas Straight 100 percent Methyl Bromide	do	3/09/78
KY 78 0013	Pencap M Microencapsulated	Pennwalt	5/09/78
KY 78 0015	Pencap M Microencapsulated	do	6/22/78
	Louisiana		
LA 76 0001	Avitrol Corn Chops-09	Avitrol	4/28/76
LA 77 0003	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	1/27/77
LA 77 0004	Mesurol 50 percent Hopper Box Treater	Pennwalt	2/23/77
LA 77 0006	Nemacur 10 percent Granular Turf Nematicide	do	3/10/77

Special local need Reg. No.	Product name	Registrant	Date registered
LA 77 0006	Roundup	Monsanto	6/20/77
LA 78 0007	Nemacur 3EC	Pennwalt	10/10/78
LA 78 0014	Dipel WP	Abbott Laboratories	5/01/78
LA 78 0027	Sencor 4FL	Pennwalt	5/07/79
LA 79 0004	Soilbrom 90 EC	Great Lakes Chemical	3/03/79
LA 79 0012	Guthion 2L	Pennwalt	5/07/79
LA 79 0013	Mesurol 50 percent	do	5/08/79
LA 79 0024	Sencor 50 percent WP	do	9/21/79
LA 79 0029	Knox Out 2 FM	do	10/29/79
LA 80 0007	Nemacur 3	do	4/22/80
LA 80 0008	Nemacur 15	do	4/22/80
LA 81 0001	Sencor Sprayable	do	2/13/81
LA 81 0005	Sencor Sprayable	do	3/13/81
LA 81 0008	Gardstar	Y-Tex	3/17/81
LA 81 0011	Monitor 4	Pennwalt	3/23/81
LA 81 0012	Soilbrom 90	Great Lakes Chemical	3/23/81
	Maryland		
MD 77 0002	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	2/23/77
MD 77 0004	Lasso EC Herbicide	Monsanto	6/09/77
MD 77 0005	Roundup	do	6/06/78
MD 77 0030	Prentox (R) Lindane 20 percent EC	Prentiss Drug and Chemical	3/10/81
	Massachusetts		
MA 78 0001	Clorox	Clorox	3/08/78
	Michigan		
MI 76 0001	Mesurol 75 percent WP	Mobay Chemical	4/14/76
MI 76 0002	Morestan 25 percent WP	do	5/11/76
MI 76 0002	Mesurol 75 percent WP	do	4/14/76
MI 76 0005	Lasso EC	Monsanto	2/01/77
MI 76 0006	Lasso EC	do	2/01/77
MI 77 0017	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	6/27/77
MI 77 0021	Roundup	Monsanto	12/21/77
MI 78 0004	Dipel WP	Abbott Laboratories	5/19/78
MI 78 0005	Pencap M Microencapsulated	Pennwalt	5/11/78
MI 78 0007	2 percent Liquid Conc. Pro-Gibb	Abbott Laboratories	6/01/78
MI 78 0008	3.91 percent LC Pro-Gibb	Abbott Laboratories	6/01/78
MI 78 0009	Pencap M Microencapsulated	Pennwalt	6/05/78
MI 78 0012	Guthion 50 percent WP	Mobay Chemical	6/15/78
MI 78 0014	Sencor	do	7/27/78
MI 79 0011	Sencor	do	3/20/79
MI 79 0013	Monitor 4	do	3/23/79
MI 79 0023	Lasso Herbicide	Monsanto	6/19/79
MI 81 0017	Mesurol 75 percent WP	Mobay Chemical	5/06/81
MI 82 0018	Clean Crop Dimethoate 267 EC	Platte Chemical	6/14/82
	Minnesota		
MN 77 0006	Pencap M Microencapsulated	Pennwalt	6/23/77
MN 77 0011	Eversheld RTU 1050 Seed Protectant	Cargill	10/14/77
MN 77 0012	Roundup	Monsanto	12/02/77
MN 80 0002	Ramrod Flowable	do	1/17/80
MN 80 0003	Far-Go	do	2/21/80
MN 80 0005	Eversheld RTU 1050 Seed Protectant	Cargill	3/03/80
MN 81 0017	Hopkins Sevin Carbaryl Bait	Hopkins Agricufture Chemical Co	6/12/81
MN 81 0018	Clean Crop Sevin 5 Bait	Platte Chemical	6/12/81
MN 81 0020	Granular Far-Flo	Monsanto	12/09/81
MN 82 0009	Gardstar Insecticide Ear Tag	Y-Tex	6/08/82
	Mississippi		
MS 76 0004	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	9/23/76
MS 77 0008	Roundup	Monsanto	6/22/77
MS 78 0011	Nemacur 3 Emulsifiable Nematicide	Mobay Chemical	4/13/78
MS 78 0012	Nemacur 15 percent Granular Turf Nematicide	do	4/13/78
MS 78 0024	Riverside Sodium Chlorate	Riverside Chemical	8/24/78
MS 79 0025	Sencor 50 percent WP	Mobay Chemical	9/13/79
MS 80 0015	Sencor 50 percent WP	do	4/08/80
MS 80 0025	Red Panther DSMA Liquid Herbicide	Staple Cotton Cooperation Association	6/06/80
MS 80 0026	Red Panther DSMA Liquid Herbicide	do	6/06/80
MS 80 0042	Riverside 912 Herb.	Riverside Chemical	7/09/80
MS 81 0008	Sencor 75 Wettable Granular	Mobay Chemical	2/13/81
MS 81 0010	Gardstar Insecticide Ear Tag	Y-Tex	2/20/81
MS 81 0058	Sencor 50 percent WP	Mobay Chemical	9/01/81
	Missouri		
MO 77 0003	LO-V 2,4,5-T	MFA Oil	5/20/77
MO 78 0004	Roundup	Monsanto	1/09/78
MO 78 0017	Flowable Ramrod and Atrazine	do	9/27/78
MO 78 0020	Riverside Sodium Chlorate	Riverside Chemical	11/09/78
MO 79 0009	Ramrod and Atrazine Flowable	Monsanto	10/31/79
MO 79 0010	Ramrod Flowable	do	10/31/79
MO 80 0006	Nemacur 3 Emulsifiable Nematicide	Mobay Chemical	4/16/80
MO 80 0007	Nemacur 15 percent Granular	do	4/16/80
MO 80 0010	Atroban WP	Burroughs Wellcome	5/01/80
MO 80 0022	do	do	2/12/81
MO 81 0004	Atroban Cattle Ear Tags	do	3/12/81
MO 81 0005	Atroban Cattle Ear Tabs	do	3/12/81
MO 81 0009	Soilbrom 90 EC	Great Lakes Chemical	3/16/81

Special local need Reg. No.	Product name	Registrant	Date registered
MO 81 0010	Lasso	Monsanto	3/30/81
MO 81 0012	Gardstar Insecticide Ear Tag	Y-Tex	3/31/81
MO 81 0013	Garstar Insecticide Ear Tag	Y-Tex	3/31/81
MO 83 0004	Atroban 11 percent EC	Burroughs Wellcome	1/31/83
	Montana		
MT 78 0002	Kocide SD Seed Dressing Agr. Fungicide	Kocide Chemical	2/27/78
MT 78 0005	Roundup	Monsanto	3/22/78
MT 78 0011	Evershield RTU 1050 Seed Protectant	Cargill	7/10/78
MT 79 0005	Roundup	Monsanto	2/27/79
MT 79 0008	Sencor 50 percent Wettable Powder Hebicide	Mobay Chemical	3/16/79
MT 79 0009	Far-Go Selective Herbicide	Monsanto	3/28/79
MO 80 0002	Roundup	do	2/22/80
MO 80 0005	Kocide SD Plus	Kocide Chemical	4/11/80
MO 81 0008	Gardstar Insecticide Ear Tag	Y-Tex	3/20/81
MO 82 0004	Orthene Forest Spray	Chevron Chemical	3/25/82
	Nebraska		
NE 78 0010	Penncap E Insecticide	Pennwalt	5/15/78
NE 78 0011	Lasso EC Herbicide	Monsanto	6/15/78
NE 78 0014	Penncap M Microencapsulated	Pennwalt	7/17/78
	Nevada		
NV 77 0012	Pencap M Microencapsulated	Pennwalt	6/14/77
NV 80 0009	Orthene Forest Spray	Chevron Chemical	6/03/80
	New Jersey		
NV 77 0006	Kelthane 35 Agr. Miticide Wettable Powder	Dowstown Aerocrop Service	6/24/77
NJ 79 0017	Lasso EC Herbicide	Monsanto	5/30/79
NJ 80 0001	Roundup	do	2/03/80
NJ 81 0012	Mesurol 75 percent WP	Mobay Chemical	5/05/81
NJ 81 0019	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	7/01/81
	New Mexico		
NM 76 0002	Dipel WP	Abbott Laboratories	4/23/76
NM 76 0003	Penncap M Microoncapsulated	Pennwalt	4/26/76
NM 78 0003	Roundup	Monsanto	2/14/78
NM 78 0013	Dipel LC-Biological Insecticide Liquid Concentrate	Abbott Laboratories	5/30/78
NM 78 0014	Dipel WP	do	5/30/78
NM 80 0023	Orthene Forest Spray	Chevron Chemical	2/03/80
	North Carolina		
NC 77 0001	Stephenson Chemical 20 Percent Lindane EC	Stephenson Chemical	1/05/77
NC 78 0010	Roundup	Monsanto	2/16/78
NC 78 0022	Dupont Lexone 41 Metribuzin Weed Killer	Caribe Biochemical	4/04/78
NC 79-0026	Roundup	Monsanto	8/29/79
NC 81 0004	Terr-O-Gas 67, Preplant Soil, Fumigant	Great Lakes Chemical	1/30/81
	North Dakota		
ND 78 0003	Roundup	Monsanto	4/17/78
ND 78 0015	Kocide 5D	Kocide Chemical	12/26/78
ND 79 0012	Sevin Carbaryl Bait	Hopkins Agricultural Chemical	4/19/79
ND 79 0014	Clean Crop Sevin 5 Bait	Platte Chemical	4/07/79
ND 79 0023	4 Percent Malathion Powder Insecticide	Hanes Chemical	8/10/79
ND 81 0016	Sevin Carbaryl Bait	Hopkins Agricultural Chemical	6/09/81
	Ohio		
OH 77 0012	Roundup	Monsanto	12/09/77
OH 81 0002	Gardstar	Y-Tex	2/11/81
	Oklahoma		
OK 78 0001	Roundup	Monsanto	3/15/78
OK 78 0013	Dipel WP	Abbot Laboratories	6/14/78
OK 78 0014	Dipel LC-Biological Insecticide LC	Abbot Laboratories	6/14/78
OK 78 0023	Evershield RTU 1050 Seed Protectant	Cargill	12/31/78
OK 79 0001	Sencor 50 Percent Wettable Powder	Mobay Chemical	1/19/79
OK 79 0002	Sencor 4 FL	do	1/19/79
OK 80 0007	Kocide 404S	Kocide Chemical	5/08/80
OK 81 0009	Orthene Forest Spray	Chevron Chemical	3/18/81
OK 81 0010	Soilbrom 90	Great Lakes Chemical	4/01/81
	Oregon		
OR 76 0002	Guthion 50 Percent WP	Mobay Chemical	2/21/76
OR 76 0003	Dansanit 15 Percent Gran	do	2/21/76
OR 76 0034	Kocide 101	Kocide Chemical	9/24/76
OR 77 0014	Mesurol 75 Percent WP	Mobay Chemical	3/08/77
OR 77 0034	Knox Out 2FM	Pennwalt	5/24/77
OR 78 0009	DZN Diazinon 50W	Polk Co. Farmer's Cooperative	2/28/78
OR 78 0013	Morestan 25 Percent Wettable Powder Miticide	Mobay Chemical	3/27/78
OR 78 0015	Morestan 25 Percent Wettable Powder Miticide	do	3/28/78
OR 78 0024	Mesurol 50 Percent Hopper Box Treater	do	4/25/78
OR 78 0029	Mesurol 75 Percent Wettable Powder	do	6/01/78

Special local need Reg. No.	Product name	Registrant	Date registered
OR 78 0038	Norton EC	Fisons	7/26/78
OR 78 0047	Dip 'N' Gro	FMC	9/06/78
OR 78 0058	Sencor 50 Percent Wettable Powder Herbicide	Mobay Chemical	12/05/78
OR 79 0006	Stephenson Chemicals 20 Percent Lindane EC	Stephenson Chemical	2/26/79
OR 79 0009	Roundup	Monsanto	2/28/79
OR 79 0017	Evershield RTU 1050 Seed Protectant	Cargill	4/06/79
OR 79 0038	Captan 7.5/Omite 4	Farmcraft	5/08/79
OR 79 0041	Di-Syston LC Systemic Insecticide	Mobay Chemical	5/11/79
OR 79 0073	Lasso EC Herbicide	Monsanto	11/13/79
OR 80 0016	Roundup	do	2/12/80
OR 80 0057	Terr-O-Gas 67 Preplant Soil Fumigant	Great Lakes Chemical	6/16/80
OR 80 0058	Terr-O-Gas	do	6/16/80
OR 80 0073	Orthene Forest Spray	Chevron Chemical	7/18/80
OR 80 0074	Norton Flowable Herb	Fisons	7/16/80
OR 82 0065	Miller's Wipeout Slug and Snail Bait	Chas. H. Lilly Co.	9/28/82
	Pennsylvania		
PA 77 0010	Roundup	Monsanto	12/01/77
PA 78 0009	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	6/13/78
PA 80 0012	Roundup	Monsanto	4/21/80
PA 80 0038	Prentox (R)-Lindane 20 percent EC	Prentis Drug and Chemical	7/23/80
PA 80 0004	Atronban WP	Burroughs Wellcome	7/23/80
PA 82 0007	Atroban Cattle Ear Tags	do	3/17/82
PA 82 0008	Gardstar Insecticide Ear Tag	Y-Tex	3/17/82
PA 82 0023	Atroban 11 percent EC	Burroughs Wellcome	10/25/82
	Rhode Island		
RI 78 0001	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	1/17/78
	South Carolina		
SC 76 0001	Stephenson Chemicals, 20 percent Lindane EC	Stephenson Chemical	9/23/76
SC 78 0004	Roundup	Monsanto	1/30/78
SC 79 0002	Sencor 50 percent WP Herb.	Mobay Chemical	2/12/79
SC 79 0014	Penncap M Microencapsulated	Pennwalt	4/11/79
SC 79 0030	F & B Sevin 50 percent WP	Foley & Bestfhoff	8/13/79
SC 79 0032	Penncap M Microencapsulated	Pennwalt	11/21/79
SC 80 0005	Bayleton 50 percent WP	Mobay Chemical	3/31/80
SC 80 0022	Penncap M Microencapsulated	Pennwalt	8/08/80
SC 81 0016	Sencor 75 Wettable Granular Herbicide	Mobay Chemical	5/04/81
	South Dakota		
SD-77-0003	Penncap M	Pennwalt	6/16/77
SD-78-0010	Di-Syston Liquid Conc	Mobay Chemical	11/30/78
SD-80-0007	Roundup	Monsanto	8/13/80
SD-81-0010	Orthene Forest Spray	Chevron Chemical	3/12/81
SD-81-0018	Gardstar Insecticide Ear Tag	Y-Tex	5/18/81
	Tennessee		
TN-76-0004	Di-Syston Liquid Concentrate	Mobay Chemical	4/06/76
TN-77-0001	Stephenson Chemicals 20 pct Lindane EC	Stephenson Chemical	1/26/77
TN-77-0002	Meth-O-Gas Straight 100 pct Methyl Bromide	Great Lakes Chemical	9/19/77
TN-77-0004	Nemacur 15 pct Granular Turf Nematicide	Mobay Chemical	4/06/77
TN-77-0005	Roundup	Monsanto	6/29/77
TN-77-0006	Meth-O-Gas Straight 100 pct Methyl Bromide	Great Lakes Chemical	8/29/77
TN-77-0008	Bro-O-Gas	do	8/29/77
TN-78-0002	Devrinol 2-E	Tennessee Department of Conservation	1/06/78
TN-78-0002	Modown EC	do	1/18/78
TN-78-0002	Vitavax 200 Flowable Fungicide	do	1/18/78
TN-78-0002	Modown 80 pct WP	do	1/18/78
TN-78-0004	Nemacur 15 pct G	Mobay Chemical	4/06/78
TN-78-0005	Nemacur 3	do	2/13/78
TN-78-0007	Dylox Liquid Sol. Insecticide	do	3/15/78
TN-78-0008	Evershield RTU 1050 Seed Protectant	Cargill	4/17/78
TN-78-0008	Evershield RTU 1000 Seed Protectant	do	4/17/78
TN-78-0009	Dipel WP	Abbott Laboratories	4/24/78
TN-78-0011	Nemacur 3 Emulsifiable	Mobay Chemical	5/04/78
TN-79-0002	Soilbrom 90 EC	Great Lakes Chemical	2/28/79
TN-79-0017	Sencor 50 pct WP	Mobay Chemical	5/03/79
	Texas		
TX 76 0001	Avitrol Corn Chops-99	Avitrol	4/07/76
TX 77 0018	Roundup	Monsato	6/22/77
TX 77 0023	Kocide 220	Kocide Chemical	8/11/77
TX 78 0010	Mesurol 50 percent Hopper Box Treater	Mobay Chemical	3/08/78
TX 78 0012	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	3/23/78
TX 78 0016	Dasanit 15 percent Gran. Nematicide	Mobay Chemical	3/29/78
	Utah		
UT 77 0004	Mesurol 75 percent WP	Mobay Chemical	3/14/77
UT 77 0008	Systox 6 Emulsifiable Systemic Insecticide	do	5/05/77
UT 77 0009	Systox 2 Emulsifiable Systemic Insecticide	do	5/05/77
UT 78 0003	Mesurol 75 percent WP	do	4/18/78
UT 79 0010	Pencap M	Pennwalt	5/04/79
UT 80 0007	Orthene Forest Spray	Chevron Chemical	6/09/80

Special local need Reg. No.	Product name	Registrant	Date registered
	Virginia		
VA 76 0004	Terr-O-Cide 72-27	Great Lakes Chemical	2/4/76
VA 76 0008	Di-Syston LC	Mobay Chemical	3/26/76
VA 77 0006	Brom-O-Gas Methyl Bromide Soil Fumigant	Great Lakes Chemical	5/4/77
VA 77 0010	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	6/5/77
VA 79 0018	Topsin M WP	Pennwalt	7/6/79
	Washington		
WA 76 0003	Dasanit 15 percent Granular	Mobay Chemical	3/31/76
WA 76 0035	Kocide 101	Kocide Chemical	12/10/76
WA 76 0036	Kocide 404	do	12/10/76
WA 78 0035	Norton EC	Fisons	7/6/78
WA 79 0018	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemicals	4/17/79
	West Virginia		
WA 80 0063	Orthene Forest Spray	Chevron Chemical	7/10/80
WV 78 0005	Stephenson Chemicals 20 percent Lindane EC	Stephenson Chemical	3/6/78
WV 78 0007	Roundup	Monsanto	6/14/78
WV 80 0003	Penncap M Microencapsulated	Pennwalt	4/9/80
	Wyoming		
WY 78 0003	Roundup	Monsanto	2/27/78
WY 78 0006	Miller's Mosquitocide 700	Chas. H. Lilly	4/12/78

Cancellation of these section 24(c) registrations shall be effective June 7, 1985. Any sale or distribution by the registrant will violate FIFRA section 12(a)(2)(K). EPA will not consider it a violation of FIFRA for the distributors other than the registrant to sell or distribute existing stocks of any of these cancelled products bearing the section 24(c) label. It should be noted, however, that such sale or distribution may not be permitted by applicable State law.

Comments may be filed regarding this notice. Written comments should bear a notation indicating the document control number "[OPP 240050]" and the specific section 24(c) registration number. Any comments filed regarding this notice will be available for public inspection in Rm. 236, CM#2, at the above address from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

(Sec. 6(a)(1) of FIFRA, as amended, 86 Stat. 973, 89 Stat. 751) (7 U.S.C. 136)).

Dated: April 22, 1985.

Steven Schatzow,

Director, Office of Pesticide Program

[FR Doc. 85-10659 Filed 5-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-66118A FRL-2828-7]

Phosdrin 4EC and Vertac Atrazine Technical; Intent To Cancel Registration; Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice; correction.

SUMMARY: This notice corrects voluntary cancellations for Phosdrin 4EC and Vertac Atrazine Technical, which were inadvertently published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: John A. Richards, Chief, Federal Register Staff (TS-788B), Environmental Protection Agency, 401 M St., SW., Washington D.C. 20460 (202-382-2253).

SUPPLEMENTARY INFORMATION: In FR Doc. 85-4630, appearing in the **Federal Register** of February 27, 1985 (50 FR 7959), the products below were inadvertently listed as voluntarily cancelled:

Registration No.	Product name	Registrant	Date registered
201-289	Phosdrin 4EC	Shell Oil Co., 1025 Connecticut Ave., NW., Suite 200 Washington, DC.	Apr. 15, 1971
39511-14	Vertac Atrazine Technical	Vertac Chemical Corp., 5100 Poplar Ave., Memphis, TN	Aug. 9, 1972

Phosdrin 4EC was erroneously listed; it has not been cancelled. Vertac Atrazine Technical has been suspended, not cancelled.

Dated: April 24, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

[FR Doc. 85-10658 Filed 5-7-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 3G2940/T488 AND PP 4G3035/T489; FRL 2831-2]]

American Hoechst Corp. Extension of Temporary Tolerances

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA has extended temporary tolerances for the combined (residues of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxagolyl)- oxy[phenoxy]propanoate and its metabolites of 2-[4-[(6-chloro-2-benzoxazolyl]oxy]phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one in or on certain raw agricultural commodities.

DATE: These temporary tolerances expore April 4, 1986.

FOR FURTHER INFORMATION CONTACT:

By mail: Richard Mountfort, Product Manager (PM) 23, 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. 237, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1830).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of June 27, 1984 (49 FR 26281), announcing the establishment of temporary tolerances for the combined residues of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxazoly)-oxy]phenoxy] propanoate and its metabolites of 2-[4-[(6-chloro-2-benzoxazolyl] oxy[phenoxy]propanoic acid and 6-chloro-2,3-dihydrobenzoxazol-2-one in or on the raw agricultural commodities

rice seed and straw at 0.02 part per million (ppm) (calculated as a parent compound). A temporary tolerance was also published in the **Federal Register** of June 27, 1984, (49 FR 26281) establishing a tolerance for the combined residues of the herbicide and its metabolites in or on the raw agricultural commodity soybean seed at 0.05 ppm. These tolerances were issued in response to pesticide petitions PP 3G2940 and PP 4G3035, submitted by American Hoechst Crop., Agricultural Division, Route 202–206 North, Somerville, NJ 08876. The company has requested extension of temporary tolerances for the combined residues of the herbicide and its metabolites in or on these raw agricultural commodities.

These temporary tolerances have been extended to permit the continued marketing of the raw agricultural commodities named above when treated in accordance with the provisions of experimental use permit (8340–EUP–8), which is being extended under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended, (Pub. L. 95–396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaulated, and it was determined that the extension of these temporary tolerances will protect the public health. Therefore, the temporary tolerances have been extended on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experiment use permit.

2. American Hoechst Corp., must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire April 4, 1986. Residues not in excess of this amount remaining in or on the raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

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

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–534, 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 effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(j), 68 Stat. 516 (21 U.S.C. 346(j)))

Dated: April 29, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85–10915 Filed 5–7–85; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00201; FRL–2830–9]

Subcommittee Meeting of Administrator's Pesticide Advisory Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC), Subcommitee on Labeling will hold a meeting to discuss existing communication networks used to disseminate information regarding the safe use and handling of pesticides, and the effectiveness of those communication networks. The meeting will be open to the public.

DATE: The meeting will take place on Wednesday, May 22, 1985, at 9 a.m. and adjourn by 3 p.m.

ADDRESS: The Subcommittee meeting will be held in: Environmental Protection Agency, Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS–788), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E–636, 401 M St., SW., Washington, D.C. 20460, (202–382–2916).

SUPPLEMENTARY INFORMATION: The meeting will be open to the public, and time will be set aside for public comments concerning the agenda items. Any member of the public wishing to present an oral or written statement relative to the Subcommittee's topics of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above. A complete agenda will be available at the meeting.

Dated: April 29, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–10909 Filed 5–7–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–53071; FRL 283)–7]

Premanufacture Notices Monthly Status Report for February 1985

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substances Control Act (TSCA) requires EPA to issue a list in the **Federal Register** each month reporting the premanufacture notices (PMNs) pending before the Agency and the PMNs for which the review period has expired since publication of the last monthly summary. This is the report for February 1985.

DATE: Written comments are due no later than 30 days before the applicable notice review period ends on the specific chemical substance. Nonconfidential portions of the PMNs may be seen in Rm. E–107 at the address below between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

ADDRESS: Written comments, identified with the document control number "[OPTS–53071]" and the specific PMN number should be sent to: Document Control Officer (TS–793), Information Managment Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E–201, 401 M Street SW., Washington, DC 20460 (202–382–3532).

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Chemical Control Division (TS–794), Office of Toxic Substances, Environmental Protection Agency, Rm. E–613, 401 M Street SW., Washington, DC 20460, (202–382–3725).

SUPPLEMENTARY INFORMATION: The monthly status report published in the **Federal Register** as required under section 5(d)(3) TSCA (90 stat. 2012 (15 U.S.C. 2504)), will identify: (a) PMNs received during February: (b) PMNs received previously and still under

review at the end of February; (c) PMNs for which the notice review period has ended during February; (d) chemical substances for which EPA has received a notice of commencement to manufacture during February and (e) PMNs for the which the review period has been suspended. Therefore, the February 1985 PMN Status Report is being published.

Dated: May 1, 1985.

Linda K. Smith,

Acting Director, Information Management Division.

Premanufacture Notices Monthly Status Report, February 1985

I. 167 Premanufacture Notices Received During the Month

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-457	Generic name: Reaction product of polyisimethylene glycol, methylene bis phenylisocyanate) and alcohols	50 FR 6383 (6384) (2-15-85)	May 1, 1985.
P 85-458	Generic name: Alkyl ester of a trialkoxy-silane	50 FR 6383 (6384) (2-15-85)	May 4, 1985.
P 85-460	Generic name: Substituted succinic anhydride, reaction product with hetero-cyclic amine	50 FR 6383 (6384) (2-15-85)	Do.
P 85-461	Generic name: Hydroxy terminated polyester diol reaction with benzophenone tetracarboxylic dianhydride, terminated with hydroxyethyl methacrylate.	50 FR 6383 (6384) (2-15-85)	Do.
P 85-462	Generic name: Acrylic polymer	50 FR 6383 (6384) (2-15-85)	May 5, 1985.
P 85-463	Generic name: Silane	50 FR 6383 (6384) (2-15-85)	Do.
P 85-464	Generic name: Substituted phenyl azo substituted heteromonocycle	50 FR 6383 (6384) (2-15-85)	Do.
P 85-465	Generic name: Mercaptan terminated polyether polymer	50 FR 6383 (6384) (2-15-85)	Do.
P 85-466	N-butyl cyanoacetate	50 FR 6383 (6384) (2-15-85)	Do.
P 85-467	Generic name: Functional vinyl copolymer	50 FR 6383 (6384) (2-15-85)	May 6, 1985.
P 85-468	Generic name: Polycyclic sulfonic acid salt	50 FR 6383 (6384) (2-15-85)	May 7, 1985.
P 85-469	Generic name: Phosphate(mono/di) methacrylate monomer	50 FR 6383 (6385) (2-15-85)	Do
P 85-470	Generic name: Substituted alkyl butylester	50 FR 6383 (6385) (2-15-85)	Do.
P 85-471	Generic name: Carbomonocylic butyl ester	50 FR 6383 (6385) (2-15-85)	Do.
P 85-472	Generic name: Aromatic polycarbodiimide	50 FR 6383 (6385) (2-15-85)	Do.
P 85-473	Generic name: Alkylaluminum chloride	50 FR 6383 (6385) (2-15-85)	Do.
P 85-474	Generic name: Alkylaluminum chloride	50 FR 6383 (6385) (2-15-85)	Do.
P 85-475	Generic name: Alkylaluminum chloride	50 FR 6383 (6385) (2-15-85)	Do.
P 85-475	Generic name: Alkylaluminum chloride	50 FR 6383 (6385) (2-15-85)	Do.
P 85-476	Generic name: Substituted cyclohexene carboxylic acid	50 FR 7640 (2-25-85)	May 8, 1985.
P 85-477	Generic name: Substituted cyclohexene carboxylic acid	50 FR 7640 (2-25-85)	Do.
P 85-478	Found to be on the inventory		
P 85-479	2,5-furandimethanol	50 FR 7640 (2-25-85)	Do.
P 85-480	Generic name: Cellulose ester	50 FR 7640 (7641) (2-25-85)	Do.
P 85-481	Generic name: Polyamic acid polymer A	50 FR 7640 (7641) (2-25-85)	Do.
P 85-482	Generic name: Polyamic acid polymer B	50 FR 7640 (7641) (2-25-85)	Do.
P 85-483	Generic name: Polyamic acid polymer C	50 FR 7640 (7641) (2-25-85)	Do.
P 85-484	Generic name: Polyamic acid polymer D	50 FR 7640 (7641) (2-25-85)	Do.
P 85-485	Found to be on the inventory		
P 85-486	Found to be on the inventory		
P 85-487	Generic name: Alkylalcohol ethoxylate, phosphate ester, sodium salt	50 FR 7640 (7641) (2-25-85)	May 11, 1985.
P 85-488	Generic name: Vinyl acetate copolymer	50 FR 7640 (7641) (2-25-85)	Do.
P 85-489	Generic name: Polyvinyl alcohol	50 FR 7640 (7641) (2-25-85)	Do.
P 85-490	Generic name: Substituted benzene-sulfonamide	50 FR 7640 (7641) (2-25-85)	Do.
P 85-491	Generic name: Carbonic acid, polymer with 4,4'-(1-methylethylidene)bis(phenol) and hydroxy arene	50 FR 7640 (7641) (2-25-85)	Do.
P 85-492	Generic name: Carbonic acid, polymer with 4,4'-(1-methylethylidene)bis(phenol) and 4-alkyl phenol	50 FR 7640 (7641) (2-25-85)	Do.
P 85-493	Generic name: Carbonic acid, polymer with 4,4'-(1-methylethylidene)bis(phenol) and 4-arallkyl phenol	50 FR 7640 (7641) (2-25-85)	Do.
P 85-494	Generic name: Carbonic acid, polymer with 4,4'-(1-methylethylidene)bis(phenol) and 4-arcycloalkyl phenol	50 FR 7640 (7641) (2-25-85)	Do.
P 85-495	Ethanone, 1-(3-fluorophenyl)-	50 FR 7640 (7642) (2-25-85)	May 12, 1985.
P 85-496	Invalid submission		
P 85-497	2-hydroxy-3-epsilon lysino propyl trimethyl ammonium chloride derivatized soy protein isolate	50 FR 7640 (7642) (2-25-85)	May 13, 1985.
P 85-498	2-hydroxy-3-epsilon lysino propyl trimethyl ammonium chloride derivatized soy protein isolate	50 FR 7640 (7642) (2-25-85)	Do.
P 85-499	Generic name: Polyether polyurethane derivative	50 FR 7640 (7642) (2-25-85)	Do.
P 85-500	Generic name: Modified styrene copolymer	50 FR 7640 (7642) (2-25-85)	Do.
P 85-501	Generic name: Substituted benzopyran	50 FR 7640 (7642) (2-25-85)	Do.
P 85-502	Generic name: Substituted benzopyran	50 FR 7640 (7642) (2-25-85)	Do.
P 85-503	Generic name: Substituted imidic acid, methyl ester, hydrochloride	50 FR 7640 (7642) (2-25-85)	Do.
P 85-504	Generic name: Substituted diisocyanate polymer	50 FR 7640 (7642) (2-25-85)	May 14, 1985.
P 85-505	Generic name: Propoxylated quaternary ammonium compound	50 FR 74640 (7642) (2-25-85)	Do.
P 85-506	Generic name: Inorganic complex of rosin	50 FR 74640 (7642) (2-25-85)	Do.
P 85-507	Generic name: Substituted quinoline	50 FR 74640 (7642) (2-25-85)	Do.
P 85-508	Generic name: Substituted benzopyran	50 FR 74640 (7642) (2-25-85)	Do.
P 85-509	Generic name: Substituted-substituted-substituted-anthraquinone	50 FR 7640 (7643) (2-25-85)	Do.
P 85-510	Generic name: Poly(oxy-1,2-ethanediyl), alpha-higher alkyl C>30, omega-hydroxy	50 FR 7640 (7643) (2-25-85)	Do.
P 85-511	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	May 12, 1985.
P 85-512	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-513	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-514	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-515	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-516	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-517	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-518	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-519	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-520	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-521	Generic name: Terephthalic acid and C_{36}-saturated dimer acid polymer with poly-tetramethylene ether glycol and alkane diols.	50 FR 7640 (7643) (2-25-85)	Do.
P 85-522	Generic name: Polymer of functional acrylates and methacrylates	50 FR 8390 (8391) (3-1-85)	May 15, 1985.
P 85-523	Generic name: Functionally modified urethane	50 FR 8390 (8391) (3-1-85)	Do.
P 85-524	Polymer of hydroxy ethyl acrylate, Desmodur W, Duracarb 122, and Jeffamine D230	50 FR 8390 (8391) (3-1-85)	Do.

PREMANUFACTURE NOTICES MONTHLY STATUS REPORT, FEBRUARY 1985—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-525	Generic name: Modified acrylic terpolymer	50 FR 8390 (8391) (3-1-85)	May 19, 1985.
P 85-526	Generic name: Modified acrylate terpolymer	50 FR 8390 (8391) (3-1-85)	Do.
P 85-527	Generic name: Vinyl-epoxy ester	50 FR 8390 (8391) (3-1-85)	May 20, 1985.
P 85-528	Generic name: Anthranilate schiff base	50 FR 8390 (8391) (3-1-85)	Do.
P 85-529	Generic name: Trisubstituted naphthalenecarboxamide	50 FR 8390 (8391) (3-1-85)	Do.
P 85-530	Generic name: Trisubstituted naphthalenecarboxamide	50 FR 8390 (8391) (3-1-85)	Do.
P 85-531	Prepolymer of ethanol-l,1'-thiobis, ethanol-2-mercapto, reaction product with propylene oxide, and benzene, isocyanato	50 FR 8390 (8392) (3-1-85)	Do.
P 85-532	Generic name: Modified epoxy resin	50 FR 8390 (8392) (3-1-85)	Do.
P 85-533	Generic name: Aminated epoxy resin	50 FR 8390 (8392) (3-1-85)	Do.
P 85-534	Generic name: Alkyl sulfonate	50 FR 8390 (8392) (3-1-85)	Do.
P 85-535	Generic name: Substituted pyridine	50 FR 8390 (8392) (3-1-85)	Do.
P 85-536	Invalid submission		
P 85-537	1-(1-phenylethylidene)-2,2-diphenyl-hydrazine	50 FR 8390 (8392) (3-1-85)	Do.
P 85-538	2,3,3-trimethyl-5-nitro-3H-indole	50 FR 8390 (8392) (3-1-85)	Do.
P 85-539	Generic name: Indolo-isoxazolidinone merocyanine	50 FR 8390 (8392) (3-1-85)	Do.
P 85-540	1,2,3,3-tetramethyl-5-nitro-3H-indolium 4-methylbenzene sulfonate	50 FR 8390 (8392) (3-1-85)	Do.
P 85-541	Generic name: Indolo-pyrrolopyridine carbocyanine	50 FR 8390 (8392) (3-1-85)	Do.
P 85-542	Generic name: Polymethacrylate cationic polymer	50 FR 8390 (8392) (3-1-85)	Do.
P 85-543	2-butenedioic acid (Z-), mono[2-[(1-oxo-2-propenyl)oxy]ethyl]-ester	50 FR 8390 (8392) (3-1-85)	Do.
P 85-544	2-propenoic acid, 2-methyl-, 7,7,9-trimethyl-4,13-dioxo-3,1,4-dioxa-5,12-diaza hexadecane-1,16-diylester	50 FR 10536 (10537) (3-1-85)	
P 85-545	2-propenoic acid-3-(dimethylamino)-2,2-dimethyl-propyl ester	50 FR 10536 (10537) (3-1-85)	Do.
P 85-546	2-propenoic acid, 2-methyl-3,3,5-trimethyl-cyclohexylester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-547	2-propanoic acid, 3,3,5-trimethylcyclo-hexylester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-548	Generic name: Oligoaminoester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-549	Generic name: Poly(methacrylate	50 FR 8390 (8393) (3-1-85)	Do.
P 85-550	Generic name: Poly(methacrylate)	50 FR 8390 (8393) (3-1-85)	Do.
P 85-551	Generic name: 3-carbomethoxypropionyl chloride	50 FR 8390 (8393) (3-1-85)	May 21, 1985.
P 85-552	Generic name: Tetraallyloxyethane/methacrylate polymer	50 FR 8390 (8393) (3-1-85)	Do.
P 85-553	Generic name: Unsaturated ester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-554	Generic name: Unsaturated ester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-555	Generic name: Unsaturated ester	50 FR 8390 (8393) (3-1-85)	Do.
P 85-556	Generic name: 1,3,5-triazine, 2,4,6-traimine, N,N',N''-tris(4-aminophenyl)-	50 FR 8390 (8393) (3-1-85)	Do.
P 85-557	Generic name: Methine dye	50 FR 8390 (8393) (3-1-85)	Do.
P 85-558	Generic name: Waterborne urethane/acrylic polymer	50 FR 9504 (9505) (3-8-85)	May 22, 1985.
P 85-559	Generic name: Alkyl calixaryl acetate	50 FR 9504 (9505) (3-8-85)	Do.
P 85-560	Generic name: Substituted olefinic detone	50 FR 9504 (9505) (3-8-85)	Do.
P 85-561	Generic name: Substituted olefinic alcohol	50 FR 9504 (9505) (3-8-85)	Do.
P 85-562	Generic name: Trimethylolpropane triacrylate octylamino adduct	50 FR 9504 (9505) (3-8-85)	Do.
P 85-563	Generic name: Polyester polymer composed of fumarated rosin, glycerine, diethylene glycol and a polyhydroxyl prepolymer.	50 FR 9504 (9505) (3-8-85)	Do.
P 85-564	Generic name: Polymer of hydroxylethyl acrylate, 4,4'-diphenylmethane disocyanate; and polymethylene polyphenyl isocyanate.	50 FR 9504 (9505) (3-8-85)	Do.
P 85-565	Generic name: Organo sulfonic acid, zinc salt	50 FR 9504 (9505) (3-8-85)	Do.
P 85-566	Generic name: Alcohol ether sulfate, amine salt	50 FR 9504 (9505) (3-8-85)	Do.
P 85-567	Generic name: Silyl ketone acetal	50 FR 9504 (9505) (3-8-85)	May 25, 1985.
P 85-568	Generic name: Difunctional ester	50 FR 9504 (9505) (3-8-85)	May 26, 1985.
P 85-569	Generic name: Styrene/acrylate/methacrylate polymer	50 FR 9504 (9505) (3-8-85)	Do.
P 85-570	Generic name: Ester of olefinic acid	50 FR 9504 (9505) (3-8-85)	Do.
P 85-571	Generic name: Ester of olefinic acid	50 FR 9504 (9505) (3-8-85)	Do.
P 85-572	Generic name: Quaternary ammonium montmorillonite	50 FR 9504 (9505) (3-8-85)	Do.
P 85-573	Generic name: Quaternary ammonium hectorite	50 FR 9504 (9505) (3-8-85)	Do.
P 85-574	Generic name: Substituted benzocyazol-ethylidine	50 FR 9504 (9505) (3-8-85)	Do.
P 85-575	Generic name: Substituted bisbenzophenone	50 FR 9504 (9506) (3-8-85)	Do.
P 85-576	Polymer of phthalic anhydride, 2,2,4-trimethyl-1,3-pentanediol, 2,2'-oxybis (ethanol), and Fascat 4100	50 FR 9504 (9506) (3-8-85)	Do.
P 85-577	Polymer of 1,3-benzenedicarboxylic acid, 1,4-benzenedicarboxylic acid, 2,2'-oxybis (ethanol), 2,2-dimethyl-1,3-propanediol, and 2,2,4-trimethyl-1,3-pentanediol.	50 FR 9504 (9506) (3-8-85)	Do.
P 85-578	Generic name: Substituted stilbene	50 FR 9504 (9506) (3-8-85)	Do.
P 85-579	Generic name: Sulfonated styrene-containing polymer	50 FR 9504 (9506) (3-8-85)	Do.
P 85-580	Generic name: Sulfonated styrene-containing polymer	50 FR 9504 (9506) (3-8-85)	Do.
P 85-581	Generic name: Chlorine-containing styrene copolymer	50 FR 9504 (9506) (3-8-85)	Do.
P 85-582	Generic name: Styrene-containing ion exchange material	50 FR 9504 (9506) (3-8-85)	Do.
P 85-583	Generic name: Chlorosulfonated polystyrene	50 FR 9504 (9506) (3-8-85)	Do.
P 85-584	Generic name: Polymer of acrylate-acrylonitrile, salt	50 FR 9504 (9506) (3-8-85)	May 27, 1985.
P 85-585	Generic name: Alkyd resin	50 FR 9504 (9506) (3-8-85)	Do.
P 85-586	Generic name: Functionally modified acrylic system	50 FR 9504 (9506) (3-8-85)	Do.
P 85-587	Generic name: Reaction product of mono-sulfonated heterocyclic compound with cyclic amine	50 FR 9504 (9506) (3-8-85)	Do.
P 85-588	Generic name: Reaction product of mono-sulfonated heterocyclic compound with cyclic amine	50 FR 9504 (9507) (3-8-85)	Do.
P 85-589	Generic name: Reaction product of mono-sulfonated heterocyclic compound with cyclic amine	50 FR 9504 (9507) (3-8-85)	Do.
P 85-590	Generic name: Reaction product of mono-sulfonated heterocyclic compound with cyclic amine	50 FR 9504 (9507) (3-8-85)	Do.
P 85-591	Generic name: Reaction product of mono-sulfonated heterocyclic compound with cyclic amine	50 FR 9504 (9507) (3-8-85)	Do.
P 85-592	Generic name: Heterocyclic substituted butane	50 FR 9504 (9507) (3-8-85)	Do.
P 85-593	Generic name: Polyamine ion exchange resin	50 FR 9504 (9507) (3-8-85)	Do.
P 85-594	Generic name: Polyamine ion exchange resin	50 FR 9504 (9507) (3-8-85)	Do.
P 85-595	Generic name: Emulsion tetrapolymer	50 FR 9504 (9507) (3-8-85)	Do.
P 85-596	Generic name: 1-substituted-3-alkyl-heteromonocyclic-4-hydroxybenzene	50 FR 9504 (9507) (3-8-85)	Do.
P 85-597	Generic name: 3-alkylheteromonocyclic-4-hydroxy-1-substitutedbenzene	50 FR 9504 (9507) (3-8-85)	Do.
P 85-598	Generic name: Di(trisubstitutedhetero-monocyclic(carbomonocyclicsubstituted))heteropolycycle	50 FR 9504 (9507) (3-8-85)	Do.
P 85-599	Generic name: Di(trisubstitutedhetero-monocyclic (carbomonocyclicsubstituted)) heteropolycycle	50 FR 9504 (9507) (3-8-85)	Do.
P 85-600	Generic name: Di(trisubstitutedhetero-monocyclic (carbomonocyclicsubstituted)) heteropolycycle	50 FR 9504 (9507) (3-8-85)	Do.
P 85-601	Generic name: Disubstituted phenol	50 FR 9504 (9508) (3-8-85)	Do.
P 85-602	Generic name: 2,4-diheteromonocyclic phenol	50 FR 9504 (9508) (3-8-85)	Do.
P 85-603	Generic name: (3-alkylheteromonocyclic-4-hydroxyphenylsubstituted) (3'-subetituted-4'-hydroxyphenylsubstituted) alkyl	50 FR 9504 (9508) (3-8-85)	Do.
P 85-604	Generic name: Di(trisubstitutedhetero-monocyclic(carbomonocyclicsubstituted))heteropolycycle	50 FR 9504 (9508) (3-8-85)	Do.
P 85-605	Generic name: Trisubstituted phenol	50 FR 9504 (9508) (3-8-85)	Do.
P 85-606	Generic name: (3-alkylheteromonocyclic-4-hydroxyphenylsubstituted) (3'-substituted-4'-hydroxyphenylsubstituted) alkyl	50 FR 9504 (9508) (3-8-85)	Do.
P 85-607	Generic name: 2-alkylheteromonocyclic-4-substitutedphenol	50 FR 9504 (9508) (3-8-85)	Do.
P 85-608	Polymer of hydroxy ethyl acrylate, Desmodur W, Jeffamine D230, Teracol 650, and Dianol	50 FR 9504 (9508) (3-8-85)	May 28, 1985.
P 85-609	Generic name: Functionally modified methacrylate polymer	50 FR 9504 (9508) (3-8-85)	Do.
P 85-610	Generic name: Aryl-alkyl dithioether	50 FR 9504 (9508) (3-8-85)	Do.
P 85-611	Generic name: Copper complex of substitute-disazo-naphthalene trisulfonic acid	50 FR 9504 (9508) (3-8-85)	Do.
P 85-612	Generic name: Polymer of substituted aryl olefin	50 FR 9504 (9508) (3-8-85)	Do.
P 85-620	Generic name: Functionally substituted acrylic/methacrylic/styrene polymer	50 FR 9504 (9509) (3-8-85)	Do.

PREMANUFACTURE NOTICES MONTHLY STATUS REPORT, FEBRUARY 1985—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
Y 85-18	Polymer of acrylamide and maleic anhydride	50 FR 8390 (3-1-85)	Mar. 11, 1985.
Y 85-19	Generic name: Polymer polyol	50 FR 8390 (3-1-85)	Mar. 12, 1985.
Y 85-20	Generic name: Vinyl modified alkyd resin	50 FR 8390 (3-1-85)	Do.
Y 85-21	Generic name: Alkyd resin	50 FR 8390 (3-1-85)	Do.
Y 85-22	Generic name: Polyester diol	50 FR 8390 (3-1-85)	Do.
Y 85-23	Generic name: Modified styrene copolymer	50 FR 8390 (3-1-85)	Do.
Y 85-24	Generic name: Polyester polyol	50 FR 9503 (9504) (3-8-85)	Mar. 14, 1985.
Y 85-25	Generic name: Polyester from poly (alkylene ether)glycol and methylene bis (isocyanatobenzene)	50 FR 9503 (9504) (3-8-85)	Do.
Y 85-26	Generic name: Alkyd copolymer	50 FR 9503 (9504) (3-8-85)	Mar. 18, 1985.
Y 85-27	Generic name: A functional methacrylate polymer	50 FR 9503 (9504) (3-8-85)	Mar. 20, 1985.

II. 92 PREMANUFACTURE NOTICES RECEIVED PREVIOUSLY AND STILL UNDER REVIEW AT THE END OF THE MONTH

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-365	Polymer of cyclohexanedimethanol, isophthalic acid, pentaerythritol, tetraisopropyl titanate and trimellitic anhydride	50 FR 1630(1631) (1-11-85)	Apr. 1, 1985.
P 85-366	Generic name: Short oil alkyd resin	50 FR 1630(1631) (1-11-85)	Do.
P 85-367	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Do.
P 85-368	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Do.
P 85-369	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1631) (1-11-85)	Do.
P 85-370	Generic name: Haloalkyl substituted cyclic ether	50 FR 1630(1632) (1-11-85)	Do.
P 85-371	Generic name: Acrylic alkyd resin	50 FR 1630(1632) (1-11-85)	Do.
P 85-372	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-373	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-374	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-375	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-376	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-377	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-378	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-379	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-380	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-381	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-382	Generic name: Aliphatic dicarboxylic acid polymer with alkane diol	50 FR 1630(1632) (1-11-85)	Do.
P 85-383	Phenol, 2,4-bis[(dimethylamino)methyl]-5-methyl	50 FR 2718(2719) (1-11-85)	Apr. 7, 1985.
P 85-384	Generic name: Epoxy amine adduct	50 FR 2718(2719) (1-11-85)	Do.
P 85-385	Generic name: Acrylic rubber dispersion in expoxy resin	50 FR 2718(2719) (1-11-85)	Do.
P 85-386	Generic name: Acrylate functional epoxy resin urethane	50 FR 2718(2719) (1-11-85)	Do.
P 85-387	Generic name: Halogenated acrylate	50 FR 2718(2719) (1-11-85)	Do.
P 85-388	Generic name: Modified copolymer of acrylic and vinyl aromatic monomers	50 FR 2718(2719) (1-11-85)	April 8, 1985.
P 85-389	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718(2719) (1-11-85)	April 9, 1985.
P 85-390	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718(2719) (1-11-85)	Do.
P 85-391	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718(2719) (1-11-85)	Do.
P 85-392	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718(2719) (1-11-85)	Do.
P 85-393	Generic name: Copolymer of unsaturated polyester and allyl-compounds	50 FR 2718(2719) (1-11-85)	Do.
P 85-394	Generic name: Heteropolycyclic azo benzeneamine derivative, salt	50 FR 2718(2720) (1-11-85)	Do.
P 85-395	Generic name: Substituted polyester resin	50 FR 2718(2720) (1-11-85)	Do.
P 85-396	Generic name: Metal salt of organo sulfur compound	50 FR 3592 (1-25-85)	Apr. 13, 1985.
P 85-397	Generic name: Acrylated cellulosic	50 FR 3592 (1-25-85)	Do.
P 85-398	Generic name: Vinyl acetate acrylic copolymer	50 FR 3592(3593) (1-25-85)	Apr. 14, 1985.
P 85-399	N-1-pyrenyl-9-octadnoenamide	50 FR 3592(3593) (1-25-85)	Do.
P 85-400	N-(9-ethyl-9H-carbazol-3-yl)-9-octadecenamide	50 FR 3592(3593) (1-25-85)	Do.
P 85-401	Generic name: Substituted aminoazo-benzene	50 FR 3592(3593) (1-25-85)	Do.
P 85-402	Generic name: Substituted aliphatic alcohol	50 FR 3592(3593) (1-25-85)	Do.
P 85-403	Generic name: Mixed amine/alkane polycarboxylate	50 FR 3592(3593) (1-25-85)	Do.
P 85-404	Generic name: Mixed amine/alkane polycarboxylate	50 FR 3592(3593) (1-25-85)	Do.
P 85-405	Generic name: Phosphated acrylate	50 FR 3592(3593) (1-25-85)	Do.
P 85-406	Condensation product of nonylphenol-formaldehyde, ethoxylate, benzoic acid, maleic anhydride and sodium sulfite	50 FR 3592(3593) (1-25-85)	Apr. 16, 1985.
P 85-407	Condensation product of bisphenol A diglycidyl ether, tri-sec-butylphenol and ethylene oxide	50 FR 3592(3593) (1-25-85)	Do.
P 85-408	Generic name: Polymer from acrylic acid esters and substituted acrylamide	50 FR 3592(3593) (1-25-85)	Do.
P 85-409	Generic name: Acrylate polymer	50 FR 3592(3593) (1-25-85)	Do.
P 85-410	Generic name: Amine substituted imidazolidines	50 FR 3592(3593) (1-25-85)	Do.
P 85-411	Generic name: Amine substituted imidazolidines	50 FR 3592(3594) (1-25-85)	Do.
P 85-412	Generic name: Amine substituted imidazolidines	50 FR 3592(3594) (1-25-85)	Do.
P 85-413	Generic name: Blocked isocyanate resin	50 FR 3592(3594) (1-25-85)	Do.
P 85-414	Generic name: Arylated alkyd resin	50 FR 4896(4897) (2-4-85)	Apr. 17, 1985.
P 85-415	Generic name: Acrylic ester	50 FR 4896(4897) (2-4-85)	Do.
P 85-416	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-417	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-418	Generic name: Acrylic resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-419	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-420	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-421	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-422	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-423	Generic name: Alkyd resin	50 FR 4896(4897) (2-4-85)	Do.
P 85-424	Diphenylsulfone-3,3'-disulfonylhydrazide	50 FR 4896(4897) (2-4-85)	Do.
P 85-425	Generic name: Ether dicarboxylate	50 FR 4896(4897) (2-4-85)	Do.
P 85-426	Generic name: Complex organo-silane	50 FR 4896(4897) (2-4-85)	Apr. 21, 1985.
P 85-427	Generic name: Unsaturated polyster	50 FR 4896(4897) (2-4-85)	Do.
P 85-428	Generic name: Ester modified phenolic resin	50 FR 4896(4898) (2-4-85)	Do.
P 85-429	Generic name: Polyester	50 FR 4896(4898) (2-4-85)	Apr. 22, 1985.
P 85-430	Generic name: Complex organo-silane	50 FR 4896(4898) (2-4-85)	Do.
P 85-431	Generic name: Complex amino ester	50 FR 4896(4898) (2-4-85)	Do.
P 85-432	Generic name: Polyester polyurethane prepolymer	50 FR 4896(4898) (2-4-85)	Do.
P 85-433	1-Propanol, 3-mercapto-	50 FR 4896(4898) (2-4-85)	Do.
P 85-434	Generic name: Substituted cyclopropane carboxylic acid chloride	50 FR 4896(4898) (2-4-85)	Do.
P 85-435	Generic name: Polyether polyol oligomer	50 FR 4896(4898) (2-4-85)	Do.
P 85-436	Generic name: Halogenated silicon magnesium titanium alkoxide	50 FR 4896(4898) (2-4-85)	Do.
P 85-437	Generic name: Hydroxy-propyl-triazine	50 FR 4896(4898) (2-4-85)	Apr. 23, 1985.
P 85-438	Generic name: Bis(substituted-benzamide), N,N'-substituted-	50 FR 4896(4898) (2-4-85)	Do.
P 85-439	Generic name: Unsaturated polyster	50 FR 4896(4898) (2-4-85)	Do.

II. 92 Premanufacture Notices Received Previously and Still Under Review at the End of the Month—Continued

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-440	Methylmethacrylate-styrene-n-vinyl pyrrolidone terpolymer	50 FR 4896(4896) (2-4-85)	Do.
P 85-441	Generic name: Polymer from N-methyl-N-vinylacetamide, acrylic acid and N-substituted acrylamide	50 FR 8390(8391) (3-1-85)	Apr. 24, 1985.
P 85-442	Generic name: 2-Naphthalenediazonium, 5-sulfo, substituted	50 FR 5416 (2-8-85)	Do.
P 85-443	Generic name: Bis(substituted alkyl) disulfide	50 FR 5416 (2-8-85)	Do.
P 85-444	Generic name: Aromatic amidoamine	50 FR 5416 (2-8-85)	Apr. 27, 1985.
P 85-445	Generic name: Unsaturated polyster	50 FR 5416 (2-8-85)	Do.
P 85-446	2,3-isopropylidene dioxyphenol	50 FR 5416 (2-8-85)	Do.
P 85-447	Polymer of 4,4'-isopropylidenedicyclo-hexanol-epichlorohydrin, terephthalic acid, isophthalic acid, adipic acid, tetramethyl ammonium chloride, linseed fatty acid.	50 FR 5416 (2-8-85)	Apr. 28, 1985.
P 85-448	Generic name: Tetra-substituted-biphenol	50 FR 5416(5417) (2-8-85)	Do.
P 85-449	Generic name: Phosphorus acid ester	50 FR 5416(5417) (2-8-85)	Do.
P 85-450	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Apr. 29, 1985.
P 85-451	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-452	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-453	Generic name: Alkyd resin	50 FR 5416(5417) (2-8-85)	Do.
P 85-454	Generic name: Tetra-substituted-biphenol	50 FR 5416(5417) (2-8-85)	Do.
P 85-455	Palm kernel acids, 2-sulfoethyl ester, sodium salt	50 FR 5416(5417) (2-8-85)	Do.
P 85-456	Generic name: Substituted phenylazopyridone trisulfonic acid, alkali metal salt	50 FR 5416(5417) (2-8-85)	Do.

III. 131 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month

(Expiration of the Notice review period does not signify that the chemical had been added to the inventory)

PMN No.	Identity/generic name	FR citation	Expiration date
P 83-1033	Generic name: C_{6+} carboxylic acid	48 FR 37699 (37700) (8-19-83)	Feb. 13, 1985.
P 84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23916 (23920) (6-8-84)	Feb. 4, 1985.
P 84-880	Generic name: Modified melamine formaldehyde polymer	49 FR 28614 (7-13-84)	Feb. 10, 1985.
P 84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29451 (29452) (7-20-84)	Feb. 1, 1985.
P 84-1042	Generic name: Methylammonium n-methyldithiocarbamate	49 FR 33718 (33719) (8-24-84)	Feb. 9, 1985.
P 84-1068	Generic name: N-dimetylthiocarbamylthio-N'-phenyl urea	49 FR 33718 (33722) (8-24-84)	Feb. 1, 1985.
P 84-1184	Generic name: Polychlorofluoro aromatic alkylated hydrocarbon	49 FR 38356 (38357) (9-26-84)	Feb. 28, 1985.
P 85-85	Generic name: Sodium salt of sulfated C_{9-11} alcohol ethoxylate	49 FR 44139 (44142) (11-2-84)	Feb. 6, 1985.
P 85-110	Generic name: Polysulfide polymer	49 FR 45657 (11-19-84)	Feb. 2, 1985.
P 85-111	Generic name: Polymer of disubstituted polysiloxane, substituted phenol and substituted alkanoyl halide	49 FR 45657 (45658) (11-19-84)	Do.
P 85-112	Generic name: Alkanediol-maleic anhydride	49 FR 45657 (45658) (11-19-84)	Feb. 3, 1985.
P 85-113	Generic name: Terephthalic acid, polymer with (poly oxyalkylene) bis (N-aryl trimellitimide) and butanediol	49 FR 45657 (45658) (11-9-84)	Do.
P 85-114	Generic name: Blocked aromatic isocyanate prepolymer	49 FR 45657 (45658) (11-19-84)	Do.
P 85-115	Generic name: Aromatic polyisocyanate	49 FR 45657 (45658) (11-19-84)	Do.
P 85-116	7,9 dimethylspiro (5.5) undecan-3-one	49 FR 45657 (45658) (11-19-84)	Do.
P 85-117	Generic name: Hydroxy resin	49 FR 45657 (45658) (11-19-84)	Do.
P 85-119	Generic name: Hydroxy resin	49 FR 45657 (45658) (11-19-84)	Do.
P 85-120	Generic name: Hydroxy acrylic resin	49 FR 45657 (45658) (11-19-84)	Do.
P 85-121	Generic name: Acrylic copolymer	49 FR 45657 (45658) (11-19-84)	Do.
P 85-122	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45658) (11-19-84)	Do.
P 85-123	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45658) (11-19-84)	Do.
P 85-124	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45658) (11-19-84)	Do.
P 85-125	Generic name: Copolymer of vinyl amides and organic acid salt	49 FR 45657 (45659) (11-19-84)	Do.
P 85-126	Generic name: Unsaturated polyester	49 FR 45757 (45659) (11-19-84)	Feb. 4, 1985.
P 85-127	Generic name: Butanamide, N-substituted alkyl	49 FR 45657 (45659) (11-19-84)	Do.
P 85-128	Generic name: Butanamide, N-substituted alkyl	49 FR 45657 (45659) (11-19-84)	Do.
P 85-129	Generic name: Styrene, acrylate polymer	49 FR 45657 (45659) (11-19-84)	Do.
P 85-130	Generic name: Tetrabromobisphenol A-aromatic tertiary amine salt	49 FR 46482 (11-26-84)	Feb. 6, 1985.
P 85-131	Generic name: Tetrabromobisphenol A-aromatic tertiary amine salt	49 FR 46482 (11-26-84)	Do.
P 85-132	Generic name: Organosilicone copolymer	49 FR 46482 (11-26-84)	Do.
P 85-133	Generic name: Aliphatic olefin	49 FR 46482 (11-26-84)	Do.
P 85-134	Generic name: Intermolecularly rearranged triglycerides	49 FR 46482 (11-26-84)	Feb. 10, 1985.
P 85-135	Generic name: Substituted cyclopentadiene	49 FR 46482 (11-26-84)	Feb. 11, 1985.
P 85-136	Generic name: Substituted aliphatic terminated poly(dimethylsiloxane)	49 FR 46482 (11-16-84)	Do.
P 85-137	Generic name: Polysmic acid ester	49 FR 46482 (11-26-84)	Do.
P 85-138	Generic name: Substituted titanocene	49 FR 46482 (11-26-84)	Do.
P 85-139	Generic name: Complex polyester	49 FR 46482 (11-26-84)	Do.
P 85-140	Generic name: Functional copolymer of styrene with acrylate and methacrylate monomers	49 FR 46482 (46483) (11-26-84)	Do.
P 85-143	Generic name: Iron complex of a substituted phenyl azo	49 FR 46482 (46483) (11-26-84)	Feb. 12, 1985.
P 85-144	Generic name: Salt of substituted butyl acetate	49 FR 46482 (46483) (11-26-84)	Do.
P 85-145	Generic name: Substituted pyridinium salt	49 FR 46482 (46483) (11-26-84)	Do.
P 85-146	Generic name: Biphenyl, 3,3'-dichloro-4-(substituted azo)-4'-((((phenylamino) carbonyl)2-oxoprop-1-yl)azo-	49 FR 46482 (46483) (11-26-84)	Do.
P 85-147	Generic name: Biphenyl, 3,3'-dichloro-4-(substituted azo)-4'-((((phenylamino) carbonyl)2-oxoprop-1-yl)azo)-	49 FR 46482 (46483) (11-26-84)	Do.
P 85-148	Generic name: Modified acrylic copolymer	49 FR 47108 (11-30-84)	Feb. 13, 1985.
P 85-149	Generic name: Epoxy acrylic copolymer	49 FR 47108 (11-30-84)	Do.
P 85-150	Generic name: Fluoranthenamine-substituted-aminoanthraquinone	49 FR 47108 (11-30-84)	Do.
P 85-151	Generic name: Fluoranthenediamine-bis (substitutedaminoanthraquinone) derivative	49 FR 47108 (11-30-P 85)	Do.
P 85-153	Generic name: Reacted epoxy resin	49 FR 47108 (47109) (11-30-84)	Do.
P 85-154	Generic name: Benzoid diester of acetic acid	49 FR 47108 (47109) (11-30-84)	Do.
P 85-156	Generic name: Disubstituted carbopoly-cyclesulfonic acid salt	49 FR 47108 (47109) (11-30-84)	Do.
P 85-157	Generic name: Disubsituted carbopoly-cyclesulfonic acid	49 FR 47108 (47109) (11-30-84)	Do.
P 85-158	Generic name: Aromatic diol	49 FR 47108 (47109) (11-30-84)	Feb. 16, 1985.
P 85-163	Generic name: Cyanoacetate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-164	Generic name: Unsaturated polyester	49 FR 47106 (47109) (11-30-84)	Do.
P 85-165	Polymer of dehydrated castor-oil fatty acids, pentaerithritol, isophthalic acid, linseed oil, dehydrated castor oil, dimethylethanolamine, isononanoic acid and maleic anhydride.	49 FR 47108 (47109) (11-30-84)	Do.
P 85-166	Generic name: Aromatic polycyanate resin	49 FR 47108 (47110) (11-30-84)	Feb. 17, 1985.
P 85-167	Generic name: Organo sulfur compound	49 FR 47108 (47110) (11-30-84)	Do.
P 85-168	Generic name: Functional polyether	49 FR 47108 (47110) (11-30-84)	Do.
P 85-169	Generic name: Polyester polyurethane	49 FR 47108 (47110) (11-30-84)	Do.
P 85-170	Generic name: Fatty ester	49 FR 47108 (47110) (11-30-84)	Do.
P 85-171	Generic name: Fatty ester	49 FR 47106 (47110) (11-30-84)	Do.
P 85-172	Generic name: Fatty ester	49 FR 47108 (47110) (11-30-84)	Do.
P 85-173	Generic name: Cyanoacetate ester	49 FR 47108 (47110) (11-30-84)	Do.
P 85-174	Generic name: Alkenyl substituted carbomonocyclic alkenyl ether	49 FR 47108 (47110) (11-30-84)	Do.

III. 131 Premanufacture Notices for Which the Notice Review Period Has Ended During the Month—Continued

[Expiration of the Notice review period does not signify that the chemical had been added to the inventory]

PMN No.	Identity/generic name	FR citation	Expiration date
P 85-175	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
P 85-176	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
P 85-177	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
P 85-178	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
P 85-179	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47110) (11-30-84)	Do.
P 85-180	Generic name: Branched mono-carboxylic fatty acid	49 FR 47108 (47111) (11-30-84)	Do.
P 85-181	1-[2-methoxyethoxy)-4-methylbenzene	49 FR 47108 (47111) (11-30-84)	Do.
P 85-182	Generic name: Alkyl ester	49 FR 47108 (47111) (11-30-84)	Do.
P 85-183	4,5-dihydro-5-ethyl-2-methyl-3-furancarboxylic acid ethyl ester	49 FR 47108 (47111) (11-30-84)	Do.
P 85-184	Generic name: Naphthoquinone diazide-sulphonic acid ester in formulation with phenol formaldehyde resin	49 FR 47108 (47111) (11-30-84)	Do.
P 85-185	Generic name: Substituted phenyl salt	49 FR 47108 (47111) 11-30-84)	Do.
P 85-186	Generic name: Polyalkyleneoxy alkyl, aryl alkyl, alkyl silicone	49 FR 47108 (47111) 11-30-84)	Feb. 18, 1985.
P 85-187	Generic name: Arylalkyl hydrogen alkyl silicone	49 FR 47108 (47111) 11-30-84)	Do.
P 85-188	Generic name: Polyester diol	49 FR 47108 (47111) 11-30-84)	Do.
P 85-189	Generic name: Alkyl alkoxy siloxane	49 FR 47108 (47111) (11-30-84)	Do.
P 85-190	N,N,-dimethyl-2-nitrobenzenesulfonamide	49 FR 47921 (12-7-84)	Feb. 20, 1985.
P 85-191	Phenyl 4-methoxy-3-nitrobenzenesulfonate	49 FR 47921 (12-7-84)	Do.
P 85-192	2-amino-N,N-dimethylbenzenesulfonamide	49 FR 47921 (12-7-84)	Do.
P 85-193	Phenyl 3-amino-4-methoxybenensulfonate	49 FR 47921 (12-7-84)	Do.
P 85-195	Generic name: Substituted silyl epoxide	49 FR 47921 (47922) (12-7-84)	Do.
P 85-196	Generic name: Substituted alkyl silyl urea	49 FR 47921 (47922) 12-7-84)	Do.
P 85-197	Melamine cyanurate	49 FR 47921 (47922) (12-7-84)	Do.
P 85-198	Generic name: Alkylated aromatic diamine	49 FR 47921 (47922) (12-7-84)	Feb. 23, 1985.
P 85-199	Generic name: Hydrocarbon resin	49 FR 47921 (47922) 12-7-84)	Do.
P 85-200	Generic name: Cyanoacrylate ester	49 FR 47921 (47922) 12-7-84)	Do.
P 85-201	Generic name: Substituted dioxazine	49 FR 47921 (47922) 12-7-84)	Do.
P 85-202	Generic name: Substituted dioxazine	49 FR 47921 (47922) 12-7-84)	Do.
P 85-203[1]	Generic name: Sulfur-containing polyalkylene oxides	49 FR 47921 (47922) 12-7-84)	Do.
P 85-213	Generic name: Aromatic polyurethane prepolymer containing tertiary amine	49 FR 47921 (47922) 12-7-84)	Do.
P 85-214	Generic name: Aromatic polyurethane prepolymer containing polyether	49 FR 47921 (47922) 12-7-84)	Do.
P 85-215	Generic name: Polyester polyol	49 FR 47921 (47922) 12-7-84)	Do.
P 85-217	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) 12-7-84)	Feb. 24, 1985.
P 85-218	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) 12-7-84)	Do.
P 85-219	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) 12-7-84)	Do.
P 85-220	Generic name: Polymer of diisocyanate with glycol	49 FR 47921 (47923) 12-7-84)	Do.
P 85-221	Generic name: Polymer of diisocyanate	49 FR 47921 (47923) (12-7-84)	Do.
P 85-222	Generic name: Polymer of diisocyanate	49 FR 47921 (47923) (12-7-84)	Do.
P 85-223	Generic name: Polyester diol	49 FR 47921 (47923) (12-7-84)	Do.
P 85-224	Generic name: Polyster polyol	49 FR 47921 (47923) (12-7-84)	Do.
P 85-225	2-n-butoxyethyl 4-(dimethylamino)benzoate	49 FR 47921 (47923) (12-7-84)	Do.
P 85-226	Generic name: Substituted succinic acid	49 FR 47921 (47923) (12-7-84)	Do.
P 85-227	Generic name: Acrylic acid ester	49 FR 47921 (47923) (12-7-84)	Do.
P 85-228	Generic name: Disubstituted pyridinium	49 FR 47921 (47923) (12-7-84)	Do.
P 85-229	Generic name: Epoxy polyester	49 FR 47921 (47923) (12-7-84)	Do.
P 85-230	Generic name: Acrylated alkyd resin	49 FR 47921 (47923) (12-7-84)	Do.
P 85-231	Generic name: Polyester base	49 FR 47921 (47924) (12-7-84)	Do.
P 85-232	Chromate (2-), [2-[1-(3-chlorophenyl)-4,5-dihydro-3-methyl-5-oxo-1[H-pyrazol-4-yl]azo]-5-sulfobenzoato-(2)][2-[4,5-dihydro-5-oxo-1,3-diphenyl-1H-pyrazol-4-yl)azo]benzoato(2-)]-, sodium hydrogen (9Cl).	49 FR 47921 (47924) (12-7-84)	Do.
P 85-233	Generic name: Benzeneamine, 4-[dichloro-1,3-benzothiazol-2-yl)azo]-N-methyl-N-(3-phenylpropyl)-	49 FR 47921 (47924) (12-7-84)	Do.
P 85-235	Generic name: Vegetable oil polymer with alkane diols	49 FR 47921 (47924) (12-7-84)	Feb. 26, 1985.
P 85-237	Strontium, calcium, barium chloride phosphate; europium activated	49 FR 48801 (48802) (12-14-84)	Feb. 27, 1985.
Y 85-1	Generic name: Polyoxymethylene co-polymer	50 FR 2720 (1-18-85)	Jan. 24, 1985.
Y 85-2	Generic name: Linear saturated polyester resin containing hydroxyl groups	50 FR 2720 (1-18-85)	Jan. 27, 1985.
Y 85-3	Generic name: Modified styrene copolymer	50 FR 3592 (1-25-85)	Jan. 31, 1985.
Y 85-4	Generic name: Acrylic copolymer	50 FR 3592 (1-25-85)	Jan. 24, 1985.
Y 85-5	Generic name: Polymer of styrene with substituted acrylates and methacrylates	50 FR 3592 (1-25-85)	Feb. 4, 1985.
Y 85-6	Polymer of cyclohexanedimethanol, isophthalic acid, pentaerythritol, tetraisopropyl titanate and trimellitic anhydride	50 FR 3592 (1-25-85)	Do.
Y 85-7	Generic name: Alkyd resin	50 FR 4790 (2-1-85)	Feb. 7, 1985.
Y 85-8	Generic name: Alkyd resin	50 FR 4790 (2-1-85)	Do.
Y 85-9	Generic name: Aromatic polycarbodiimide	50 FR 4790 (2-1-85)	Do.
Y 85-10	Generic name: Alkyd resin	50 FR 4790 (2-1-85)	Feb. 12, 1985.
Y 85-11	Generic name: Alkyd resin	50 FR 4790 (2-1-85)	Do.
Y 85-12	Generic name: Rosin-modified phenolic resin	50 FR 4790 (2-1-85)	Do.
Y 85-13	Generic name: Polymer of aromatic diisocyanates, aliphatic diisocyanates, aliphatic glycols and aliphatic diacid	50 FR 4790 (2-1-85)	Do.
Y 85-14	Generic name: Rosin-modified phenolic resin	50 FR 5417 (2-8-85)	Feb. 17, 1985.
Y 85-15	Polymer of soybean oil, pentaerythritol, phthalic anhydride, intermediate, 1,2-propanediol, 2,4-tolylene diisocyanate and 2,6-tolylene diisocyanate.	50 FR 5417 (5418) (2-8-85)	Feb. 18, 1985.
Y 85-16	Polymer of phthalic anhydride, trimethylolpropane and Tone 0200 polycaprolactone diol	50 FR 5417 (5418) (2-8-85)	Do.
Y 85-17	Generic name: Ethylene terpolymer	50 FR 5417 (5418) (2-8-85)	Feb. 19, 1985.

[1] PMNs 85-204 through 85-212 have been consolidated into PMN 85-203.

IV. 55 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture

PNM No.	Chemical identification	FR citation	Date of commencement
P 81-509	Generic name: Lower alkyl ester of an alkyl propionic acid	46 FR 50410 (50411) (10-31-81)	Aug. 10, 1984.
P 82-537	Generic name: Amide/amine salt of dicarboxylic acid	47 FR 35332 (35333) (8-13-82)	Feb. 22, 1985.
P 82-707	Generic name: Neutralized reaction product of an alkanedioic acid and substituted alkane	47 FR 44608 (44609) (10-8-82)	Jan. 11, 1985.
P 83-279	Generic name: Chlorinated, oleated, hydrocarbon polymer	47 FR 57332 (57334) (12-23-82)	Nov. 10, 1983.
P 83-474	2-propenoic acid, (2,4,6-trioxo-1,3,5-triazine-1,3,5(2H,4H,6H)-triyl) tri-2,1-ethanediyl ester	48 FR 7299 (7301) (2-18-83)	Oct. 9, 1984.
P 83-1153	Generic name: Urethane compound	48 FR 41638 (41642) (9-16-83)	Jan. 19, 1984.
P 83-1154	Generic name: Urethane compound	48 FR 41638 (41642) (9-16-83)	Jan. 12, 1984.
P 83-1245	Generic name: Polyester	48 FR 45397 (45400) (9-23-83)	Jan. 24, 1985.
P 84-28	Generic name: Flexibilized dicyclopentadiene modified unsaturated polyester resin	48 FR 48863 (48865) (10-21-83)	Feb. 13, 1985.
P 84-40	Generic name: Oil modified polyester	48 FR 48863(48866) (10-21-83)	Jan. 17, 1985.
P 84-228	Generic name: Modified copolymer of alkenoic esters and substituted alkenoic esters with styrene	48 FR 55332 (55333) (12-12-83)	Nov. 2, 1984.
P 84-366	Generic name: Substituted Phenylmagnesium cloride	49 FR 6160 (6161) (2-17-84)	Oct. 8, 1984.

IV. 55 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture—Continued

PMN No.	Chemical identification	FR citation	Date of commencement
P 84-396	Dipentaerythritol, adipic acid ester	49 FR 6160 (6162) (2-17-84)	Oct. 27, 1984.
P 84-477	Generic name: Styrene, alpha olefin, 2,5-furandione copolymer	49 FR 9954 (9955) (3-16-84)	Feb. 11, 1985.
P 84-478	Generic name: Ammonia salt of styrene, alpa olefin, 2,5-furandione copolymer	49 FR 9954 (9955) (3-16-84)	Do.
P 84-490	Generic name: Substituted aminofluorane	49 FR 11009 (11010) (3-23-84)	Jan. 16, 1985.
P 84-537	Generic name: Unsaturated amino ester salt	49 FR 13744 (13745) (4-6-84)	Feb. 4, 1985.
P 84-598	Generic name: Alkoxy functional alkyl substituted silicone resin	49 FR 16833 (16835) (4-20-84)	Dec. 28, 1984.
P 84-689	Generic name: Sulfurized reaction products of animal oil and vegetable fatty ester	49 FR 21113 (21114) (5-18-84)	Jan. 4, 1985.
P 84-694	Generic name: Bisphenol A diester	49 FR 22128 (22129) (5-25-84)	Sept. 10, 1984.
P 84-763	Polymer of vinyl acetate, butyl acrylate, hydroxy ethyl acrylate and acrylic acid	49 FR 23916 (23918) (6-6-84)	Feb. 7, 1985.
P 84-792	Generic name: Disubstituted anthraquinone-2-sulfonic acid, alkali metal salt	49 FR 23915 (23920 (6-8-84)	Feb. 5, 1985.
P 84-793	Generic name: Disubstituted anthraquinone-2-sulfonic acid	49 FR 23916 (23920 (6-8-84)	Do.
P 84-860	Generic name: Disubstituted nitrobenzene	49 FR 26600 (26601) (6-29-84)	Jan. 22, 1985.
P 84-870	Generic name: Disubstituted nitrobenzoic acid	49 FR 26600 (26602) (6-29-84)	Jan. 21, 1985.
P 84-882	3,5-dichloro-2-Hydroxybenzenesulfonate, disodium	49 FR 28614 (28615) (7-13-84)	Feb. 1, 1985.
P 84-896	Indole-3-acrylic acid	49 FR 28614 (28616) (7-13-84)	Dec. 1, 1984.
P 84-897	3,3',5,5'-tetramethylbenzidine dihydrochloride	49 FR 28614 (28616) (7-13-84)	Feb. 14, 1985.
P 84-927	Generic name: Carbopolycyclic alkenyl ether	49 FR 29451 (29452) (7-20-84)	Feb. 4, 1985.
P 84-951	Generic name: Substituted aminobenzoic acid ester	49 FR 30238 (30239) (7-27-84)	Jan. 14, 1985.
P 84-1042	Methylammonium n-methyldithiocarbamate	49 FR 33718 (33719) (8-24-84)	Feb. 12, 1985.
P 84-1043	Generic name: Sulfurized magnesium soap	49 FR 33718 (33719) (8-24-84)	Jan. 6, 1985.
P 84-1046	2-naphthylamine-3,6,8-trisulfonic acid, disodium salt	49 FR 33716 (33719) (8-24-84)	Dec. 7, 1984.
P 84-1089	Generic name: Modified, maleated metal resinate	49 FR 34572 (34574) (8-31-84)	Nov. 27, 1984.
P 84-1139	Generic name: Cellulosic ether	49 FR 36151 (36152) (9-14-84)	Dec. 21, 1984.
P 84-1141	Generic name: Phenylene bis-[benzothiazoyloxoalkylamide][methyl-imidazole] derivative mixed salts	49 FR 36151 (36152) (9-14-84)	Jan. 18, 1985.
P 84-1164	Generic name: Disubstituted benzoic acid ester	49 FR 37458 (37459) (9-24-84)	Jan. 15, 1985.
P 84-1205	Benzeneamine, 2-hydroxy-5-[(2-sulfooxy-ethyl)sulfonyl]	49 FR 39379 (39380) (10-5-84)	Jan. 3, 1985.
P 84-1226	Generic name: Substituted amine-boron compound	49 FR 39379 (39381) (10-5-84)	Jan. 11, 1985.
P 85-6	Generic name: Alkyl phosphate potassium salt	49 FR 41100 (41101) (10-19-84)	Jan. 10, 1985.
P 85-13	Generic name: Substituted borazole polymer	49 FR 41100 (41102) (10-19-84)	Jan. 18, 1985.
P 85-51	Generic name: Monoethanolamine salt of lignin	49 FR 43105 (43107) (10-26-84)	Jan. 16, 1985.
P 85-52	Generic name: Modified fatty acid polyamine condensate	49 FR 43105 (43107) (10-26-84)	Feb. 1, 1985.
P 85-56	Generic name: Alkylcycloalkenyl ketone	49 FR 44139 (11-2-84)	Jan. 24, 1985.
P 85-57	Generic name: Cycloalkenyl alkyl oxirane	49 FR 44139 (44140) (11-2-84)	Do.
P 85-58	Generic name: Cycloalkenyl alkyl thirane	49 FR 44139 (44140) (11-2-84)	Do.
P 85-59	Generic name: Cycloalkenyl alkyl thiol	49 FR 44139 (44140) (11-2-84)	Do.
P 85-72	Lanthanum phosphate, cerium and terbium activated	49 FR 44139 (44141) (11-2-84)	Jan. 30, 1985.
P 85-78	Generic name: Substituted propionamide	49 FR 44139 (44141) (11-2-84)	Jan. 23, 1985.
P 85-83	Generic name: Polyester from dimethyl terephthalate, ethylene glycol and 3-substituted propanoic acid glycol ester	49 FR 44139 (44141) (11-2-84)	Feb. 4, 1985.
P 85-87	Generic name: Sulfonated carbocyclic diester	49 FR 44676 (11-8-84)	Feb. 12, 1985.
P 85-99	Generic name: (Polyoxyalkylene) bis (N-trimellitimide)	49 FR 44676 (44677) (11-8-84)	Feb. 15, 1985.
P 85-102	Generic name: Modified soybean-tung alkyd resin	49 FR 44676 (44678) (11-8-84)	Feb. 1, 1985.
P 85-113	Generic name: Terephthalic acid, polymer with (polyoxyalkylene)bis(N-aryl trimellitimide) and butanediol	49 FR 45557 (45558) (11-19-84)	Feb. 15, 1985.
P 85-132	Generic name: Organosilicone copolymer	49 FR 46482 (11-26-84)	Feb. 11, 1985.

V. 109 Premanufacture Notices for Which the Review Period Has Been Suspended

PMN No.	Identity/generic name	FR citation	Date suspended
P 83-1	Generic name: Polyhalogenated aromatic alkylated hydrocarbon	47 FR 48371 (10-18-82)	Oct. 22, 1982.
P 83-333	Generic name: Reaction product of polycyclosulfonic acid salt with phosphorus halide/halogen, subsequent reaction with an amine, subsequent reaction with an aldehyde/sodium bisulfite adduct.	48 FR 72 (73) (1-3-83)	Mar. 14, 1983.
P 83-401	Generic name: Naphthalenetrisulfonic acid, chlorortriazinylamino-methoxymethyl phenylazo	48 FR 5304 (2-4-83)	Aug. 18, 1983.
P 83-418	Generic name: Benzenedisulfonic acid, chlorotriazinylaminodimethy/phenylazo-sulfonaphthaleneazo-	48 FR 5304 (5306) (2-4-83)	Feb 19, 1985.
P 83-461	Generic name: Substituted alkosy silane	48 FR 7299 (7300) (2-18-83)	July 1, 1983.
P 83-634	Generic name: Substituted mono azo aromatic	48 FR 17385 (4-22-83)	July 5. 1983.
P 83-669	Generic name: Chromium complex of substituedphenolazosulfonaphthol with naphtholazosulfonaphthol	48 FR 20490 (5-6-83)	(Aug. 5, 1983)
P 83-677	Generic name: 20490 Chromium complex of substituted alkylaminoformimidphenol with sulfonaphtholazosulfophenylpyrazolone.	48 FR 20490 (20491) (5-6-83)	Do.
P 83-770	Generic name: Cobalt complex of a substituted phenolazonaphthol	48 FR 24967 (24968) (6-3-83)	Aug. 15, 1983.
P 83-771	Generic name: Chromium complex of substituted phenolazoalkylarylamino-formimidphenol with sulfonaphthylazo-sulfonaphthol.	48 FR 24967 (24968) (6-3-83)	Do.
P 83-860	Generic name: Metal complexed substituted aromatic azo compound	48 FR 30434 (30435) (7-1-83)	Sept. 21, 1983.
P 83-875	4-(2-cyano-4-nitrophenylazo)-[N-(2-cyanoethyl)-N-(2-phenoxyethyl)amino] benzene	48 FR 31460 (31462) (7-8-83)	Do.
P 83-876	4-(2-cyano-4-nitrophenylazo)-[N,N-bis(2-propionyloxyethyl)amino]-3-chlorobenzene	48 FR 31460 (31462) (7-8-83)	Do.
P 83-913	Generic name: Copper sulfonylphenazoply-hydroxy phenazobenzoate	48 FR 32381 (32383) (7-15-83)	Oct. 1, 1983.
P 83-1006	Generic name: (Amino)-(hydoxy)-(substituted) (substituted) naphthalenedi-sulfonic acid, and (amino)-(hydroxy)-(substituted)-(substituted) naphthalenedi-sulfonic acid, salts with sodium and patassium.	48 FR 36647 (36648) (8-12-83)	Do.
P 83-1007	Generic name: (Substituted)-(substituted-hydroxy-naphthalenesulfonic acid, sodium salts	48 FR 36647 (36648) (8-12-83)	Do.
P 83-1012	Generic name: Bis(sulfonphenylchloro-triazinaminosulfophenylazo) hydroxyamino-disulfonaphthalene	48 FR 36647 (36648) (8-12-83)	Oct. 24, 1983.
P 83-1018	Generic name: Substituted-naphthalene tetradisulfonic acid, bis[(substituted-hydroxyphenylazo)phenyl]derivative	48 FR 36647 (36649) (8-12-83)	Do.
P 83-1238	Generic name: Substituted anthraquinone	48 FR 43397 (43400) (9-23-83)	Dec. 9, 1983.
P 84-15	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Feb. 9, 1985.
P 84-17	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48864) (10-21-83)	Do.
P 84-18	1(1,1 dimethylethoxy)-propan-2-ol	48 FR 48863 (48864) (10-21-83)	Jan. 6, 1984.
P 84-36	Generic name: Substituted heterocyclic metal complex	48 FR 48863 (48866) (10-21-83)	Feb. 9, 1985.
P 84-50	Generic name: Substituted heterocyclic metal complex	48 FR 50951 (50952) (11-4-83)	Do.
P 84-64	Generic name: Substituted-phenylamino monochloro-triazinylamino sulfophenylazo-substituted-disulfonaphthalenylazo-naphthalene-disulfonic acid, hexasodium salt.	48 FR 50951 (50953) (11-4-83)	July 9, 1984.
P 84-109	Generic name: Trisubstituted heterocyclic disubstituted monocycle	48 FR 50944 (50945) (11-4-83)	Mar. 5, 1984.
P 84-121	Generic name: Substituted heterocyclic metal complex	48 FR 50944 (50946) (11-4-83)	Feb. 9, 1985.
P 84-306	Benzoic acid, 2-(((2-[(2-methyl-1-oxo-2-propenyl)oxy)ethyl)amino)carbonyl)oxy-, methyl ester	49 FR 930 (932) (1-6-84)	Mar. 22, 1984.
P 84-307	2-propenoic acid, 2-methyl-, 2-((hexahydro 2-oxo-1H-azepin-1-yl)carbonyl)amino)ethyl ester	49 FR 930 (932) (1-6-84)	Do.
P 84-375	Generic name: Sodium salt of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	Jan. 10, 1985.
P 84-376	Generic name: Aryl esters of alkyl dithiocarbamates	49 FR 4980 (4981) (2-9-84)	Do.
P 84-391	Generic name: Cuprate(5-), [5-hydroxy-2-[[4-[[5-hydroxy-6-[[2-methoxy-5-(substituted)phenyl]azo]-7-sulfo-2-naphthalenyl]amino]-6-[(3-sulfophenyl)amido)]-1,3,5-triazin-2-yl]amino]-6-[(2-hydroxy-5-sulfophenyl)]azo-1,7-naphthalene-disulfonato(7-)], pentasodium.	49 FR 6160 (6162) (2-17-84)	Apr. 27, 1984
P 84-392	Generic name: Alkoxylated cycloaliphatic diamine	49 FR 6160 (6162) (2-17-84)	Do.
P 84-485	Generic name: Poly(oxy-1,2-ethanediyl) alpha-acyl-w-alkyl	49 FR 11009 (11010) (3-23-84)	June 4, 1984.

V. 109 PREMANUFACTURE NOTICES FOR WHICH THE REVIEW PERIOD HAS BEEN SUSPENDED—Continued

PMN No.	Identity/generic name	FR citation	Date suspended
P 84-591	Generic name: Sodium salt of an alkylated, sulfonated aromatic	49 FR 16833 (16835) (4-20-84)	Aug. 21, 1984.
P 84-597	Generic name: Blocked aliphatic poly-isocyanate	49 FR 16833 (16835) (4-20-84)	July 19, 1984.
P 84-469	Generic name: Chromate, bis(substituted substituted phenolato)inorganic salts	49 FR 19110 (19113) (5-4-84)	July 20, 1984.
P 84-650	Generic name: Chromate, bis(substituted substituted substituted pyrazolyl), sodium	49 FR 19110 (19113) (5-4-84)	Do.
P 84-651	Generic name: Chromate, bis(substituted substituted naphthalenolato)sodium	49 FR 19110 (19113) (5-4-84)	Do.
P 84-664	Generic name: Chromate, bis(substituted substituted phenolato)(substituted substituted substituted substituted phenolato)sodium.	49 FR 20060 (20061) (5-11-84)	Do.
P 84-665	Generic name: Chromate, bis(substituted substituted substitutee phenolato), sodium	49 FR 20060 (20061) (5-11-84)	Do.
P 84-669	Oleic, linoleic, palmitic acid ester of ethoxylated $C_{12}C_{14}$ alcohols	49 FR 20060 (20061) (5-11-84)	July 18, 1984.
P 84-673	Generic name: Chromate (substituted naphthalenolato) (substituted substituted naphthalenolato) inorganic salts	49 FR 20060 (20061) (5-11-84)	July 20, 1974.
P 84-698	Generic name: 9, 10-Anthracenedione sulfonic acid, sodium salt	49 FR 22128 (22129) (5-25-84)	Aug. 10, 1984.
P 84-703	Oxo-octyl acetate	49 FR 22128 (22128) (5-25-84)	Oct. 29, 1984.
P 84-713	Generic name: Acrylated alkoxylated aliphatic polyol	49 FR 22128 (22130) (5-25-84)	Feb. 1, 1985.
P 84-737	Generic name: Glycol ether	49 FR 22865 (22866) (6-1-84)	Nov. 19, 1984.
P 84-738	Generic name: Glycol ether	49 FR 222865 (22866) (6-1-84)	Nov. 29, 1984.
P 84-742	Generic name: Cross-linked modified polyvinyl amide	49 FR 22865 (22866) (6-1-84)	Aug. 22, 1984.
P 84-796	Generic name: Polyfunctional aziridine	49 FR 24782 (6-15-84)	Dec. 17, 1984.
P 84-814	Generic name: Polysubstituted polyol	49 FR 24782 (24784) (6-15-84)	Jan. 4, 1985.
P 84-824	Generic name: Brominated aromatic	49 FR 25676 (6-22-84)	Feb. 7, 1985.
P 84-858	Generic name: Polyalkylene glycol ether acrylate	49 FR 26800 (26801) (6-29-84)	Jan. 3, 1985.
P 84-881	Generic name: Modified polymer of styrene with alkyl acrylate and alkyl methacrylates	49 FR 28614 (28615) (7-13-84)	Oct. 31, 1984.
P 84-886	Generic name: Triazine derivative	49 FR 28614 (28615) (7-13-84)	Oct. 22, 1984.
P 84-895	Generic name: Substituted-substituted benzenesulfonic acid coupled with substituted-substituted benzenes and substituted substituted naphthalenedisulfonic acid, sodium salt	49 FR 28614 (28616) (7-13-84)	Nov. 16, 1984.
P 84-900	1,3,5-Triazine-2,4,6 (1H,3H,5H)-trione, 1,3,5-tris(2,3-dibromopropyl)-	49 FR 28616 (28817) (7-13-84)	Mar. 26, 1985.
P 84-901	Bis(tetrabromobisphenol A)Bis(tribromophenyl)ethylenetetracarbonate	49 FR 28616 (28817) (7-13-84)	Feb. 7, 1985.
P 84-902	Hexabromodiphenyl amine	49 FR 28616 (28617) (7-13-84)	Do.
P 84-903	N-methylhexabromodiphenyl amine	49 FR 28616(28617) (7-13-84)	Do.
P 84-913	Generic name: N,N'-bis[2-(2-(3-alkyl)thiasoline)vinyl)-1, 4-phenylene diamine double salt	49 FR 28616 (28818) (7-13-84)	Nov. 28, 1984.
P 84-938	Polymer of hydroxy ethyl acrylate and polyisocyanate T 1890/100	49 FR 29451 (29453) (7-20-84)	Jan. 3, 1985.
P 84-954	Generic name: Substituted aromatic	49 FR 30238 (30239) (7-27-84)	Oct. 10, 1984.
P 84-968	Generic name: Modified sodium polyacrylate	49 FR 30238 (30240) (7-27-84)	Feb. 11, 1985.
P 84-989	4-amino-3,6-bis[5-[4-(3-carboxypyridinio)-6-(4-chloro-3-sulfonateanilino)-1,3,5-triazin-2-ylamino]-2-sulfonato-phenyl-azo]-5-hydroxy-2,7-naphthalene-disulfonate-dihydroxid, hexasodium.	49 FR 31136 (31137) (8-3-84)	Oct. 16, 1984.
P 84-1005	Generic name: Alkyl amine derivative	49 FR 32110 (8-10-84)	Oct. 24, 1984.
P 84-1007	Generic name: 3-alkyl-2-(2-anilino)vinyl thiazolinium salt	49 FR 32110 (8-10-84)	Jan. 7, 1985.
P 84-1053	Generic name: Ethoxylated vegetable fatty acid	49 FR 33718 (33720) (8-24-84)	Oct. 26, 1984.
P 84-1062	Methyl vinyl sulfone	49 FR 33718 (33721) (8-24-84)	Mar. 25, 1985.
P 84-1074	Generic name: Polyurethane polymer	49 FR 34572 (8-31-84)	Mar. 11, 1985.
P 84-1079	Generic name: Alkylated diphenyl oxide	49 FR 34572 (34573) (8-31-84)	Nov. 26, 1984.
P 84-1114	Generic name: Sodium salt of sulfonated, alkylated diphenyl oxide	49 FR 35414 (35416) (9-7-84)	Nov. 19, 1984.
P 84-1128	Generic name: Isoalkyleneoxy alkanol	49 FR 35414 (35417) (9-7-84)	Nov. 26, 1984.
P 84-1129	Acetic acid, ester with C_9-C_{11} iso alcohols, C_{10}-rich	49 FR 35414 (35417) (9-7-84)	Jan. 10, 1985.
P 84-1130	Acetic acid, ester with C_9-C_{10} alcohols, C_9-rich	49 FR 35414 (35417) (9-7-84)	Do.
P 84-1131	Acetic acid, ester with C_{11}-C_{14} iso alcohols, C_{13}-rich	49 FR 35414 (35417) (9-7-84)	Do.
P 84-1136	Generic name: Substituted aromatic amide	49 FR 36151 (36152) (9-14-84)	Feb. 4, 1985.
P 84-1137	Generic name: Cycloaliphatic epoxide	49 FR 36151 (36152) (9-14-84)	Feb. 4, 1985.
P 84-1144	Generic name: Isoalkyleneoxy alkanoate	49 FR 36151 (36152) (9-14-84)	Feb. 11, 1985.
P 84-1145	Generic name: Alkyltrialkoxysilane	49 FR 36151 (36152) (9-14-84)	Nov. 27, 1984.
P 84-1162	Generic name: Aminopolyamide-epichloro-hydrin resin	49 FR 36356 (38357) (9-28-84)	Jan 11, 1985.
P 84-1183	Generic name: Aminopolyamide-epichloro-hydrin polymer	49 FR 33356 (38357) (9-28-84)	Do.
P 84-1188	Generic name: Modified acrylamide polymer	49 FR 38356 (38357) (9-28-84)	Dec. 7, 1984.
P 84-1204	Generic name: Substituted, sulfonated naphthylazo sodium salt	49 FR 38356 (38359) (9-28-84)	Dec. 17, 1984.
P 84-1219	Generic name: Substituted pyridine	49 FR 39379 (39380) (10-5-84)	Feb. 5, 1985.
P 84-1226	Generic name: Polyisoalkoxyalkanol	49 FR 39379 (39381) (10-5-84)	Jan. 8, 1985.
P 84-1229	Generic name: Polyisoalkoxyalkanol	49 FR 39379 (39381) (10-5-84)	Do.
P 85-8	Generic name: Polyether polyester urethane	49 FR 41100 (41101) (10-19-84)	Dec. 17, 1984.
P 85-16	Generic name: Acrylamide unsaturated quaternary ammonium copolymer	49 FR 41102 (41103) (10-19-84)	Jan. 4, 1985.
P 85-30	Generic name: Carbopolycycle sulfonate of substituted phenyl azo substituted heteromonocycle	49 FR 43105 (43106) (10-26-84)	Jan. 9, 1985.
P 85-31	Generic name: Carbopolycycle sulfonate of substituted heteropolycycle	49 FR 43105 (43106) (10-26-84)	Do.
P 85-36	Generic name: Substituted pyridine	49 FR 43105 (43106) (10-26-84)	Feb. 5, 1985.
P 85-67	2,2'-dialyl-4,4'-sulfonyl diphenol	49 FR 44139 (44140) (11-2-84)	Jan. 23, 1985.
P 85-109	Generic name: Arylthiodialkanoylhydrazide	49 FR 45657 (11-19-84)	Jan. 22, 1985.
P 85-118	Generic name: Polyurethane	49 FR 45657 (45658) (11-19-84)	Jan. 30, 1985.
P 85-141	Generic name: Polyester acrylate	49 FR 46852 (46853) (11-26-84)	Feb. 12, 1985.
P 85-142	Generic name: Aromatic epoxy ester	49 FR 46852 (46853) (11-26-84)	Do.
P 85-152	Generic name: Reacted epoxy resin	49 FR 47108 (47109) (11-30-84)	Feb. 13, 1985.
P 85-155	Generic name: Halogenated aromatic sulfamide	49 FR 47108 (47109) (11-30-84)	Do.
P 85-159	Generic name: Polymeric aliphatic polycl acrylate ester	49 FR 47108 (47109) (11-30-84)	Feb. 16, 1985.
P 85-160	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-161	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-162	Generic name: Polymeric aliphatic polyol acrylate ester	49 FR 47108 (47109) (11-30-84)	Do.
P 85-194	Generic name: Acid amide salt	49 FR 47921 (12-7-84	Feb. 20, 1985.
P 85-216	Generic name: Substituted pyridine	49 FR 47921 (47922) (12-7-84)	Feb. 23, 1985.
P 85-234	Generic name: Disubstituted sulfide	49 FR 47921 (47924) (12-7-84)	Feb. 26, 1985.
P 85-236	Generic name: Substituted pyridine	49 FR 48801 (48802) (12-14-84)	Feb. 27, 1985.
P 85-301	Generic name: Urethane acrylate	49 FR 50444 (12-28-84)	Mar. 26, 1985.
P 85-459	Generic name: Aromatic tertiary diamine	50 FR 6383 (6384) (2-15-85)	Feb. 19, 1985.

[FR Doc. 85-11015 Filed 5-7-85; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-42064; FRL-2809-6]

1,2-Dibromo-4-(1,2-Dibromoethyl)Cyclohexane; Response to the Interagency Testing Committee

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice is EPA's response to the Interagency Testing Committee's (ITC) designation of 1,2-dibromo-4-(1,2-dibromoethyl)cyclohexane (tetrabromoethylcyclohexane or TBEC.

CAS No. 3322-93-8) for priority consideration for health effects, chemical fate, and ecological effects testing. EPA is not initiating rulemaking at this time under section 4(a) of the Toxic Substance Control Act (TSCA) to require any testing of TBEC because EPA's analysis of data obtained under TSCA indicates that few people are exposed to TBEC and then at very low levels, that little if any TBEC is released to the environment, and that existing data do not suggest potential adverse effects from exposure to TBEC given the low exposures that are expected.

FOR FURTHER INFORMATION CONTACT:
Edward A. Klein, Director, TSCA Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-543, 401 M St., SW., Washington, D.C. 20460.
Toll free: (800-424-9065),
In Washington, D.C.: (554-1404),
Outside the USA: (Operator-202-554-1404).

SUPPLEMENTARY INFORMATION: EPA is not initiating rulemaking at this time under section 4(a) of TSCA to require health effects, chemical fate, or ecological effects testing of TBEC as designated by the ITC in its Fourteenth Report.

I. Background

Section 4(e) of TSCA (Pub. L. 94-469, 90 Stat. 2003 *et seq.*; 15 U.S.C. 2601 *et seq.*) established the ITC to recommend to EPA a list of chemicals to receive priority consideration for testing under section 4(a) of TSCA.

The ITC designated TBEC for priority consideration in its Fourteenth Report, published in the **Federal Register** of May 29, 1984 (49 FR 22389). This notice constitutes EPA's response to the ITC's designation of TBEC.

The ITC recommended the following health effects tests for TBEC: (1) Toxicokinetics; (2) subchronic studies including sperm morphology and vaginal cytology examination; and (3) chronic toxicity studies, including oncogenicity if it is determined that there is substantial exposure to the compound. The ITC's rationale for health effects testing was that TBEC is structurally related to ethylene dibromide (EDB), a known carcinogen that has been shown to produce reproductive abnormalities in several species. The ITC also expected releases from production and use to result in human exposure.

The ITC recommended the following chemical fate tests for TBEC: (1) Water solubility; (2) octanol-water partition coefficient; (3) soil mobility; and (4) persistence. The ITC's rationale for chemical fate testing was that releases from production and use are likely to result in environmental exposure including releases to the aquatic environment.

The ITC recommended the following ecological effects tests for TBEC: (1) Acute and chronic toxicity to fish, aquatic invertebrates, and algae; and (2) bioconcentration. The ITC's rationale for ecological effects testing of TBEC was that releases to the aquatic environment from producton and use of TBEC are likely. Athough no data were found, the ITC stated that TBEC may be highly toxic to aquatic organisms and may bioconcentrate substantially. A similar compound, 1,2-dichloro-4-(1,2-dichloroethyl)cyclohexane, adversely affected trout and bluegills after 1 hour of exposure at 5 parts per million (ppm).

Under section 4(a)(1) of TSCA, the Administrator shall by rule require testing of a chemical substance to develop appropriate test data if the Agency finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are sufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach in which both exposure and toxicity information are considered in making a section 4(a)(1)(A)(i) finding that the chemical may present an unreasonable risk. For the section 4(a)(1)(B)(i) finding, EPA considers only production, exposure, and release information to determine whether there is substantial production, and significant or substantial exposure, or substantial release. Thus, while EPA can require testing for an effect under section 4(a)(1)(A) only if there is a suspicion of a hazard, under section 4(a)(1)(B) EPA can require testing whether or not there are data suggesting adverse effects if the relevant production and exposure or release criteria are met.

For the findings under both section 4(a)(1)(A)(ii) and 4(a)(1)(B)(ii), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether ongoing testing will satisfy the information needs for the chemical and whether testing which the Agency might require would be capable of developing the necessary information. EPA's process for determining when these findings can be made is described in detail in EPA's first and second proposed test rules as published in the **Federal Register** of July 18, 1980 (45 FR 48528) and June 5, 1981 (46 FR 30300). The section 4(a)(1)(A) finding is discussed in 45 FR 48528, and the section 4(a)(1)(B) finding is discussed in 46 FR 30300.

In evaluating the ITC's testing recommendations for TBEC, EPA considered all available relevant information including the following: Information presented in the ITC's report recommending testing consideration; production volume, use, exposure, and release information reported by manufacturers of TBEC under the TSCA section 8(a) Preliminary Assessment Information Rule (40 CFR Part 712); and published and unpublished data available to the Agency.

II. Review of Available Data

A. Human Exposure and Environmental Release

One company currently manufactures TBEC, Ethyl/Saytech in Sayreville, NJ., a subsidiary of Ethyl Corporation. Production was about 600,000 pounds in 1982 by Chemtronics, Inc. under contract to Saytex Corporation (an Ethyl Corporation Company) (Refs. 1 and 2). Ethyl Corporation has submitted to EPA production volumes for 1979, 1980, 1981, and 1983 and a projected production volume for 1984 as confidential business information (Ref. 3).

Ethyl/Saytech reports that TBEC is produced in a batch operation involving closed reaction vessels, then dried and packaged in an open operation (Ref. 4). The number of workers potentially exposed to TBEC per shift is small—three during production operations and

one in the baghouse where packaging occurs (Refs. 4 and 5). Exposure to TBEC is unlikely to occur during the wet phase of its production, since the types of closed equipment used for handling liquids normally preclude operator contact. A higher potential for dermal and inhalation exposure to TBEC exists when the compound is handled as a solid (drying and packaging) rather than as a liquid. To minimize worker exposure during packaging, employees are required to wear disposable coveralls, shoe covers, dust caps, cotton gloves, and dust masks. The packaging is done in a separate room within the manufacturing facility, thereby reducing the chance of exposure for workers in other parts of the plant (Ref. 4). At ambient temperatures, the maximum airborne concentration of TBEC vapor that can be attained is approximately 0.04 ppm on the basis of an estimated vapor pressure of TBEC at 20°C of 2.83×10^{-6} torr (Ref. 6). Neither the Occupational Safety and Health Administration (OSHA) nor the American Conference of Governmental Industrial Hygienists (ACGIH) has established a standard for TBEC.

TBEC is used non-consumptively, primarily as an additive type flame retardant in expandable polystyrene (EPS) beads, from which polystyrene bead boards are made. These bead boards are used for thermal insulation in housing. TBEC is also used as an additive type flame retardant in extruded polystyrene foam and as a flame retardant in an adhesive in fabric/vinyl lamination (Ref. 5). None of the companies that process TBEC for any of its applications are manufacturers of the chemical.

During its addition to EPS beads, virtually no human exposure to TBEC is likely to occur, since this process takes place in a closed vessel (Refs. 7 and 8). Routine contact would be limited to a small number of people involved in loading TBEC into process vessels. Ethyl/Saytech recommends that protective clothing including gloves be worn when handling TBEC.

The production of EPS bead board from EPS beads impregnated with 1 percent TBEC requires little direct operator involvement, and hence poses little potential for dermal exposure to TBEC. Routine contact would be limited to loading the EPS beads into the pre-expander feed hopper. Although TBEC vapors could conceivably be released during various processing steps (most notably, pre-expansion), the maximum ambient concentration of TBEC vapor would be limited by its saturated vapor pressure at the ambient air temperature (estimated to be 0.04 ppm at 20 °C) (Ref. 6). Occupational and consumer exposure to TBEC from its use in polystyrene bead board would be extremely low because TBEC impregnated in polystyrene would have little tendency to migrate from the plastic. The low tendency of a flame retardant to migrate from plastics is not an incidental property; it is considered a desirable trait, and one criterion by which a flame retardant is chosen (Ref. 9).

In other processes, such as the extrusion of polystyrene foam, little exposure to TBEC is expected since release of TBEC vapor at very high temperatures would only occur within the extruder; the temperature of the plastic would drop immediately upon extrusion. Little exposure to TBEC is expected to result from its adhesive use, since application of the adhesive would be an automated process (Ref. 10).

From information on production and use of TBEC, EPA concludes that little if any TBEC is released to the environment during its manufacture, processing, distribution in commerce, use or disposal. Ethyl/Saytech reports that it uses baghouse collectors with a rated efficiency of 99 percent to control release of TBEC dust to the atmosphere (Ref. 4). The sole aqueous waste stream associated with the production of TBEC is sent to a holding tank and then distilled. After solvent recovery, still bottoms are sent to a licensed waste dump site (Refs. 11 and 12). All other production wastes are disposed of in a licensed landfill (Ref. 4).

When EPS beads are suspended in water prior to the addition of TBEC, aqueous wastes may result. However, even if water were used on a once-through basis at a rate of 1 lb water/lb polystyrene, the maximum annual release of dissolved TBEC nationwide due to this process would be 60 lb, assuming 60 million pounds of TBEC-treated EPS bead to be produced annually (Ref. 13) and assuming a water solubility of 1 ppm (Ref. 14) for TBEC. In addition, on the basis of estimated soil adsorption coefficients for TBEC of 1,230 and 11,900 (Refs. 15 and 16), any TBEC entering a municipal sewage treatment plant should be adsorbed onto the sludge. It is unlikely that any aqueous wastes containing TBEC would be generated in the production of extruded polystryene foam, adhesives, or bead board containing TBEC.

The disposal of bead board impregnated with TBEC does not raise EPA concerns for a number of reasons. First, bead board contains a relatively low concentration of TBEC (1 percent w/w). Secondly, the polymer matrix is impreganted with TBEC, and therefore release to the enviroment is expected to be very slow. Finally, as discussed in Unite II.C of this notice, TBEC will strongly adsorb to the organic matter in soil.

B. Health Effects

1. *Toxicokinetics.* Cannon Laboratories (Ref. 17) reported on the pattern of excretion and the tissue distribution of ^{14}C–TBEC in rats. Five rats (age and sex not specified) were given daily oral doses of ^{14}C–TBEC for 14 days, equivalent to a total of 1.13 mg/kg. Two of the five rats were housed in metabolic cages. The other three animals were sacrificed 7, 14, and 30 days after their last dose of ^{14}C–TBEC to determine the tissue distribution of the radiolabel.

Excreta data for the two rats maintained in metabolic cages are as follows. Of the label introduced as ^{14}C–TBEC, between 55 and 66 percent was recovered in the urine; 23 to 28 percent was recovered in the feces. The nature of the substance(s) containing the ^{14}C–label in these samples was not specified. The data also show that 0.28 percent of the ^{14}C was recovered as $^{14}CO2$, and 0.22 percent as other (unspecified) ^{14}C–labeled volatiles.

The tissue sample concentrations of ^{14}C detected on study day 15 were: liver (2.03–2.40 ppm)>kidney (1.85–2.01 ppm)>fat (0.363–0.427 ppm{>brain (0.207–0.297 ppm)>leg muscle (0.086–0.98 ppm). Thirty days after the last dose of ^{14}C–TBEC, the concentrations of ^{14}C in tissue samples were reduced >77 percent: kidney (0.230 ppm)> liver (0.153)>brain (0.055 ppm)>fat (0.032 ppm)>leg muscle (0.019 ppm).

These data indicate that what TBEC is absorbed is fairly readily excreted.

2. *Acute Toxicity.* In a 14-day acute oral toxicity study in ten Sprague-Dawley rats (5 males and 5 females) an LD50 of 3,220 mg/kg has been reported (Ref. 18).

In a 14-day acute dermal study in rabbits (5 males and 5 females) (Ref. 19), none of the animals died during the 14-day postexposure observation period. Slight to moderate erythema was observed in 5 of the 10 rabbits at 2 and 4 hours after the removal of the TBEC sample. No visible lesions were observed in any of the animals at necropsy. Based on these observations, a dermal LD50 of >5g/kg for TBEC in rabbits was reported.

The results of a primary skin irritation test in six albino rabbits (sex, age and weight not specified) have been reported (Ref. 20). TBEC (0.5 g per area) was applied to two sites, one intact and one

abraded, on each rabbit. The exposed sites were observed at 24 and 72 hours after the removal of TBEC for signs of irritation. Both the 24- and 72-hour observations were negative. In this study, TBEC (0.5 g per site) was not an irritant to either intact or abraded skin in rabbits.

The results of an eye irritation study in six rabbits (age, sex, and weight not specified) have been reported (Ref. 21). TBEC (0.1 g) was instilled into one eye of each animal; the untreated eye of the animal served as the control. Reactions to the treatment were recorded at 24, 48, and 72 hours. An "initial reaction quite severe" was noted for one animal without further details. All other observations were negative.

These data indicate that TBEC does not exhibit a high degree of acute toxicity.

3. *Mutagenicity.* TBEC did not exhibit mutagenic activity in : (1) *Salmonella typhimurium*, strains TA98, TA100, TA1535 or TA1537 (Ref. 22); (2) *Salmonella typhimurium*, strains TA98, TA100, TA1535, TA1538 or *Saccharomyces cerevisiae-D4 (gene conversion assay)* (Ref. 23); or *Salmonella typhimurium*, strains TA98, TA100, TA1535, TA1537 and TA1538 (Ref. 24).

Chromosomal aberration and sister chromatid exchange studies on TBEC in Chinese hamster ovary cells are planned by NTP (Ref. 25).

4. *Subchronic Toxicity.* Cannon Laboratories (Ref. 26) conducted a 90-day feeding study with TBEC in rats. Sprague-Dawley rats (15 males and 15 females per dose level) were fed TBEC [0, 0.01, 0.10, and 1.0 percent, (Groups I–IV, respectively)], mixed in NIH-07 rat mash for 90 days. Doses for groups I–IV, respectively, were approximately 0, 4, 40, and 400 mg/kg/day. The rats were given the control diet (0 percent TBEC) for 12 days before initiation of the study, and from day 91 to autopsy, which was on study day 133 or 136. The active feeding portion of the study was discontinued at day 90.

On day 90, three male and three female rats from each group were sacrificed. All tissues and organs were examined for any gross abnormalities. The liver, both kidneys, thyroid and heart were weighed and the relative organ weights calculated. The remaining animals were sacrificed on day 133 or 136, and their tissues and organs examined for gross abnormalities.

Tissue samples were obtained from all rats sacrificed on day 90, 133, or 136 in the 0 and 1.0 percent TBEC groups and from those in the 0.01 and 0.10 percent TBEC groups that appeared abnormal at autopsy. The following tissues were fixed, stained with hematoxylin and eosin, and examined using a light microscope: adrenals; bone marrow; brain; esophagus; heart, intestine (large or small not specified); kidney; liver; lung; oral mucosa; prostate; salivary glands; spleen; stomach; testes or ovaries; thyroid, urinary bladder; uterus; gross lesions; and tissue masses.

The mean body weights of the 1.0 percent TBEC-treated group were significantly lower than those of the other three groups during weeks 1–19. Mean food consumption values of the rats that received the test material at the 1.0 percent level were lower than the other 3 groups for week 1 and higher than the other 3 groups for weeks 8 and 14 in males, while in females the mean food consumption values were lower than the other 3 groups for week 1 and higher than the other 3 groups for weeks 3, 4, 14, and 15.

In the animals sacrificed on day 90, statistically significant difference (p values not given) were detected in males treated with 1.0 percent TBEC. The 1.0 percent TBEC group mean body weight (416.3 g) was significantly less than that of the control group (522.7 g) and the relative liver weight was significantly greater (5.4 percent) than that of the control group (4.5 percent). In females treated with 1.0 percent TBEC, the mean absolute heart weight was significantly less (0.94 g) than that of the control group (1.17 g), and the relative liver (4.7 percent), kidney (1.08 percent) and thyroid (0.0097 percent) weights were significantly greater than those of the control group (4.0, 0.86, and 0.0068 percent, respectively).

For male rats treated with 1.0 percent TBEC and sacrificed on study day 133 or 136, the mean absolute weights of the thyroid (0.028 g) and heart (1.56 g) and the mean absolute body weight (471 g) were significantly less than those of the control group (0.033, 1.80, and 549.4 g, respectively). No significant difference was found in the relative organ weights between this group and the control group.

For female rats treated with 1.0 percent TBEC and sacrificed on study day 133 or 136, the mean absolute body weight (288.1 g) was significantly less than that of the control animals (319.1 g), and the relative kidney (0.99 percent) and thyroid (0.0095 percent) weights were significantly less than those of the controls (0.86 and 0.0078 percent, respectively).

Histopathologic evaluation found bronchopneumonia, colloid storage in thyroid, lipid depletion in adrenals, dilated tubules in kidneys, or subcutaneous adenocarcinoma, respectively, in 19, 7, 45, 6, and 2 percent (1 animal) of the TBEC-exposed animals examined and 14, 30, 4, 68, and 0 percent of the control group. As noted previously, histopathologic examination was performed on all animals in the control and 1.0 percent dose groups and on only those animals from the 0.01 and 0.1 percent dose group judged abnormal in the gross necropsy. The subcutaneous adenocarcinoma occurred in one animal in the 0.01 percent group. It is most likely a spontaneous tumor of a type that has a very high background level (75 to 95 percent) at one year of age in the Sprague-Dawley rat. In addition, there were sporadic incidences (2–4 percent) of chronic bronchitis, hemorrhagic lungs, chronic renal disease, and hydronephritis of the kidney in the test groups. Cannon (Ref. 26) reported that "no marked differences in the rate of various histopathologic anomalies" were apparent among the 0.01, 0.10, and 1.0 percent TBEC-fed groups. No adverse effects were reported on histopathological examination of the reproductive organs.

While this study is not definitive, the unremarkable effects reported in this study do not support a requirement for additional health effects testing under section 4(a)(1)(A) of TSCA.

C. Chemical Fate

1. *Water Solubility and Octanol/Water Partition Coefficient.* A water solubility of 1.0 mg/L (1 ppm) (Ref. 14) and a log of the octanol/water partition coefficient (log P) of 4.96 for TBEC (Ref. 27) have been estimated. These estimated properties indicate that under equilibrium conditions, TBEC will partition primarily into the soil/sediment compartment.

2. *Soil mobility.* The adsorption properties of TBEC to soil have not been reported in the available literature. However, using equations developed by Kenaga (Ref. 14) and Kenaga and Goring (Ref. 15) a value for the adsorption coefficient (K_{oc}) can be estimated from either the log P or water solubility values. EPA has calculated K_{oc} values of 11,900 and 1,230 from a calculated log P of 4.96 and an estimated water solubility value of 1.0 mg/L, respectively. These estimates of K_{oc} indicate that TBEC will adsorb strongly to organic matter in soil and sediment and therefore can be considered relatively immobile in these media (Ref. 14).

3. *Persistence.* EPA is not aware of any information on the environmental persistence of TBEC in the available literature. However, as discussed in Unit II.A of this notice, little if any TBEC is expected to be released to the

environment as a result of its manufacture, distribution in commerce, processing, use, or disposal.

D. Environmental Effects

1. *Acute Toxicity.* EPA is not aware of any information on environmental effects of TBEC in the available literature. However, a report was found on the acute effects of the corresponding chlorinated compound, 1,2-dichloro-4-(1,2-dichloroethyl)cyclohexane (DDC), mentioned by the ITC, and 1,2-dibromocyclohexane (DBC) in the larval sea lamprey *Petromyzon marinus*, the rainbow trout *Salmo gairdnerii*, and bluegill sunfish *Lepomis macrochirus* (Ref. 28). In a static, 24-hour screening test conducted with 5.0 ppm DDC, two specimens of each species were exposed. The test chemical had no effect on the lampreys but caused unspecified "illness" to both fish species in about 1 hour; no deaths were observed. In contrast, 5.0 ppm DBC produced no effect on sea lamprey and rainbow trout. No testing of DBC was performed with the bluegill fish.

The purpose of this study was to screen as many chemicals as possible for selective toxicity to the lamprey but not to the fish. The experiments utilized only two specimens of each species, and only one concentration of DDC and DBC was tested. No replicates were done. Details on the methodology used for each of the 4,346 chemicals tested were not reported, and "illness" was not defined. Because of the above deficiencies, a definitive conclusion on the toxicity of DDC and DBC cannot be made. However, the data suggest that neither DDC nor DBC was toxic to the sea lamprey larva, but that DDC was toxic to both fish species at 5 ppm. Nonetheless, as discussed in Unit II.A of this notice, little if any TBEC is expected to be released to the environment as a result of its manufacture, distribution in commerce, processing, use, or disposal.

2. *Bioconcentration.* No data were found in the available literature on the bioconcentration of TBEC in food chains and ecosystems. Using the equation (log BCF = 0.85 log P − 0.70) developed by Veith (Ref. 29), the bioconcentration factor (BCF) for TBEC estimated from its log P value is 3.280. This estimate indicates that TBEC may bioconcentrate to a signficant degree (Ref. 29). However, as discussed in Unit II.A of this notice, little if any TBEC is expected to be released to the environment as a result of its manufacture, distribution in commerce, processing, use, or disposal.

III. Decision Not To Initiate Rulemaking

EPA has decided not to initiate rulemaking at this time to require health effects, chemical fate or ecological effects testing of TBEC. The ITC recommended health effects testing for TBEC because it believed that TBEC was structurally related to EDB and releases from production and use were expected to result in human exposure. Although there are only limited health effects data on TBEC (Unit II.B), they suggest that TBEC is not as toxic as EDB.

Oral LD_{50}s for EDB of 0.117 and 0.246 g/kg have been reported in female and male rats, respectively (Ref. 30). A dermal LD_{50} for EDB of 0.300 g/kg in the rabbit has been reported (Ref. 31). Rowe et al. (Ref. 30) reported increased weight of kidneys, lungs, and liver and decreased weight of testes and spleen in a 13-week subchronic inhalation study with EDB in rats. Exposures were 7 hours per day, 5 days per week at 50 ppm. (This corresponds to an oral dose of 57 mg/kg/day assuming 100 percent absorption). Exposure to 25 ppm EDB for 30.5 weeks (7 hours per day, 5 days per week) showed no adverse effects.

The Occupational Safety and Health Administration (OSHA) in support of its proposal to lower the permissible exposure limit (PEL) for EDB to 0.1 ppm (Ref. 32) has summarized the health effects data on EDB. Reproductive effects of EDB in several animal species have been clearly established, specifically in early stages of sperm development. A series of male reproductive studies was carried out in bulls (Refs. 33 through 41). Reproductive impairment, as measured by decreased sperm density and motility and speam abnormalities, was found after two weeks of exposure to 2 or 4 mg/kg EDB in the diet.

The mutagenic effects of EDB have been reviewed in detail by NIOSH (Ref. 39), Rannug (Reg. 40), IARC (Ref. 41), and EPA (Ref. 42). Mutagenic effects have been detected in a variety of *in vitro* and *in vivo* systems including *Salmonella typhimurium* (Refs. 32 through 48).

On the basis of the scientific evidence presented in its proposal to lower the PEL of EDB to 0.1 ppm (Ref. 32) OSHA stated that it "believes that EDB is a potent animal carcinogen. EDB produces tumors at the site of direct contact and at sites remote from the site of administration" (Ref. 32).

OSHA stated in its proposal (Ref. 32) that it "believes that the total risk to the health of employees exposed to EDB is the result of the compounded risks from carcinogenicity, mutagenicity, spermatotoxicity, teratogenicity, and damage to the kidneys, liver, spleen, respiratory tract, central nervous system, circulatory system, skin and eyes. Therefore, the totality of the adverse health effects associated with exposure to EDB warrant the reduction in the PEL to 0.10 parts per million."

Even if TBEC were as toxic as EDB, a compound with far broader human exposure, expected exposure levels to TBEC are already below the proposed OSHA 8-hour time-weighted average (TWA) permissible exposure limit (PEL) for EDB of 0.10 ppm (Ref. 32). Because few people are exposed to TBEC and at expected exposure levels below 0.10 ppm and because consumer exposure to TBEC is expected to be negligible, EPA concludes that health effects testing for TBEC is not warranted.

The ITC recommended chemical fate and ecotoxicity testing of TBEC because it believed that the production and uses of TBEC made environmental exposure likely, including releases to the aquatic environment. However, EPA concludes that, on the basis of information presented in Unit II.A of this notice, there is neither sufficient environmental release to support TSCA section 4(a)(1)(A) or 4(a)(1)(B) findings for chemical fate and ecological effects testing of TBEC nor existing ecotoxicity data to support a TSCA section 4(a)(1)(A) finding that TBEC may present an unreasonable risk to the environment.

IV. Public Record

EPA has establshed a public record for this decision not to test under Section 4 of TSCA (docket number OPTS-42064). The record includes the following information:

A. Supporting Documentation

(1) **Federal Register** notice containing the ITC Report designating 1,2-dibromo-4-(1,2-dibromoethy) cyclohexane to the Priority List.

(2) Communications consisting of:

(a) Written public and intra-agency or interagency memoranda and comments.

(b) Summaries of telephone conversations.

(c) Summaries of meetings.

(3) Reports—published and unpublished factual materials, including contractors' reports.

B. References

(1) Memorandum from George E. Parris, Dynamac Corporation, Rockville, MD to TSCA Interagency Testing Committee. Production and use of 1,2-dibromo-4-(1,2-dibromoethyl)-cyclohexane, PIR-327. November 10, 1982.

(2) USEPA. Fourteenth report of the ITC to the Administrator, receipt of report and request for comments, 49 FR 22389. May 29, 1984.

(3) Ethyl Corporation, Baton Rouge, LA. Letter submitted to Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC. Information needs for 1,2-dibromo-4-(1,2-dibromoethyl)-cyclohexane. Confidential Business Information. August 17, 1984.

(4) Dynamac Corporation, Rockville, MD. Letter from W. W. Perry to Martin Grief, Environmental Protection Agency, Washington, DC, with information addendum A on IR-327, 1,2-dibromo-4-(1,2-dibromoethyl)-cyclohexane attached. January 27, 1983.

(5) Ethyl Corporation, Baton Rouge, LA. Answers to questions submitted by Tina Rosenthal, Dynamac Corporation, Rockville, MD. August 17, 1984.

(6) Dynamac Corporation, Rockville, MD. TBEC exposure calculations. August 7, 1984.

(7) Schwarz, R. A. (inventor), Cosden Technology, Inc. (assignee). Foamable polymeric styrene particles. U.S. Patent 4,389,495.

(8) Innes, James, Ethyl Corporation, Baton Rouge, LA. Personal communication with John Harris, Office of Toxic Substances, U.S. Environmental Protection Agency, Washington, DC. August 24, 1984.

(9) Modern Plastics. Plastiscope: better bromides, safer foams pace FR advances 61(5):12,14. 1984.

(10) Innes, James, Ethyl Corporation, Baton Rouge, LA. Personal communication with John Harris, Office of Pesticides and Toxic Substances, U.S. Environmental Proteciton Agency, Washington, DC. August 27, 1984.

(11) Makfinsky, Laverne, Ethyl/Saytech, Sayreville, NJ. Personal communication with John Harris, Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC. August 24, 1984.

(12) Dynamac Corporation, Rockville, MD. Letter from Ann Engelkemeir to Laverne Makfinsky, Ethyl/Saytech, Sayreville, NJ. September 13, 1984.

(13) Engelkemeir, Ann, Dynamac Corporation, Rockville, MD. "Calculations: Theoretical Maximum Loss of TBEC Dissolved in Wastewater from Evaporation of TBEC into Beads via Aqueous Suspension." September 27, 1984.

(14) Dynamac Corporation, Rockville, MD. "Estimation of Water Solubility of TBEC at 25°C." October 5, 1984.

(15) Kenaga, E. E. "Predicted Bioconcentration and Soil Sorption Coefficients of Pesticides and Other Chemicals." Ecotoxicol. Environ. Saf. 4:26-38. 1980.

(16) Kenaga, E. E. and C. A. I. Goring. "Relationship Between Water Solubility, Soil Sorption, Octanol-Water Partitioning, and Concentration of Chemicals in Biota." ASTM Spec. Tech. Publ. STP. 707:78-115. 1980.

(17) Cannon Laboratories, Inc. "Excretion and Tissue Distribution of ^{14}C-RW-4-178A Administered Orally to Rats." Laboratory No. 8E-0187. Submitted to Cities Service Corporation. Tulsa, OK. July 17, 1978. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(18) Pharmakon Research International, Inc. "Acute Oral Toxicity Study in Rats (14 Days)." PH 402-ET-004-81. Saytech BCL-462, Lot No. 14-1487E. October 16, 1981. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(19) Pharmakon Research International, Inc. "Acute Dermal Toxicity Test in Rabbits." PH 422-005-81. Saytech BCL-462, Lot No. 14-1487E. October 13, 1981. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(20) WARF Institute, Inc. "Primary Skin Irritation: BCL-462 GR-2-23A." WARF No. 0102052. Madison, WI. October 28, 1970. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(21) WARF Institute, Inc. "Eye irritation: BCL-462 GR-2-23A." WARF No. 0102052. Madison, WI. October 28, 1970. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(22) Weisburger, E. K. TSCA Interagency Testing Committee. Memorandum to D. Canter, National Toxicology Program, NIH. November 8, 1983.

(23) Litton Bionetics, Inc. "Mutagenicity Evaluation of RW 4144-1." Final report. LBI Project No. 20838. Submitted to: Cities Service Company: Tulsa, OK. October, 1977. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(24) Cannon Laboratories, Inc. "Evaluation of the Mutagenic Potential of 1062-462-SB in the Ames Salmonella/Microsome Plate Test." Laboratory No. 9E-6321. October 22, 1979. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(25) Jordan, F., NTP (National Toxicology Program) Results Report. Results and Status Information on All NTP Chemicals Produced from NTP Chemtrack System. November 1, 1984.

(26) Cannon Laboratories, Inc. "Ninety-Day Feeding Study in Rats Evaluating Cities Service Compound RW-4-178A." Laboratory No. 8E-0182. Submitted to: Cities Service Company: Tulsa, OK. September 19, 1978. Submitted to: Office of Pesticides and Toxic Substances, U.S. Environmental Protection Agency, Washington, DC, by Ethyl Corporation, Baton Rouge, LA. August 17, 1984.

(27) Dynamac Corporation, Rockville, MD "Estimation of Log Octanol/Water Partition Coefficient for TBEC." October 5, 1984.

(28) Applegate, V. C., J. H. Howell, A. E. Hall, and M. A. Smith. "Toxicity of 4,346 Chemicals to Larval Lampreys and Fishes." Fish and Wildlife Service, U.S. Department of Interior, Washington, DC. Special scientific report Fisheries No. 207. March 1957.

(29) Veith, G.D., D.L. DeFoe and V.V. Bergstedt. "Measuring and Estimating the Bioconcentration Factor of Chemicals in Fish." J. Fish. Res. Board Can. 36:1040-1048. 1979.

(30) Rowe, V.K., H.C. Spencer, D.D. McCollister, and E.M. Adams. "Toxicity of Ethylene Dibromide Determined on Experimental Animals." Arch. Ind. Hyg. Occ. Med. 6:158-73.

(31) NIOSH. Ethane,1,2-dibromo. Registry of Toxic Effects of Chemical Substances: 1981-2, Vol. II. NIOSH Pub. #83-107. Cincinnati, Ohio. 222. 1983.

(32) OSHA. Occupational exposure to ethylene dibromide; notice of proposed rulemaking. 48 FR 45956. October 7, 1983.

(33) Amir, D. and R. Volcani. "Effect of dietary ethylene dibromide on bull semen." Nature 206:99-100. 1965.

(34) Amir, D. and R. Volcani. "The effect of dietary ethylene dibromide on the testes of bulls." Fertility and Sterility 18:144. 1967.

(35) Amir, D. "The sites of the spermicidal action of ethylene dibromide in bulls." J. Reprod. Fertil. 35:519-25. Exhibit 4-22. 1973.

(36) Amir, D. "Individual and age differences in the spermicidal effect of ethylene dibromide in bulls." J. Reprod. Fertil. 44:561-65. 1975.

(37) Amir, D. and U. Lavon, "Changes in total nitrogen, lipoproteins and amino acids in epididymal and ejaculated spermatozoa of bulls treated orally with ethylene dibromide." J. Reprod. Fert. 27:73. 1976.

(38) Amir, D. C. Esnault, J.N. and M. Courot. "DNA and protein changes in the spermatozoa of bulls treated orally with ethylene dibromide." J. Reprod. Fert. 51:453. 1977.

(39) National Institution for Occupational Safety and Health. Criteria for a recommended standard * * * Occupational exposure to ethylene dibromide, DHEW (NIOSH) Publication No. 77-221. Exhibit 4-4. 1977.

(40) Rannug, U. "Genotoxic effects of 1,2-dibromoethane and 1,2-dichloroethane." Mutat. Res. 76(3):289-295. 1980.

(41) IARC, Ethylene Dibromide. In: IARC monographs on the evaluation of the carcinogenic risk of chemicals to man: some fumigants, the herbicides 2,4-D and 2,5-T chlorinated dibenzodioxins and miscellaneous industrial chemicals. Vol 15. World Health Organization, Lyon, France. 195-209. 1977.

(42) USEPA. Ethylene Dibromide: Rebuttable Presumption Against Registration; Position Document 4. Office of Pesticide Programs. U.S. Environmental Protection Agency. Washington, DC. September 27, 1983.

(43) Ames, B.N. "The detections of chemical mutagens with enteric bacteria," in Hollaender, A. (ed): Chemical Mutagens-Principles and Methods for Their Detection. New York, Plenum; Vol. 1, pp. 267-82. 1971.

(44) Buselmaier, W., G. Rohrborn, and P. Propping. [Pesticide mutagenicity investigations by the host medited assay and the dominant lethal test on mice.] Biol. Zentralbl. 91: 311-25 (Ger). 1972.

(45) Buselmaier, W., G. Rohrborn, and P. Propping. "Comparative investigations on the mutagenicity of pesticides in mammalian test systems." Mutat. Res. 21:25-26. 1973.

(46) Brem, H., A.B. Stein, and H.S. Rosenkranz. "The mutagenicity and DNA-modifying effect of haloalkanes." Cancer Res. 34:2576–79. 1974.

(47) McCann, J., E. Choi, E. Yamasaki, and B.N. Ames. "Detection of carcinogens as mutagens in the Salmonella/microsome test: assay of 300 chemicals." Proc. Nat. Acad. Sci. (Washington, D.C.) 72:5135–5139. 1975.

This record includes basic information considered by the Agency in developing this notice, and is available from 8 a.m. to 4 p.m. Monday through Friday except legal holidays, in the OPTS Reading Room, Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement the record periodically with additional relevant information received.

Authority: 15 U.S.C. 2603.

Dated: April 23, 1985.

J.A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85–11121 Filed 5–7–85; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–42069A; FRL–2831–9]

Test Rule Development Process Under the Toxic Substances Control Act; Public Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Public Meetings.

SUMMARY: The EPA has scheduled two public meetings to discuss the process for developing test data pursuant to section 4 of the Toxic Substances Control Act (TSCA). These meetings were requested by the Natural Resources Defense Council (NRDC) and the Chemical Manufacturers Association (CMA).

DATES: The meetings will be held on Monday, May 13, 1985, and on Monday, May 20, 1985, from 10 a.m. to 4 p.m. Meeting location: Channel Inn Hotel, Captain's Room, 650 Water St., SW., Washington, D.C. 20024.

FOR FURTHER INFORMATION CONTACT: Edward A. Klein, Director, TSCA Assistance Office (TS–799), Office of Toxic Substances, 401 M St., SW., Washington, D.C. 20460. Toll Free: (800–424–9065; in Washington, D.C.: (554–1404; outside the USA: (Operator—202–554–1404).

SUPPLEMENTARY INFORMATION: EPA has scheduled two public meetings to discuss the process for developing test data pursuant to section 4 of TSCA.

I. Background

NRDC and CMA requested to meet with personnel from EPA to discuss the process for developing test data pursuant to section 4 of TSCA. EPA agreed to meet with representatives from both NRDC and CMA and held a public meeting for that purpose on April 17, 1985. At the meeting, CMA, NRDC, and EPA identified and discussed proposed changes that could be made to the current test rule development process under TSCA section 4 that would speed the development process under TSCA section 4 that would speed the development of needed test data. As a result of the April 17th meeting, EPA agreed to schedule two more public meetings to continue these discussions. These meetings are scheduled for May 13 and May 20. Persons interested in attending one or both of these meetings or in receiving more information about the meetings should call the TSCA Assistance Office (TAO). Should EPA agree to hold subsequent meetings after May 20th to continue these discussions, a separate notice of these meetings will not be published in the **Federal Register.** Therefore, anyone wishing to attend any future meetings in this series of discussions should contact TAO by May 21 in order to be notified in advance of such meetings.

II. Public Record

EPA has established a public record for this series of meetings (docket number OPTS–42069). This record will include a summary of the meetings and any correspondence pertaining to the meetings. The record will be available for inspection from 8 a.m. to 4 p.m., Monday through Friday except legal holidays, in Rm. E–107, 401 M St., SW., Washington, D.C. 20460. The Agency will supplement the record with additional relevant information as it is received.

(Sec. 4, Pub. L. 94–469, 90 Stat. 2003; 15 U.S.C. 2601)

Dated: May 1, 1985.

Don R. Clay,

Director, Office of Toxic Substances.

[FR Doc. 85–11119 Filed 5–7–85; 8:45 am]

BILLING CODE 6560–31–M

[SAB–FRL–2832–1]

Science Advisory Board, Environmental Health Committee; Open Meeting

Under Pub. L. 92–463, notice is hereby given that a two-day meeting of the Environmental Health Committee of the Science Advisory Board will be held on May 22–23, 1985, in Conference Room 3906–3908, Waterside Mall, U.S. Environmental Protection Agency, 401 M Street, Southwest, Washington, D.C. The meeting will start at 1:00 p.m. on May 22, 1985, and adjurn no later than 1:00 p.m. on May 23, 1985.

The principal purposes of the meeting will be (1) to review the scientific adequacy of a draft Addendum to the Health Assessment Document for Dichloromethane (Methylene Chloride) prepared by the Office of Research and Development (ORD) and dated February 1985 (EPA–600/8–82–004FA); (2) to review an Addendum to a paper on the risk from ingestion of asbestos fibers in drinking water from the Office of Drinking Water and (3) to discuss upcoming issues of current interest to the Committee.

For information on how to obtain copies of the draft Addendum to the Health Assessment Document for Dichloromethane (Methylene Chloride), please write the ORD Publications Office, Center for Environmental Reseach Information, U.S. EPA, Cincinnati, Ohio 45268 or call (513) 684–7562.

For additional information on the Addendum to the paper on the risk from ingestion of asbestos fibers in drinking water, please contact Dr. Joseph Cotruvo by phone at (202) 382–7575 or by mail to: Director, Criteria and Standards Division, Office of Drinking Water (WH–550), 401 M Street, SW., Washington, D.C. 20460.

The meeting will be open to the public. Any member of the public washing to attend or present information, or desiring further information, should contact either Dr. Daniel Byrd, Executive Secretary to the Committee, or Mrs. Patti Howard, by telephone at (202) 382–2552 or by mail to: Science Advisory Board (A–101F), 401 M Street, SW., Washington, D.C. 20460, no later than c.o.b. May 17, 1985.

Dated: April 30, 1985.

Kathleen Conway,

Staff Director, Science Advisory Board.

[FR Doc. 85–11118 Filed 5–7–85; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 85–130]

Dave Reese et al.; Hearing Designation Order

In re applications of:

	File No.
Dave Reese	BPCT–841019LB
Alden Television, Inc.	BPCT–850108KE
Rebecca Rangel Henton	BPCT–850108KJ

	File No.
Texas Spanish Broadcasters.	BPCT-850108KN
Fort Worth Television, Inc....	BPCT-850108KR
Channel 52, Fort Worth Television, Ltd., a Limited Partnership.	BPCT-850108KS
Nuevo Mundo Broadcasting, Inc..	BPCT-850108KT
Benjamin T. Perry, III.....	BPCT-850108KV
Carter Broadcasting Partnership.	BPCT-850108KW
EAM Broadcasting Co of Fort Worth.	BPCT-850108KX
Channel 52 Limited Partnership.	BPCT-850108KY

For Construction Permit Fort Worth, Texas

Adopted: April 29, 1985.
Released: May 3, 1985.

By the Chief, Video Services Division.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 52, Ft. Worth, Texas; petitions to deny the application of Fort Worth Television, Inc. and Nuevo Mundo Broadcasting, Inc. filed by Channel 52, Fort Worth Television, Ltd.; a statement of the Association of Maximum Service Telecasters, Inc. (AMST);[1] petitions for leave to amend and accompany amendments filed by Alden Television, Inc., Benjamin T. Perry, III, EAM Broadcasting Co. of Fort Worth, and Channel 52, Fort Worth Television, Ltd.;[2] and related pleadings.

2. The effective radiated power, antenna heights above average terrain and other technical data submitted by each applicant indicate that there would be a significant difference in the size of the area and population which would be served by each. Consequently, the areas and populations which would be within within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location proposed by each of the applicants would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and Tabulated at least every 10° plus any minima or maxima. Rebecca Rangel Henton has not supplied this data. Accordingly, Ms. Henton will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and copies to the Chief, Television Branch and Chief, Hearing Branch, Mass Media Bureau, within 20 days after this Order is released.

5. Section V–C, item 10(e), FCC Form 301, requires an applicant to submit the area and population within the proposed Grade B contour. Benjamin T. Perry, III, has not submitted this information. Additionally, Mr. Perry's application does not include a vertical tower sketch as required by Section V–G, item 6. Accordingly, Mr. Perry will be given 20 days from the release date of this Order to submit an amendment which includes the area and population within the Grade B contour and the vertical tower sketch, to the presiding Administrative Law Judge.

6. Dave Reese's application states that the applicant is a general partnership in Section I, item 1, FCC Form 301. However, the Table I information in Section II, item 5, indicates that the applicant is a limited partnership whose limited partners are yet to be determined. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), the Commission stated that henceforth limited partnership interests were not attributable for the purpose of the multiple ownership rules, if the applicant certifies that the limited partnership agreement conforms in all relevant respects to the Uniform Limited Partnership Act (ULPA) and shows that the limited partners will not be involved in any material respect in the management or operation of the proposed station. *Id.* at 1023. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards. *Id.* at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Mr. Reese can submit the necessary certification and showing. If the certification or showing is not appropriate, of course, the limited partners would be considered to have attributable interests, and the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Mr. Reese, upon determining his limited partners, will be required either to state that the limited partners have or will have no other media interests subject to the cross-interest policy or identify the limited partners with such interests, identify the other local media and state the nature and extent of the ownership interest.

7. Armando Quintero, 12.5 percent general partner of Texas Spanish Broadcasters (TSB), is currently employed by Station KESS(FM), Fort Worth, Texas.[3] Mr. Quintero's association with the station may violate the Commission's cross-interest policy, since we do not know the nature of Mr. Quintero's employment with KESS(FM),

[1] The petitions to deny and the statement filed by AMST pertain to the two applicants' failure to comply with § 73.610 of the Commission's Rules concerning the minimum mileage separation requirements. Each of the applicants amended its application to bring its proposal into compliance with the rule. Accordingly, the petitions to deny and AMST's statement will be dismissed as moot.

[2] The deadline for filing amendments to the above-captioned applications was February 28, 1985 ("B" cut-off date). On March 13, 1985, Alden Television, Inc. (Alden) filed a petition for leave to amend and an accompanying amendment. The amendment updates Alden's legal qualifications pursuant to § 1.65 of the Commission's Rules. The motion and amendment have been reviewed and we conclude that good cause exists for accepting the amendment. However, it is not our intention to allow any comparative advantage to Alden as a result of our action. Benjamin T. Perry, III, filed a petition for leave to amend which was accompanied by an amendment on March 4, 1985. The amendment updated Mr. Perry's broadcast interests. The petition and amendment, which was filed pursuant to § 1.65, have been reviewed and it has been determined that good cause exists for accepting them. However, as with Alden, no comparative advantage will accrue to Mr. Perry because of our decision. EAM Broadcasting Co. of Ft. Worth (EAM) filed an amendment to its application on February 28, 1985, the "B" cut-off date, but the amendment did not contain an original signature. On March 5, 1985, EAM filed a petition for leave to amend and an amendment correcting the omission. Texas Spanish Broadcasters, Ltd. each filed an opposition to the petition for leave to amend. In view of the fact that all parties were put on timely notice concerning the contents of the amendment, none were prejudiced. The amendment itself was timely filed; only the signature was missing and that was filed five days later. These circumstances are governed by long-standing Commission practice which dictates that the amendment and signature be accepted *nunc pro tunc*. *Bocanegra/Gerald Broadcasting Group*, Mimeo No. 1470, released December 22, 1982; *Communications Gaithersburg, Inc.*, 60 FCC 2d 537 (1976); *B.J. Hart*, 44 FCC 2088 (1960). Accordingly, the signature page will be accepted *nunc pro tunc*. Finally, Channel 52, Fort Worth Television, Ltd. filed a petition for leave to amend and accompanying amendment on March 20, 1985. The amendment corrects the north latitude of the transmitter site which was proposed in the applicant's February 28, 1985, amendment. Both the petition and amendment have been reviewed and, we conclude that, good cause exists for accepting them.

[3] There is no indication in what capacity Mr. Quintero is employed at KESS(FM).

we can not determine if his employment is inconsistent with our cross-interest policy. However, TSB has stated that if it is the successful applicant for Channel 52, Mr. Quintero will terminate any connection with KESS(FM). Therefore, rather than specify a cross-interest issue, we will accept TBS's representation to divest. Accordingly, if TSB is the successful applicant, the construction permit shall be subject to the condition that, prior to the commencement of operation of the television station, the permittee shall certify to the Commission that Mr. Quintero has severed all connection with the licensee of KESS(FM).

8. Section 73.2080 of the Commission's Rules requires an applicant for a new commercial television station to afford equal employment opportunity to all qualified persons and to refrain from discriminating in employment and related benefits on the basis of race, color, religion, national origin or sex. Pursuant to these requirements, an applicant who proposes to employ at least five full-time employees must established a program, which must be submitted to the Commission, designed to assure equal employment opportunity for women and minority groups. Benjamin Perry has indicated that he will employ at least five full-time persons. However, he has not submitted a copy of his equal opportunity program. Accordingly, Mr. Perry will be required to submit an amendment which corrects this omission, to the presiding Administrative Law Judge within 20 days after this Order is released.

9. Section II, item 5(a) FCC Form 301, requires the name and residence of each party to the application to be shown in Table I. Carter Broadcasting Partnership has not listed the address of Dorothy Ozan Schutz, a general partner. Accordingly, the applicant will be required to submit an amendment which provides Ms. Schultz's address, to the presiding Administrative Law Judge, within 20 days after this Order is released.

10. Section II, item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings related to ownership of future ownership rights. Furthermore, an affirmative answer to item 9 requires the applicant to provide information concerning the particulars as an exhibit to the application. EAM Broadcasting Co. of Fort Worth answered affirmatively to item 9. However, the required exhibit was not included. Accordingly, EAM will be required to submit an amendment which corrects this omission, to the presiding Administrative Law Judge, within 20 days after this Order is released.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since these applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. 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, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

(1) To determine, with respect to each of the applicants, whether the tower height and location proposed by each would constitute a hazard to air navigation.

(2) To determine which of the proposals would, on a comparative basis, best serve the public interest.

(3) To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, that the Federal Aviation Administration is made a party respondent with respect to issue 1.

14. It is further ordered, that the petitions to deny filed by Channel 52 Fort Worth and the statement filed by the Association of Maximum Service Telecasters, Inc. are dismissed as moot.

15. It is further ordered, that Rebecca Rangel Henton shall submit an amendment providing the information required by § 73.685(f) of the Commission's Rules, to the presiding Administrative Law Judge and copies to Chief, Television Branch and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release date of this Order.

16. It is further ordered, that Benjamin T. Perry, III, shall submit an amendment which contains his response to FCC Form 301, Section 10(e) and a vertical tower sketch as required by Section V-G, item 6, to the presiding Administrative Law Judge, within 20 days after this Order is released.

17. It is further ordered, that Dave Reese shall submit the certification, statement and/or information required by paragraph 6, *supra*, to the presiding Administrative Law Judge, within 20 days after this Order is released.

18. It is further ordered, that, in the event of a grant of the application of Texas Spanish Broadcasters, the construction permit shall be conditioned as follows:

Prior to the commencement of operation of the television station authorized herein, the permittee shall certify to the Commission that Armando Quintero has severed all connection with the licensee of Station KESS(FM), Fort Worth, Texas.

19. It is further ordered, that Benjamin T. Perry, III, shall submit, as an amendment, an equal employment opportunity program to the presiding Administrative Law Judge, within 20 days after this Order is released.

20. It is further ordered, that Carter Broadcasting Partnership shall submit an amendment providing the address of Ms. Schultz, as required by Section II, item 5(a), FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

21. It is further ordered, that EAM Broadcasting Co. of Fort Worth shall submit an amendment providing the exhibit required by an affirmative answer to Section II, item 9, FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

22. It is further ordered, that the petitions for leave to amend and the amendments filed by Alden Television, Inc., Benjamin T. Perry III, Channel 52, Fort Worth Television, Ltd. and EAM Broadcasting Co. of Fort Worth, are accepted, the latter including the signature page *nunc pro tunc*.

23. It is further ordered, that to avail themselves of the opportunity to be heard, the applicants and the 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 the hearing and present evidence on the issues specified in this Order.

24. 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 Section 73.3594(g) of the Rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-11105 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-10-M

Allocations Subgroup of Radio Advisory Committee; Meeting

The Allocations Subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting on Friday May 10, 1985, at 10:00 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW. Washington, D.C.

The Subgroup will give consideration to the development of recommendations to the Federal Communications Commission concerning matters pertinent to preparations for the upcoming Region 2 Conference on expansion of the AM band. In particular, these relate to identifying specific broadcast requirements and the means of addressing these requirements through use of the spectrum to become available through expansion of the AM band.

The Allocations Subgroup meeting, a continuing one, will be resumed after the May 10, 1985, session at such time and place as is decided at that session.

All meetings of the Allocations Subgroup are open to the public. All interested parties are invited to attend and participate in these meetings.

For further information, please call the Subgroup Chairman, Jonathan David, at (202) 632-7792

William J. Tricarico,

Secretary, Federal Communications Commissions.

[FR Doc. 85-11110 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-01-M

Technical Subgroup of Radio Advisory Committee; Meeting

The technical subgroup of the Advisory Committee on Radio Broadcasting resumes its continuing meeting Wednesday May 22, 1985, at 10:00 a.m. in the Vincent Wasilewski Room of the National Association of Broadcasters, 1771 N Street NW. Washington, DC.

The subgroup will continue its consideration of recommendations to the Federal Communications Commission concerning matters pertinent to preparations for the upcoming Region 2 Conference on expansion of the AM band.

The subgroup also may discuss matters relating to the ongoing discussions between the United States and Mexico looking toward the development of a new bilateral AM Agreement. In addition, the Subgroup also may consider other relevant matters of concern to the participants at the meeting.

The meeting, a continuing one, will be resumed after the May 22, 1985, session at such time and place as is decided at that session.

All meetings of the Technical Subgroup are open to the public. All interested parties are invited to participate in these meetings.

For further information, please call the Subgroup Chairman, Mr. Wallace F. Johnson, at (703) 841-0500.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-11111 Filed 5-7-85; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: New Collection

Title: Radiological Protection Data Base

Abstract: Increasing use of radioactive materials and nuclear technology require a Radiological Protection Program designed to protect the public. Development and maintenance of a Data Base will assist Federal and State governments to track the status and development efforts to implement radiological protection program with Federal financial and guidance support.

Type of respondents: State or Local Governments

Number of respondents: 3,450

Burden hours: 1,725

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Dated: May 1, 1985.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 85-11055 Filed 5-7-85; 8:45 am]

BILLING CODE 6718-01-M

FEDERAL HOME LOAN BANK BOARD

[No. 85-329]

Settlement of Insurance; Information Collection Requirements

Dated: May 3, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted a new information collection request, "Settlement of Insurance Reconsideration Procedures" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments

Comments on the information collection request are welcome and should be submitted within 10 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, D.C. 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street, NW., Washington, D.C. 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Sandra L. Richardson, Office of General Counsel. Phone: 202-377-6432.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 85-11124 Filed 5-7-85; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

[Docket No. 85-13]

Marcella Shipping Company Ltd.; Order of Investigation and Hearing

Marcella Shipping Company Ltd. (Marcella) is an ocean common carrier based in Nassau, Bahamas with a tariff on file with the Commission providing for service between ports in Florida and ports in the Caribbean. An examination of Marcella's voyage files for a sample of five voyages which occurred between September 18, 1980 and October 28, 1980, showed that of a total of 186 shipments transported, Marcella apparently charged incorrect ocean freight rates for 45 of the 186 shipments. This involved alleged charges of $2,447.51 more than permitted by the tariff on 34 shipments and $1,892.02 in undercharges on 11 shipments. Marcella also deviated from its tariff by not charging for wharfage for any of the remaining 141 shipments. Incorrect bunker surcharges and handling charges were also assessed against a number of these shipments. This resulted in an additional $746.41 in undercharges for the 141 shipments.

The owner and principal officer of Marcella was informed by the Commission's staff of the above and about similar findings for earlier voyages. The owner stated he was aware that some rates being charged had not been filed with the Commission by Marcella's agent even though the agent had been instructed to file the correct rates. A written confirmation of Marcella's position on this matter was promised but never received. Subsequently, it appeared that Marcella had gone out of business, and Marcella's tariff was routinely cancelled by the Commission effective July 5, 1983 as being an inactive tariff.

Due to the above inquiry into Marcella's tariff rating practices, further efforts were made to determine what had happened to Marcella's operations. It was eventually learned that Bahamas International Shipping of Miami, Florida was advertising sailings on the M/V MARCELLA II and was issuing Marcella bills of lading. It was also determined that the owner of Marcella was involved in the operation of the M/V MARCELLA II as well as in Bahamas International Shipping.

After repeated attempts, the owner of Marcella was contacted in September, 1983 about the operation of the M/V MARCELLA II. He stated he was not aware that the Marcells's tariff had been cancelled by the Commission. He stated Marcella was using the tariff in the operation of the M/V MARCELLA II and the M/V MIRANDA. He was warned that continuing to engage in the transportation of cargo without a tariff on file could violate section 18(d)(1) of the Shipping Act, 1916 (46 U.S.C. app. 817) and was advised that a new tariff would have to be filed. A new tariff, FMC No. 4, was filed effective October 11, 1983.

It was later learned that Marcella had apparently operated 7 voyages as a common carrier between the time its tariff was cancelled and the effective date of its new tariff.

An analysis of rates charged by Marcella on three voyages operated in November, 1983 under its new tariff showed that of a total of 64 shipments, 62 were charged the rates specified in the tariff. The remaining two shipments were both shipments of the same commodity and both were apparently charged a rate not in the tariff which resulted in a total undercharge of $3,508.84. In September, 1984, Marcella published in its tariff the reduced rate it had charged for the two November, 1983 shipments.

Section 18(b)(1) of the Shipping Act, 1916 (46 U.S.C. app. 817), at the time of the activities discussed above, provided:

> Every common carrier by water in foreign commerce and every conference of such carriers shall file with the Commission and keep open to public inspection tariffs showing all the rates and charges of such carrier or conference of carriers for transportation to and from United States ports and foreign ports between all points on its own route and on any through route which has been established.

Section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. app. 817), at the time of the activities discussed above, provided:

> No common carrier by water in foreign commerce or conference of such carriers shall charge or demand or collect or receive a greater or less or different compensation for the transportation of property or for any service in connection therewith than the rates and charges which are specified in its tariff on file with the Commission and duly published and in effect at the time; nor shall any such carrier rebate, refund, or remit in any manner or by an device any portion of the rates or charges so specified, nor extend or deny to any person any privilege or facility, except in accordance with such tariffs * * *.

In July, 1984, Marcella, through an attorney, made a general denial of any violation of the Shipping Act, 1916.

A claim letter was sent to Marcella in September, 1984 to provide Marcella an opportunity to compromise civil penalties for violations of sections 18(b)(1) and 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. app. 817). The claim letter was issued pursuant to the Commission's authority to compromise civil penalties provided by section 32(e) of the Shipping Act, 1916 (46 U.S.C. 831) and pursuant to the procedures set forth in the Commission's regulations (46 CFR 505). Marcella refuses to respond to the claim letter.

Therefore, it is ordered, That pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. app. 821) and section 11 of the Shipping Act of 1984 (46 U.S.C. app. 1710), a formal investigation and hearing is hereby instituted to determine:

1. Whether Marcella violated section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. app. 817) by charging rates other than the rates on file with the Commission for the voyages listed in Appendix A.

2. Whether Marcella violated section 18(b)(1) of the Shipping Act, 1916 (46 U.S.C. app. 817) by operating without a tariff on file with the Commission from July 5, 1983, the date of the cancellation of its FMC No. 3 tariff, until October 11, 1983, the effective date of its FMC No. 4 tariff;

3. Whether, in the event Marcella is found to have violated section 18(b)(1) and/or section 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. app. 817) civil penalties should be assessed and, if so, the amount of such penalties; and

4. Whether, in the event Marcella is found to have violated section 18(b)(1) and/or 18(b)(3) of the Shipping Act, 1916 (46 U.S.C. app. 817), Marcella should be ordered to cease and desist from violating the provisions of the Shipping Act of 1984 (46 U.S.C. app. 1701 *et seq.*).

It is further ordered, that Marcella Shipping Company Ltd. be named Respondent in this proceeding;

It is further ordered, that a public hearing be held in this proceeding and that the matter be assigned for hearing and decision by an Administrative Law Judge of the Commission's Office of Administrative Law Judges at a date and place to be hereafter determined by the Presiding Administrative Law Judge. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Administrative Law Judge only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents, or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, that pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure (46 CFR 502.61), the initial decision of the

presiding officer in this proceeding shall be issued by May 5, 1986, and the final decision of the Commission shall be issued by September 5, 1986;

It is further ordered, that in accordance with Rule 42 of the Commission's Rules of Practice and Procedure (46 CFR 502.42), the Commission's Bureau of Hearing Counsel shall be a party to this proceeding;

It is further ordered, that notice of this Order be published in the **Federal Register**, and a copy be served upon all parties of record;

It is further ordered, that any person having an interest and desiring to participate in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72);

It is further ordered, that all future notices, orders, or decisions issued in this proceeding, including notice of the time and place of hearing or prehearing conference, shall be mailed directly to all parties of record;

It is further ordered, that all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure (46 CFR 502.118), as well as being mailed directly to all parties of record.

By the Commission.

Bruce A. Dombrowski,

Acting Secretary.

APPENDIX A

Vessel name	Voyage number	Dated sailed
M/V Marcella II	260	9-18-80
M/V Marcella II	261	9-29-80
M/V Marcella II	262	10-09-80
M/V Marcella II	263	10-17-80
M/V Marcella II	264	10-28-80
M/V Miranda II	18	11-09-83

[FR Doc. 85-11114 Filed 5-7-85; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bankamerica Corp.; 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 securites 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 31, 1985.

A. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *BankAmerica Corporation*, San Francisco, California; to engage in an indirect joint venture with BATUS Leasing, Inc., Louisville, Kentucky, in the leasing of personal property and real property. This application may be inspected at the Federal Reserve Bank of San Francisco.

Board of Governors of the Federal Reserve System, May 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-11049 Filed 5-7-85; 8:45 am]

BILLING CODE 6210-01-M

Barnett Banks of Florida, Jacksonville, FL; Application To Engage in Nonbanking Activities

Barnett Banks of Florida, Jacksonville, Florida, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act, 12 U.S.C. 1843(c)(3), and § 225.23(a)(3) of Regulation Y, 12 CFR 225.23(a)(3), for permission to engage *de novo*, through its wholly owned subsidiary, Verification Inc., in the following activities: (1) To offer a reporting service to credit card holders enabling card holders to report the loss or theft of credit cards via a toll-free telephone call to Verification, Inc., and (2) to offer a credit card voice transaction authorization service to subscribing bankcard issuers, which would enable merchants to ascertain whether a customer's credit card was valid and whether the customer's line of credit on the card was sufficient to cover a proposed purchase.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Applicant believes that these activities are so closely related to banking or managing or controlling banks as to be a proper incident thereto, because the activities are, in Applicant's opinion, either provided by banks or functionally similar to services provided by banks.

Interested persons may express their views on whether the proposed activities are "so closely related to banking or managing or controlling banks as to be a proper incident thereto," and whether allowing Barnett to engage in these activities 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 these questions must be accompanied by a statement of the reasons why 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.

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Atlanta.

Comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than May 31, 1985.

Board of Governors of the Federal Reserve System, May 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-11050 Filed 5-7-85; 8:45 am]

BILLING CODE 6210-01-M

National Penn Bancshares, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 29, 1985.

A. Federal Reserve Bank of Philadelphia

(Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *National Penn Bancshares, Inc.*, Boyertown, Pennsylvania; to engage *de novo* through its subsidiary Penn Mortgage Company, Boyertown, Pennsylvania, in the provision of mortgage banking services, including the originating, closing, selling, and servicing of mortgage loans, for the Applicant's account or for the account of another.

B. Federal Reserve Bank of Richmond

(Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Maryland National Corporation*, Baltimore, Maryland; to engage *de novo* through its subsidiary, Maryland National Leasing Corporation, Baltimore, Maryland, in the leasing of real or personal property or acting as agent, broker or adviser in leasing such property pursuant to section 12 CFR 225.25(b)(5); in making, acquiring or servicing loans or other extensions of credit such as would be made by a commercial finance company; in the sale of credit life and mortgage redemption insurance.

Board of Governors of the Federal Reserve System, May 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-11051 Filed 5-7-85; 8:45 am]

BILLING CODE 6210-01-M

New Hampshire Savings Bank Corp. et al., Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that request a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 31, 1985.

A. Federal Reserve Bank of Boston (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *New Hampshire Savings Bank Corporation*, Concord, New Hampshire; to acquire 100 percent of the voting shares of United Savings Bank, Manchester, New Hampshire.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Headland Capital Corporation*, Headland, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of Wiregrass Bank & Trust, Headland, Alabama.

C. Federal Reserve Bank of Dallas (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Commerce Bancshares of Roswell, Inc.*, Roswell, New Mexico; to become a bank holding company by acquiring 80 percent of the voting shares of Valley Bank of Commerce, Roswell, New Mexico.

2. *Haltom City Bancshares, Inc.*, Dallas, Texas; to acquire 100 percent of the voting shares of American Bank of Commerce, Grapevine, Texas.

Board of Governors of the Federal Reserve System, May 2, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-11052 Filed 5-7-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Privacy Act of 1974; Matching Program—HHS Personnel Records/ Federal Bureau of Investigation Identification Records

AGENCY: Department of Health and Human Services.

ACTION: Notification of Matching Program—HHS Personnel/Federal Bureau of Investigation Identification Records.

SUMMARY: The Department of Health and Human Services (DHHS) is providing notice that the Office of Inspector General intends to conduct a match of DHHS personnel records with Federal Bureau of Investigation identification records. A matching report is set forth below.

DATES: The match will begin in May 1985.

ADDRESS: Send any comments to Office of Public Affairs, Office of Inspector

General, Department of Health and Human Service, Room 5640–A, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Richard McGowan, Public Affairs Officer, Office of Inspector General, Department of Health and Human Services, Room 5640–A, HHS North Building, 330 Independence Avenue, SW., Washington, D.C. 20201 or call (202) 472–3142.

SUPPLEMENTARY INFORMATION: The Office of Inspector General has initiated a project to evaluate HHS personnel security practices with regard to DHH employees holding positions involving access to financial or benefit payment systems and/or involving automated data processing who have been convicted of offenses which raise security or suitability questions. Set forth below is the information required by paragraph 5.f.1. of the Revised Supplemental Guidance for Conducting Computerized Matching Programs issued by the Office of Management and Budget, 47 FR 21656 (May 19, 1982). A copy of this notice has been provided to both Houses of Congress and the Office of Management and Budget.

Dated: April 30, 1985.

Richard P. Kusserow,

Inspector General.

Report of Matching Program: Federal HHS Personnel Records/Federal Bureau of Investigation Identification Records

a. *Authority:* Pub. L. 94–505.

b. *Program Description:* The Office of Inspector General plans to conduct a match of HHS employees identified as holding positions involving access to financial or benefit payment systems and/or involving automated data processing against Federal Bureau of Investigation identification records on arrests and convictions to verify information supplied by the employees on Personal Qualifications Statements (sF–171s) and to up-date information on convictions. Raw hits will be reviewed and verified as necessary with Federal, state and local law enforcement agencies. The information will be used to evaluate the Department's procedures for identifying employees in positions of trust whose convictions for certain offenses raise a security or suitability question and to evaluate whether the Department has taken appropriate corrective action. Information on specific cases identified during the match will be furnished to appropriate officials in the Department where administrative action is necessary.

c. *Records to be Matched:* Selected records on DHHS employees from the General Personnel Records System (OPM/GOVT–1), 47 FR 16489 (April 16, 1982) against the Federal Bureau of Investigation Identification Division Records System, 46 FR 7507 (January 23, 1981).

d. *Period of the Match:* This match will begin in May 1985 and will be completed within 3 months.

e. *Safeguards:* Records used in this match will be maintained under strict security. Access to the computer files and printed information is restricted to only those persons associated with the matching program on a "need-to-know" basis. The records will be kept in locked file cabinets and under the control of the Office of the Inspector General. All computer source tapes will be returned within 60 days of the match. We protect all computer tapes by the use of passwords to prohibit unauthorized access. All computer files are safeguareded in accordance with the provisions of the National Bureau of Standards Federal Information Processing Standards 41 and HHS ADP Systems Manual, Part 6, "ADP Systems Security."

f. *Retention and Disposition of Records:* Records on DHHS employees produced in the match will only be maintained where the information meets predetermined criteria indicating a serious potential security or suitability problem. All records maintained will be destroyed within 6 months except for those records which are necessary to the completion of pending administrative activities of the matching program. Paper listings will either be shredded or burned, the data will be verified to insure accuracy prior to any dissemination of records on individuals.

[FR Doc. 85–11063 Filed 5–7–85; 8:45 am]

BILLING CODE 4150–04–M

Centers for Disease Control

Cooperative Agreement for a Study of Two Apparent Clusters of Teen Deaths in Texas Communities; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds in Fiscal Year 1985 for a cooperative agreement with the Texas Research Institute of Mental Sciences (TRIMS) in conducting a study of teen suicide clusters in two Texas communities. The study will provide a better understanding of the suicide clustering phenomenon and the characteristics of teens at high risk for suicide in a cluster. The study conclusions are designed to: (1) Help State and local health agencies recognize and investigate subsequent teen suicide clusters; (2) assist school systems, Federal agencies, and private sector groups to develop suicide intervention/prevention strategies; and (3) meet the 1990 Federal Objective for the Nation for reducing suicide rates among persons 15 to 24 years old. This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance number is 13.283.

Assistance will be provided only to the Texas Research Institute of Mental Sciences for this study. TRIMS is the designated mental health research agency for the area in which the only two suicide clusters suitable for study have been identified. TRIMS enjoys the widespread community and professional support which is essential in assuring local cooperation to obtain the requisite interviews for this study. Additionally, TRIMS has the requisite preliminary information on the two suitable clusters through a local task force on suicide. It is concluded that TRIMS is the only institution that has the necessary information and working relationships to carry out this project; and no other institution has access to it.

Therefore, this is not a formal request for applications. It is expected that approximately $25,000 will be available during Fiscal Year 1985 to support this study. It is anticipated that the cooperative agreement will be funded for a budget period of 12 months. Funding estimates outlined above may vary and are subject to change.

Information may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, N.E., Room 321, Atlanta, Georgia 30305, telephone (404) 262–6575.

Dated: May 1, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85–11177 Filed 5–7–85; 8:45 am]

BILLING CODE 4160–18–M

Cooperative Agreement for a Project To Study Family and Intimate Homicide and Assaults; Availability of Funds for Fiscal Year 1985

The Centers for Disease Control announces the availability of funds in Fiscal Year 1985 for a cooperative agreement with the State of Georgia Department of Human Resources (DHR) to study family and intimate homicides and assaults occurring during 1985 in Atlanta, Georgia, within Fulton County.

The study is designed to: (1) Describe the role of health, social service, law enforcement, and judicial agencies with respect to their contact with affected families prior to death or assault; (2) describe the contacts these agencies had with each other regarding the affected families; (3) identify situational variables or "risk factors" which precede death or assault; (4) generate suggestions for changing health and social service agency responses to such cases; and (5) demonstrate the feasibility of conducting research with a combination of public health, health, social service, and criminal justice agencies. Once the study has been completed, there should be a clearer understanding of the profile of victims and perpetrators of such violence, which will be of use to a variety of State, local, and Federal agencies, as well as to private sector groups and schools of public health. This program is authorized under section 301(a) of the Public Health Service Act (42 U.S.C. 241(a)), as amended. The Catalog of Federal Domestic Assistance number is 13.283.

Assistance will be provided only to the State of Georgia Department of Human Resources for this project. This study requires a coordinating office which can organize data collection, analysis, and feedback of data gathered across different agencies and organizations at the city, county, and State level. The coordinating office must be one which can protect confidentiality of client information despite the fact that personal identifiers will be needed to link agency records of one agency to records of another. The Official Code of Georgia Annotated provides the Georgia Department of Human Resources with empowerment to declare certain diseases and injuries to be diseases requiring notice. The State of Georgia DHR may require reporting to the county board of health and DHR as necessary for prevention of those diseases and injuries, with confidentiality being maintained. The State of Georgia DHR is the only agency with such empowerment in the State. In addition, the State of Georgia DHR recently formed an Interdivisional Task Force on Domestic Violence and is currently approaching the problem as a priority area in need of further attention and analysis. This study requires a site in a major urban area with a high rate of interpersonal assaults, and one where specific agencies are already in communication with each other and willing to cooperate on domestic violence projects. Atlanta fits these study requirements, and is also the location of the offices of Georgia DHR. It is concluded that State of Georgia DHR is the only institution that has the necessary location, agency access, and legal empowerment to carry out this project; and no other institution has such a location, access, and empowerment. Therefore, this is not a formal request for applications. It is expected that approximately $35,000 will be available during Fiscal Year 1985 to support this study. It is anticipated that the cooperative agreement will be funded for a budget period of 12 months. Funding estimates outlined above may vary and are subject to change.

Information may be obtained from Leo A. Sanders, Chief, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, telephone (404) 262-6575 or FTS 236-6575.

Dated: May 1, 1985.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 85-11178 Filed 5-7-85; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following consumer exchange meeting:

Buffalo District Office, chaired by moderator Betty Holmes, Oneida County Consumer Advocate, with panelists Lois M. Meyer, FDA Consumer Affairs Officer; Gay Carl, Assistant Attorney General, New York State Department of Law; and Lucia Frontera, Executive, Better Business Bureau (BBB) Mohawk Valley. The topic to be discussed is Health Frauds Affecting the Elderly.

DATE: Thursday, May 16, 1985, 1 p.m.

ADDRESS: New Hartford First Methodist Church, 105 Genesee St., New Hartford, NY 13413.

FOR FURTHER INFORMATION CONTACT: Lois M. Meyer, Consumer Affairs Officer, Food and Drug Administration, 599 Delaware Ave., Buffalo, NY 14202, 716-846-4483.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between the senior citizens of Oneida County and three principal agencies cooperating in this program. The meeting will identify health concerns that the elderly of Oneida County have and will assist the three agencies in developing programs and mechanisms for attacking the health fraud that plagues the elderly in Oneida County and the surrounding Mohawk Valley.

Dated: May 1, 1985.

Mervin H. Shumate,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-11040 Filed 5-7-85; 8:45 am]

BILLING CODE 4160-01-M

Request for Nominations for Voting Members on Public Advisory Committees or Panels

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting nominations for voting members to serve on the Veterinary Medicine Advisory Committee in FDA's Center for Veterinary Medicine.

DATE: No cutoff date is established for receipt of nominations.

ADDRESS: All nominations for membership should be submitted to Bert L. Schrivener (address below).

FOR FURTHER INFORMATION CONTACT: Bert L. Schrivener, Center for Veterinary Medicine (HFV-400), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4557.

SUPPLEMENTARY INFORMATION: FDA is requesting nominations for voting members on the Veterinary Medicine Advisory Committee. The function of the committee is: (1) To review and evaluate available information concerning the safety and effectiveness of marketed and investigational new animal drugs, feeds, and devices for use in the treatment and prevention of animal disease and increased animal production; and (2) make appropriate recommendations to the Commissioner of Food and Drugs.

Persons nominated for membership shall have adequately diversified experience appropriate to the work of the committee in such fields as companion animal medicine, food animal medicine, avian medicine, microbiology, biometrics, toxicology, pathology, pharmacology, animal science, and chemistry. The specialized training and experience necessary to qualify the nominee as an expert suitable for appointment is subject to review, but may include experience in medical practice, teaching, and/or research relevant to the field of activity of the committee. The term of office is 4 years.

Interested persons may nominate one or more qualified persons for membership on the advisory committee. Nominations shall state that the nominee is willing to serve as member of the advisory committee and appears to have no conflict of interest that would preclude committee membership. FDA asks potential candidates to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts in order to permit evaluation of possible sources of conflict of interest.

FDA has a special interest in assuring that women, minority groups, and the physically handicapped are adequately represented on advisory committees and, therefore, extends particular encouragement to nominations for appropriately qualified female, minority, and handicapped candidates.

This notice is issued under the Federal Advisory Committee Act (Pub. L. 94-463, 86 Stat. 770-776 (5 U.S.C. App. I)) and 21 CFR Part 14, relating to advisory committees.

Dated: May 1, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-11043 Filed 5-7-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing—Federal Housing Commissioner

[Docket No. N-85-1529; FR-2089]

Section 8 Housing Vouchers; Funding Availability

AGENCY: Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice of funding availability.

SUMMARY: This Notice announces the balance of HUD's Fiscal Year 1985 funding for the Housing Voucher Demonstration Program authorized under section 8(o) of the U.S. Housing Act of 1937. The Notice also describes revised policies and procedures that will apply to both the 1984 and 1985 Housing Voucher Funding. In addition to the Housing Vouchers announced in the Notice of Funding Availability published on February 28, 1985 (for allocation in support of the Fiscal Year 1985 Rental Rehabilitation Program), Fiscal Year 1985 Demonstration funding for the Housing Voucher Program includes: (1) A study of the use of Housing Vouchers by small Public Housing Agencies or in rural areas; (2) Housing Vouchers for Families living in public housing units that are being demolished or disposed of with HUD approval; (3) Housing Vouchers for Families in certain project-based section 8 projects where the owner "opts-out" of an additional term under the section 8 Housing Assistance Payments Program; and (4) Housing Vouchers to be allocated to the HUD Regional Offices by formula distribution.

DATES: Effective Date: May 8, 1985.

Comment Due Date: July 8, 1985.

ADDRESS: HUD invites interested persons to submit comments on this Notice to the Office of General Counsel, Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C., 20410. Comments should refer to the docket number and title. A copy of each comment submitted will be available for public inspection and copying during regular business hours at this address.

FOR FURTHER INFORMATION CONTACT: For Housing Vouchers: Madeline Hastings, Room 6124, Existing Housing Division, (202) 755-6887, or Gerald Benoit, Room 6128, Existing Housing Branch, (202) 755-6477. For the Rental Rehabilitation Program: Robert Dodge, Room 7170, (202) 755-5685, or Craig Nickerson, Room 7164, (202) 755-5970, Office of Urban Rehabilitation. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

Housing Voucher Program

I. Background

In 1983, Congress authorized a demonstration Housing Voucher Program under section 8(o) of the U.S. Housing Act of 1937 (the 1937 Act) (see section 207 of the Housing and Urban-Rural Recovery Act of 1983, Pub. L. 98-181 (the 1983 Act)). HUD published its first Notice of Funding Availability (NOFA) for Housing Vouchers on July 12, 1984 (see 49 FR 28458). The July 12, 1984 NOFA established a Rental Rehabilitation component and a Freestanding component of the Housing Voucher Program; announced the availability of funding for Certificates under the section 8 Existing Housing (Certificate) Program for use in connection with the Rental Rehabilitation Program; and described the policies and procedures for the use of these Housing Vouchers and Certificates.

The HUD-Independent Agencies Appropriation Act of 1985 (Pub. L. 98-371) approved contract and budget authority for approximately 41,000 Housing Vouchers in Fiscal Year 1985 (FY '85). The Department has published a NOFA announcing the availability of Housing Voucher funding in FY '85 in support of the FY '85 Rental Rehabilitation Program component (See 50 FR 8196, February 28, 1985).

This Notice announces a demonstration of Housing Vouchers to be made available for these purposes: A research component to study the workability of a Housing Voucher Program administered either by small PHAs or in rural areas; Housing Vouchers for families residing in public housing projects being demolished or disposed of with HUD approval; Housing Vouchers for families living in units in projects assisted under the section 8 New Construction or Substantial Rehabilitation Housing Assistance Payments Programs in cases where an owner exercises the option not to renew the HAP Contract for an additional term; and a formula allocation of Housing Vouchers to the HUD Regional Offices. The FY '85 uses

of the Housing Vouchers are the same as many of the current uses of section 8 Certificates. The Department believes that the allocation and use of Housing Vouchers in the manner described in this Notice will demonstrate that Housing Vouchers are as functional as and more flexible than section 8 Certificates. Housing Vouchers will provide participating Families with a greater choice of units in a local housing market and will allow the Department to assist Families in a more cost-effective manner.

The procedures outlines in Part III of this Notice apply to all components of the 1984 and 1985 Housing Voucher program and supersede those published in Part V of last year's July 12 Notice. In many respects the procedures remain unchanged.

After considering the 38 public comments submitted on the July 12, 1984 NOFA, several changes have been made in Part III of this Notice. A complete discussion of these comments appears in Part V of this Notice. Many commenters sought clarification of certain provisions, while others requested that specific changes be made in the program. This Notice makes changes concerning provisions relating to security deposits and owner damage claims, portability of Housing Vouchers, and the application procedures for some of the FY '85 components; revises the provisions concerning the Applicable Payment Standard; and clarifies how the Annual Contributions Contract amount is computed, use of waiting list procedures and income eligibility requirements.

The Department continues to support the development of a permanent Housing Voucher program. Once this demonstration becomes a permanent program the Department may use the substance of the NOFA as the basis for future rulemaking. In such a case, rulemaking is likely to be abbreviated. HUD may, for example, publish a rule for effect very similar in content to this Notice of Funding Availability. Commenters on today's Notice should take this into account so that any rule on the subject matter will have the benefit of comment before effectiveness.

II. Components of the Housing Voucher Demonstration Program

A. Rental Rehabilitation Program

HUD published regulations at 24 CFR Part 511 (see 49 FR 16936, April 20, 1984) implementing the Rental Rehabilitation Program authorized by section 17 of the U.S. Housing Act of 1937 (added by section 301 of the 1983 Act). Under the Rental Rehabilitation Program, HUD makes rental rehabilitation grants to State and local governments to help support the rehabilitation of privately owned real property to be used for primarily residential rental purposes. Grants are made on a formula basis to cities with populations of 50,000 or more, and to urban counties, States and qualifying consortia of geographically proximate units of general local government within the same State.

The purpose of the Rental Rehabilitation Program is to help provide affordable, standard rental housing for Lower Income Families, and to increase the availability of housing units for the use of Housing Voucher and Certificate holders.

The Department announced the availability of Housing Vouchers and Certificates in support of the 1984 Rental Rehabilitation Program in the July 12, 1984 NOFA and the availability of Housing Vouchers in support of the 1985 Rental Rehabilitation Program on February 28, 1985 (50 FR 8196).

The special requirements for the Rental Rehabilitation component of the Housing Voucher Program were contained in Part III of the July 12, 1984 NOFA and remain unchanged (see 49 FR 28461–28463), except as noted in the February 28, 1985 NOFA. In addition, the provisions in the generally applicable Part V of the FY '84 Notice also apply to the Rental Rehabilitation component. Since certain of the Part V requirements have changed, and for the convenience of the user, the requirements applicable to all Housing Voucher Assistance, including assistance provided in support of the Rental Rehabilitation Program, have been set out in full in this Notice as Part III. Therefore, the Rental Rehabilitation component of the Housing Voucher Program is governed by Part III of the 1984 NOFA, entitled "Allocations of, Invitations for, Applications for, and Use of Certificates and Vouchers in Connection with the Rental Rehabilitation Program," the February 28, 1985 NOFA, and Part III of this Notice.

B. Freestanding Housing Voucher Demonstration

The Department announced the Freestanding Housing Voucher Demonstration in the July 12, 1984 NOFA. The Freestanding Demonstration component of the Housing Voucher Program is designed to compare the Housing Voucher Program with the Certificate Program to determine the effect of Housing Vouchers on Families and PHAs.

The special requirements for the Freestanding Demonstration were contained in Part IV of the July 12, 1984 NOFA and remain unchanged (see 49 FR 28463–28464). In addition, the provisions in the generally applicable Part V of the FY '84 Notice also apply to the Freestanding Demonstration. Since certain of the Part V requirements have changed, and for the convenience of the user, the requirements applicable to all Housing Voucher assistance, including the Freestanding Housing Voucher Demonstration, have been set out in full in this Notice, as Part III. Therefore, the Freestanding Demonstration component of the Housing Voucher Program is governed by Part IV of the July 12, 1984 NOFA, entitled "Invitations for, Applications for, and Use of Vouchers Under the Freestanding Component of the Voucher Program," and by Part III of this Notice.

C. Small PHA/Rural Area Housing Voucher Demonstration

1. General Description

The Small PHA/Rural Area Housing Voucher Demonstration (Small/Rural) is complementary to the Freestanding Demonstration of the Housing Voucher Program. (See section II.B. of this Notice for a brief description of the Freestanding Demonstration.) The Small/Rural Demonstration is designed to test the feasibility of a Housing Voucher Program administered by a small PHA or in a rural area. The issues to be evaluated will include the rates at which families receiving Housing Vouchers are successful in finding units, the impact of the program on rent burdens of families participating in the program, the percent of participants that either move or rent in-place, the rate of turnover among participants, and the costs of administering the program.

This section II.C. sets forth the design features unique to this component of the Housing Voucher Program relating to invitations to apply for the Program, selecting Families, use of Housing Vouchers, and reporting requirements. Part III contains the generally applicable rules for operating all of the elements of the Housing Voucher Program, including the Small/Rural Demonstration. HUD may modify the requirements of this Notice in connection with the implementation of the research design for the Small/Rural component.

2. Invitations for Small PHA/Rural Area Housing Voucher Demonstration Component

(a) Subject to the availability (as determined by HUD) of sufficient contract and budget authority, HUD will invite selected PHAs to apply to

participate in the Small/Rural Demonstration component of the Housing Voucher Program.

(b) HUD will select PHAs to submit applications, taking into account such factors as geographic diversity, degree to which the service area of a PHA is rural, and whether a PHA is operating a Certificate Program of appropriate size (between 100 and 1,000 units) for a small PHA demonstration.

(c) The invitation will state:

(1) That HUD is inviting the PHA to apply to participate in the Small/Rural component of the Housing Voucher Program to be operated in accordance with this Notice;

(2) The amount of contract and budget authority available and the number of units HUD estimates the authority will support based on an average of two-bedroom units;

(3) The deadline for submission of the PHA's application for Housing Voucher assistance;

(4) That relevant information and forms are included with the invitation and that the PHA may obtain additional information from the HUD Field Office; and

(5) Other information or documentation the PHA must submit.

3. Selecting Families and Issuing Housing Vouchers

In addition to the requirements of section III.G. of this Notice, a PHA administering the Small/Rural component of the Housing Voucher Program shall select Families and issue Housing Vouchers in accordance with guidance provided by HUD as part of the research plan. In general, the research plan will provide that when a Housing Voucher becomes available, the PHA will issue that Housing Voucher to the next Family on the waiting list that qualifies for the unit under the PHA's occupancy policy.

4. Reporting Requirements

In addition to reporting required for all components of the Housing Voucher program, a PHA administering the Small/Rural component of the Housing Voucher program shall collect complete and accurate records, as required by HUD, on Housing Vouchers issued under this component. The PHA shall send copies of required forms to HUD or its designee, as HUD may specify, for each Housing Voucher.

D. Targeted Housing Vouchers Demonstration

1. Purpose

The Conference Report accompanying the Department of Housing and Urban Development-Independent Agencies Appropriation Act, 1985, states the amounts of contract authority to be used for Housing Vouchers targeted to families living in certain types of projects (H. Rept. 98-867, 98th Congress, 2d. Session, Conference Report to accompany H.R. 5713, June 26, 1984). The Department will make these Housing Vouchers available (on an as-needed basis, subject to the availability of funds) in the situations described in paragraphs D.2. and D.3. of this section. To assist Families in these situations, the Department generally considers 25 to be the minimum feasible program allocation, unless the PHA already has a Housing Voucher program. Using Housing Vouchers in a manner analogous to "targeted" Section 8 Certificates should demonstrate the comparability of Housing Vouchers and section 8 Certificates.

2. Section 8 "Opt-Out" Projects

Certain project-based Section 8 Housing Assistance Payment Contracts provide for an initial contract term not to exceed five years, renewable at the sole discretion of the owner for additional terms of up to five years for not to exceed a specified period. (See 24 CFR 880.109, 1979 Ed. and 24 CFR Part 1273, App. II, 1975 Ed.) Subject to the availability (as determined by HUD) of sufficient contract and budget authority, the Department may make Housing Vouchers available to Eligible Families residing in units in a New Construction or Substantial Rehabilitation project when the owner has the sole discretion, at the end of the initial term or an additional term, not to renew the contract for an additional term and elects not to renew the contract.

3. Demolition or Disposition of Public Housing Units

Part 970 of the Department's regulations sets out the procedures a PHA must follow to receive HUD approval of the demolition of buildings or disposition of real property owned by the PHA which contains public housing dwelling units (Demolition/Disposition).

When the Department grants approval for demolition or disposition of public housing units there may be Families living in the units who qualify for continued assistance, as defined in section III.G. of this Notice. In these cases, subject to the availability (as determined by HUD) of sufficient contract and budget authority, the Department may make Housing Vouchers available for Eligible Families living in the units that are to be disposed of or demolished.

4. Special Requirements

A PHA receiving funding for Housing Vouchers designated for Opt-Out or Demolition/Disposition purposes shall, in use of the funding, establish a preference for selection of applicants who live in a Section 8 Opt-out project or in a public housing building to be disposed of or demolished. In all instances, the assistance must be used in accordance with the PHA's HUD-approved administrative plan, which must be revised, if necessary, to provide for the preference.

A Family that is issued a Housing Voucher because the Family resides in housing in one of the two categories identified in this section II.D. may select a housing unit in accordance with the Finders Keepers policy in section III.I. of this Notice and subseqently request issuance of another Housing Voucher to move to another unit in accordance with sections III.G. and III.I. of this Notice.

PHAs that receive Housing Voucher funding for section 8 Opt-Out or Demolition/Disposition must comply with this section II.D. as well as the generally applicable procedures found in Part III of this Notice. Once the PHA has met the requirements of this section concerning the initial issuance of the Housing Vouchers, the PHA is free to use the allocation for any purpose in furtherance of its Housing Voucher program.

E. Formula Allocation of Housing Vouchers

1. Purpose

The Department will allocate a portion of the FY '85 Housing Voucher funding to its Regional Offices using a formula allocation procedure similar to the "fair share" allocation of section 8 Certificates in 24 CFR Part 791. Each Regional Office may determine the amounts of Housing Voucher funding to be allocated to applicants or it may delegate these decisions to its Field Offices.

2. Invitation for and Allocations of Housing Vouchers

The availability of Housing Voucher funding to be distributed by formula allocation will be announced by the Regional or Field Offices, which will invite PHAs to submit applications for Housing Vouchers to the appropriate Field Office.

The minimum feasible program size a Field Office may approve is 25 Housing Vouchers for a PHA. (This minimum refers to the initial funding increment in the PHA's Housing Voucher program, and does not apply to any additional

funding increment or to approval in response to an emergency as determined by HUD Headquarters).

Preference may be given to PHAs that provide families with the broadest geographical choice of housing, including interjurisdictional and interstate housing choice.

The Field Office may give preference to PHAs whose needs previously have been underfunded in relation to the needs of other localities within the allocation area.

3. Selecting Families and Issuing Housing Vouchers

In addition to the general procedures for selection of Families and issuance of Housing Vouchers stated in section III.G. of this Notice, the PHA shall comply with the following procedure in use of Housing Voucher funding distributed by formula allocation under this section II.E.

In selecting applicants from the waiting list, the PHA shall use the section 8 Certificate waiting list for the Housing Voucher program. A Family may not be penalized for refusing a Certificate if it desires to wait for a Housing Voucher, or conversely, for refusing a Housing Voucher to wait for a Certificate. However, if the Family then refuses the second form of assistance when it is offered, the Family shall be taken off the waiting list. If the Family requests, it will be reinstated on the waiting list, in conformance with the PHA's approved administrative plan or equal opportunity housing plan.

Those jurisdictions receiving a Formula Allocation of Housing Vouchers must comply with this section II.E., as well as the generally applicable procedures stated in Part III of this Notice.

III. Housing Voucher Program Requirements

A. Definitions

For purposes of the Housing Voucher Program, the following definitions apply.

Annual Contributions Contract (ACC). A written agreement between HUD and a PHA to provide annual contributions to the PHA for housing assistance payments and administrative fees.

Congregate Housing. See section III.K.(b) of this Notice.

Decent, Safe, and Sanitary Housing. Housing that meets the Housing Quality Standards of § 882.109 or the requirements for Single Room Occupancy (SRO) Housing.

Eligible Family (Family). A Family as defined in 24 CFR Part 812 that at the time it initially receives assistance under the Housing Voucher program (1) qualifies as a Very Low-Income Family or as a Lower Income Family displaced by Rental Rehabilitation program activity under 24 CFR Part 511 (see section III.G. of this Notice); or (2) has been continuously assisted under the 1937 Act.

Housing Voucher. A document issued by a PHA declaring a Family to be eligible for participation in the Housing Voucher Program and stating the terms and conditions for the Family's participation.

Housing Voucher Contract (Contract). A written contract between a PHA and an Owner, in the form prescribed by HUD for the Housing Voucher program, in which the PHA agrees to make housing assistance payments to the Owner on behalf of an Eligible Family.

HUD. The Department of Housing and Urban Development or its designee.

Independent Group Residence (IGR). See section III.K.(b) of this Notice.

Initial PHA. A PHA administering a Housing Voucher program with a Housing Voucher holder or Housing Voucher participant who desires to move or who has moved to another area.

Lower Income Family. A Family whose Annual Income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families. HUD may establish income limits higher or lower than 80 percent of the median income for the area on the basis of its finding that such variations are necessary because of the prevailing levels of construction costs or unusually high or low family incomes.

Occupancy Policy. Standards established by the PHA for determining the appropriate number of bedrooms for Families of different sizes and compositions.

Owner. Any person or entity having the legal right to lease or sublease Decent, Safe, and Sanitary Housing.

Payment Standard. (See section III.H. of this Notice.)

PHA Jurisdiction. The area in which the PHA is not legally barred from entering into Housing Voucher Contracts.

Public Housing Agency (PHA). Any State, county, municipality or other governmental entity or public body (or agency or instrumentality thereof) that is authorized to engage in or assist in the development or operation of lower income housing.

Receiving PHA. A PHA administering a Section 8 Certificate or Housing Voucher program that accepts a Housing Voucher holder or Housing Voucher participant from another PHA.

Single Room Occupancy (SRO) Housing. A unit which contains no sanitary facilities or food preparation facilities, or which contains one but not both types of facilities, as those facilities are defined in § 882.109 (a) and (b), and which is suitable for occupancy by a single eligible individual capable of independent living. (See also section III.K. (c) of this Notice.)

Very Low-Income Family. A Lower Income Family whose Annual Income does not exceed 50 percent of the median income for the area, as determined by HUD, with adjustments for smaller or larger Families. HUD may establish income limits higher or lower than 50 percent of the median income for the area on the basis of its finding that such variations are necessary because of unusually high or low family incomes.

Voucher. See Housing Voucher.

Voucher Contract (Contract). See Housing Voucher Contract.

B. Applicability and Purpose

(a) *Applicability.* The provisions of this Part III apply to the use of contract and budget authority for all Housing Voucher assistance authorized by section 8(o) of the U.S. Housing Act of 1937, unless specifically limited in the text. By cross reference in this Notice, certain provisions of the regulations for the section 8 Existing Housing (Certificate) Program (24 CFR Parts 812, 813 and 882, Subparts A and B) are incorporated in this Notice and also apply to the Housing Voucher Program. Unless otherwise specified, references to particular section numbers (e.g., § 882.110) are to regulations in Title 24 of the Code of Federal Regulations. In addition to the general procedures in Part III, each program component may have additional or distinguishing requirements. (See the specific program information in Part II of this Notice to determine whether other procedures also apply.)

(b) *Purpose.* The purpose of the Housing Voucher Program is to assist Eligible Families in affording rents for Decent, Safe, and Sanitary Housing.

C. Equal Opportunity Requirements

Participation in the Housing Voucher Program requires compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968, Executive Order 11063, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and all related rules, regulations and other requirements. PHAs also shall comply with section 3 of the Housing and Urban Development Act of 1968 and all related

rules, regulations and requirements. Failure to comply with these equal opportunity requirements shall result in the imposition of sanctions under applicable civil rights laws.

D. Submission of Applications

The PHA shall submit its application for the Housing Voucher Program in accordance with § 882.204, with the following exceptions:

(a) *Number of Bedrooms.* Section 882.204(a)(1) does not apply to the Rental Rehabilitation Program component or to the FY '84 Freestanding Demonstration component. For these components, therefore, the PHA is not required to state in the application the bedroom mix and Family type.

(b) *Equal Opportunity Housing Plan.* Each PHA shall submit an equal opportunity housing plan as required under § 882.204(b)(1), except it shall be a combined plan covering the PHA's entire Certificate Program and Housing Voucher Program. The plan shall include any special rules for use of Housing Vouchers in connection with any program component identified in this Notice.

(c) *Administrative Plan.* Each PHA shall submit an administrative plan as required under § 882.204(b)(3), except it shall be a combined plan covering the PHA's entire Certificate Program and Housing Voucher Program. The special functions related to Housing Vouchers, such as computation of the housing assistance payment and special procedures for selection of Families in support of the Rental Rehabilitation Program, Targeted, Freestanding, and Small/Rural components, shall be covered. (Some functions, such as computation of the Family rent in accordance with section 3(a) of the U.S. Housing Act of 1937, and contract rent adjustments, do not apply to the Housing Voucher Program.)

E. Processing of Housing Voucher Applications

(a) *Processing of Applications.* (1) HUD will send applications for more than 12 units to the appropriate chief executive officer of the unit of general local government for review and comment. This submission will be in accordance with 24 CFR Part 791, as required by section 213 of the Housing and Community Development Act of 1974. Because of the nature of the Freestanding Housing Voucher Demonstration and the Rental Rehabilitation Programs, PHAs are not required to identify the distribution of units by Family type in the application. (see section III.D.(a) of this Notice.) However, communities should be aware that their subsequent HAP performance will continue to be evaluated in terms of the actual number of households assisted by household type.

(2) HUD will evaluate each application on the basis of the requirements of this Notice and other program requirements, and will consider any comments received from the unit of general local government. HUD also will take into account the PHA's ability to administer the Housing Voucher Program, as evidenced, in part, by its performance in operating the Certificate Program, where applicable.

(b) *Approval or Disapproval of Applications.* HUD will notify the PHA and, if applicable, the Rental Rehabilitation Program grantee whether HUD has approved or disapproved its application. Where HUD has disapproved an application, HUD will include a statement of the reasons and, where applicable, the changes required to make the application approvable. HUD will not approve a PHA's application for Housing Vouchers in support of the Rental Rehabilitation Program where HUD disapproves the related program description submitted by a Rental Rehabilitation Program grantee.

F. Annual Contributions Contract

(a) *ACC Execution.* After HUD approves the application for Housing Voucher assistance and, in the case of the Rental Rehabilitation component, receives the PHA certification that the PHA and the grantee under the Rental Rehabilitation Program have executed a Memorandum of Understanding as required under section III.6 of the 1984 NOFA, HUD will execute the ACC with the PHA, in a form prescribed by HUD, in accordance with §§ 882.206(a) and (b).

(b) *Term of ACC.* The ACC term for each funding increment under the ACC shall be five years, commencing with the first HUD advance of annual contributions for the funding increment.

(c) *Single ACC.* HUD and the PHA shall execute one ACC covering all of the authority for the PHA's Housing Voucher Program. However, where (as in the case of some statewide PHAs) the area for which the PHA may execute Housing Voucher Contracts is within the jurisdiction of more than one HUD Field Office, HUD may require one ACC for each Office.

(d) *Amount of Annual Contributions.* (1) The total amount of annual contributions contracted for in the ACC for the five-year ACC term for each funding increment shall be five times the total of (i) the average HUD-estimated annual PHA administrative fee plus (ii) 115 percent of the amount that HUD estimates would be required in the first year of the ACC for housing assistance payments to Owners, assuming a full year of occupancy.

(2) The PHA shall plan administration of its Housing Voucher program in a manner that will ensure its operation within the amounts originally contracted for under the ACC, taking into account (i) the amounts available from reserving 15 percent more than the estimated housing assistance payments for the first year and (ii) the number of Families that may be assisted (including consideration of the effect of changes in the Applicable Standard under section III.H., including adjustments to assure continued affordability, changes in Family income and composition, and portability of Housing Vouchers).

G. Selecting Families and Issuing Housing Vouchers

(a) *Eligible Families.* (1) A Family is eligible for assistance under the Housing Voucher program if, at the time it initially receives assistance under the program, it:

(i) Qualifies as a Very Low-Income Family;

(ii) Qualifies as a Lower Income Family (other than Very Low-Income) and is displaced by Rental Rehabilitation activity under 24 CFR Part 511; or

(iii) Has been continuously assisted under the U.S. Housing Act of 1937.

(2) A Lower Income Family in a Rental Rehabilitation Program project that is forced to vacate a unit because of physical construction, housing overcrowding, or change in use of the unit, is considered "displaced". A Lower Income Family that lives in a project undergoing rental rehabilitation activities whose post-rehabilitation rent would not be affordable is not considered "displaced" for this reason alone, for purposes of determining Housing Voucher eligibility, whether or not the Family chooses to move. (Such a Family may be issued a Certificate allocated for use in connection with the Rental Rehabilitation Program in FY '84, to assist in paying the higher rent or in finding another unit. Certificates do not have the statutory requirement for actual displacement as a condition of eligibility for a Family with Lower (but not Very Low-) Income.)

(3) Although the Family may qualify under this paragraph (a), the PHA may be unable to issue a Housing Voucher to an applicant or to a participant who wants to move to a new unit because of the limitations described in paragraph (b) of this section.

(b) *Compliance with Section 16 of the U.S. Housing Act of 1937*—(1) *Five Percent Cap.* A PHA may issue a Housing Voucher to an eligible Family with an income above 50 percent of area median income as provided in paragraph (a) of this section, subject to the requirements of section 16 of the 1937 Act. Section 16 restricts to five percent nationally the number of 1937 Act units that initially became available for occupancy on or after October 1, 1981, to which Lower Income Families with incomes above 50 percent of median income may be admitted. This restriction is implemented for the section 8 program other than Housing Vouchers in 24 CFR Part 813, which will be amended to cover the Housing Voucher Program and to reflect the requirements stated in this section III.G. (b). Specific procedures for compliance with section 16 are described below.

(2) *Rental Rehabilitation Displacee.* The Technical Amendments Act of 1984 (Pub. L. 98–479, 97 Stat 2218), approved October 17, 1984, extends Housing Voucher eligibility to Families determined to be Lower Income Families at the time they initially receive assistance and that are displaced by Rental Rehabilitation Program activities. However, because of the requirements of section 16 of the 1937 Act, HUD must authorize the issuance of Housing Vouchers for Families under this paragraph (b)(2). The PHA shall report each case to HUD.

(3) *Eligible Family with Income Greater than 50 percent of Median Income that has been Continuously Assisted under the 1937 Act.* A Family with an income greater than 50 percent of median Income that has been continuously assisted under the 1937 Act may be eligible for Housing Voucher assistance in the following circumstances.

(i) The PHA may, without requesting prior HUD approval, issue a Housing Voucher to a Family residing in a public housing unit that is being demolished or disposed of with HUD approval. The PHA shall report each case to HUD.

(ii) The PHA may, without requesting prior HUD approval, issue a Housing Voucher to a Family residing in a unit that was assisted under a project-based section 8 Housing Assistance Payments Contract that is being terminated at the sole discretion of the owner. The PHA shall report such issuance to HUD, unless the Family uses the Housing Voucher assistance to remain in its same unit. If the Family initially used its Housing Voucher assistance to remain in the same unit, but the Family later requests a Housing Voucher to move to a new unit and its income at that time is greater than 50 percent of area median, the PHA shall request approval from HUD before issuing a Housing Voucher.

(iii) The PHA shall request approval from HUD before issuing a Housing Voucher to a Family, if the Family is assisted under another program under the 1937 Act and requests to transfer to the Housing Voucher Program (for example, a Family residing in a public housing project places its name on the PHA waiting list in order to receive a Housing Voucher) or the Family is a Housing Voucher participant and wants to move to another unit with assistance under the Housing Voucher program and its income is greater than 50 percent of area median income.

(c) *Activities to Encourage Participation by Owners and Others.* The PHA shall encourage participation by Owners and others in the Housing Voucher Program as required under § 882.208 for the Section 8 Certificate Program.

(d) *Selecting Families; Issuing Housing Vouchers.* (1) The PHA shall select Eligible Families for participation in accordance with § 882.209(a) and specific procedures identified for individual components in Part II of this Notice, and shall verify the sources of income and other information concerning the Family necessary to determine eligibility and the amount of the housing assistance payment.

(2) The PHA's occupancy policy developed under § 882.209(b) shall provide for the minimum commitment of housing assistance payments necessary to meet the housing quality standards identified in § 882.109(c). The PHA shall issue Housing Vouchers in accordance with its occupancy policy and this Notice, except that for a Family renting a unit with a larger or smaller number of bedrooms than stated on the Housing Voucher, section III.M.(c) shall apply. The PHA shall issue a Housing Voucher for a particular number of bedrooms consistent with its occupancy policy and consistently for all Families of like composition.

(e) PHA Briefing of Families. The PHA shall brief each Family in accordance with §882.209(c), and shall include information on the full range of neighborhoods in which the Family may find units meeting program requirements, and information on possibilities for participating in available portability programs as described in section III.J. of this Notice. Section 882.209(c)(7) shall not apply. Instead, the PHA shall brief the Family on the function of the Applicable Standards, determination of the housing assistance payment, the incentive for selecting a unit renting for less than the Applicable Standard and the minimum rent the Family must pay. In jurisdictions in which the PHA is administering both a section 8 Certificate program and a Housing Voucher program, and the Family is being offered a Formula Allocation Housing Voucher or a Housing Voucher being used in support of the Rental Rehabilitation program, the PHA also shall explain how the principal features of the Housing Voucher program differ from the section 8 Existing Certificate Program.

(f) *Housing Voucher Packet.* The PHA shall give each Family a Housing Voucher Packet in accordance with §882.209(b)(4), except that instead of information on the Total Tenant Payment and the Tenant Rent, the PHA shall give the Family information on how the PHA computes the housing assistance payments.

(g) *Term of Housing Voucher.* Section 882.209(d), Expiration and Extension of Certificate, shall apply to the Housing Voucher Program.

H. Housing Voucher Programs

(a) *Basic Formula.* Except where paragraph H. (d) of this section applies, the amount of the housing assistance payment shall be the amount by which the Applicable Standard (see paragraph H. (b) of this section) for a given Family in a PHA's Housing Voucher program exceeds 30 percent of the Family's Monthly Adjusted Income. The PHA shall compute the Family's Monthly Adjusted Income in accordance with 24 CFR Part 813.

(b) *Applicable Standard.* (1) The Applicable Standard is the amount that applies to a given Family in a PHA's Housing Voucher program. Depending on the circumstances described elsewhere in this paragraph (b), the Applicable Standard will be the Initial Payment Standard, or the appropriate amount from the New Family/Mover schedule or the Adjusfment Standard schedule. The appropriate amount is determined by Family size and composition and the PHA occupancy policy. The PHA may establish New Family/Mover schedules (in accordance with paragraph (b)(4) of this section) or Adjustment Standard schedules (in accordance with paragraph (b)(5) of this section). Each schedule shall state the amounts that will be used to determine the Applicable Standard used to compute the amount of the housing assistance that will be paid for the Family. Each schedule established by the PHA shall state the Applicable Standard amounts for units with different numbers of bedrooms. The

PHA's schedule(s) shall apply to all increments of funding in the PHA's Housing Voucher program.

(2) *Payment Standard.*—(i) The "Payment Standard" is the Fair Market Rent (by number of bedrooms) published for effect in the **Federal Register** for the Section 8 Certificate Program, or the exception Fair Market Rent approved by HUD for a designated municipality, county, or similar locality under § 882.106(a)(3). The "Initial Payment Standard" is the Payment Standard based on the Fair Market Rent in effect at the time the ACC is executed by HUD for the first increment of funding in the PHA's Housing Voucher Program.

(ii) The Payment Standard for SRO Housing shall be proposed by the PHA for HUD approval, but shall be in a range from 75 to 100 percent of the applicable published 0-bedroom Fair Market Rent or the HUD-approved exception 0-bedroom Fair Market Rent. Within this range, the Payment Standard for SRO Housing shall reflect the presence or absence of sanitary facilities or food preparation facilities within the unit and what must be paid to obtain privately owned, existing, Decent, Safe, and Sanitary rental SRO Housing of modest (non-luxury) nature with suitable amenities.

(iii) The Payment Standard for a Family residing in an Independent Group Residence (see section III.K.(b)) shall be determined by taking the appropriate dollar amount of the Payment Standard for the entire residence (for example, the 4-bedroom Payment Standard for a 4-bedroom residence) and dividing that amount by the total number of potential occupants (assisted and unassisted), other than the resident assistant, if any, occupying no more than one bedroom.

(3) *Applicable Standard Based on Initial Payment Standard.* Unless the Applicable Standard for a Family is based on a New Family/Mover schedule (under paragraph (b)(4) of this section) or an Adjustment Standard schedule (under paragraph (b)(5) of this section), the Applicable Standard for the Family shall be the Initial Payment Standard for the appropriate number of bedrooms under the PHA occupancy policy.

(4) *Applicable Standard Based on the New Family/Mover Schedule.* —The PHA may establish a New Family/Mover schedule at any time, consistent with the provisions of this paragraph (b)(4). The schedule in effect on the date of initial lease approval (the date the first lease for the unit to be occupied by the Family is approved by the PHA) shall be used to determine the Applicable Standard for the Family.

(i) The currently effective New Family/Mover schedule shall be used to determine the Applicable Standard for:

(A) Any Family entering the PHA's Housing Voucher Program; or

(B) Any participating Family which moves to another dwelling unit with assistance under the Housing Voucher program.

(ii) The Applicable Standard amounts on the New Family/Mover schedule shall be based on:

(A) The Initial Pyament Standard, or, if the PHA has adopted an Adjustment Standard, the applicable Adjustment Standard (see paragraph (b)(5) of this section); or

(B) Any greater amount that does not exceed the Payment Standard based on the FMRs in effect at the time the New Family/Mover schedule is established.

(iii) The Applicable Standard determined by the PHA based on the New Family/Mover schedule in effect at the time of initial lease approval for the unit continues to apply to the Family, except as provided in paragraph (c)(2) of this section.

(5) *Adjustment Standard Schedule.* (i)(A) To assure continued affordability, the PHA may, in its discretion, twice during any five-year period, establish an Adjustment Standard schedule for adjustment of the amount of the Applicable Standard. No Adjustment Standard schedule may be established until at least 60 months have elapsed since the next to the last Adjustment Standard schedule was established.

(B) The PHA may decide to establish an Adjustment Standard schedule that will be used to determine the housing assistance payment for all participating Families or for certain categories of participating Families (for example, by the unit size the Family qualifies for or by type of Family, such as handicapped, elderly).

(C) The PHA may not establish separate Adjustment Standard schedules for structures, neighborhoods, individual Families, one of the components of the Housing Voucher program (such as Small/Rural, Opt-out) or similar categories.

(ii) The amounts in the Adjustment Standard schedule may not exceed the Payment Standard based on the published FMRs in effect at the time the schedule is established. (If the PHA adopts an Adjustment Standard schedule, it also may need to establish another New Family/Mover schedule, to ensure that the New Family/Mover schedule provides at least equal amounts to those contained in the newly established Adjustment Standard schedule.)

(iii) A State agency may establish an Adjustment Standard schedule for any designated municipality, county or similar locality within its jurisdiction. Any such schedule would be considered one of the two authorized adjustments.

(iv) Before establishing an Adjustment Standard schedule to provide affordability adjustments, the PHA shall consult with the public and the unit of general local government for its area of operation regarding the impact of these adjustments on the number of Families that can be assisted.

(c) *Special Rules for Determining the Applicable Standard*— (1) *No Interim Change to Family's Applicable Standard.* The PHA may not change the Applicable Standard at a time other than the regular reexamination, unless the Family moves to a different unit. A Family may request interim reexamination of income, as provided for in section III.P. of this Notice, which may result in a change in Family income or in Adjusted Income, but not in the Applicable Standard.

(2) *Applicable Standard at Regular Reexamination.* (i) The schedule for determining the Applicable Standard that applied to a Family at initial lease approval for the unit continues to be used to determine the Applicable Standard unless:

(A) The PHA subsequently has established an Adjustment Standard schedule (see Paragraph (b)(5) of this section) which applies to the Family, in which case the Applicable Standard is determined from the Adjustment Standard schedule; or

(B) The Family moves to another unit with assistance under the Housing Voucher program, after the establishment of a current New Family/Mover schedule, in which case the current schedule will be used to determine the Applicable Standard.

(ii) Except as provided in paragraph (c)(2)(i) of this section, the Applicable Standard that previously applied to the Family will continue to be used at the regular reexamination unless:

(A) There has been a change in Family size or composition; or

(B) There has been a change in the PHA occupancy policy. In these cases, the Applicable Standard for the appropriate unit size is used.

(iii) Except as specified in paragraph (c)(2)(ii) of this section, the Applicable Standard for a particular Family may not at the time of reexamination be determined to be less than the Applicable Standard previously being used for the Family.

(3) *Assisting More Families.* If a PHA determines that some or all of the

available annual contributions under its ACC are not needed for participating Families, including for future adjustment of housing assistance payments and portability moves, it may assist more Families.

(d) *Minimum Rents.* Notwithstanding the formula under paragraph H.(a) of this section, the housing assistance payment shall not exceed the difference between the rent for the unit, including any applicable Utility Allowance for Family-paid utilities (as determined by the PHA for its Certificate Program), and 10 percent of the Family's Monthly Income (1/12th of Annual Income), computed in accordance with 24 CFR Part 813. In effect, 10 percent of the Family's Monthly Income is its minimum rent—the minimum amount of shelter costs not covered by the Housing Voucher assistance. While HUD expects the majority of Families to have their housing assistance payments based on the difference between 30 percent of Monthly Adjusted Income and the Applicable Standard, the minimum rent ensures that all Families make a contribution toward their rent, including utilities. The PHA shall provide for adjustments of the Utility Allowance in accordance with § 882.214(a) and, where applicable, shall take the current Utility Allowance into account at each Family's reexamination for purposes of determining the Family's minimum rent. (See section III.P.)

(e) *Rent Not Capped by Applicable Standard.* Under the housing assistance payment computation described in paragraphs H.(a)–(d) of this section, the amount of the housing assistance payment does not vary with the amount of the rent for the unit, except where the minimum rent requirement applies. If the unit rents for more than the Applicable Standard, the housing assistance payment is not increased. If the unit rents for less, the Family benefits by paying less than 30 percent of Monthly Adjusted Income towards rent, subject to the minimum rent requirement.

(f) *Prohibition Against Double Subsidy.* In no event may any Family receive the benefit of Housing Voucher assistance while receiving one of the following: Other section 8 or section 23 housing assistance, section 101 rent supplements, section 236 rental assistance payments, or other duplicative Federal, State or local housing subsidy, as determined by HUD. In the case of section 236 units having only interest reduction subsidy (insured or noninsured) the duplicative subsidy shall be prevented by the Owner setting the unit rent for a Housing Voucher participant at the lesser of the Market Rent for the unit, as approved by HUD, or the Applicable Standard, but not less than Basic Rent.

(g) *No Payments for Vacancies.* If a Family moves out, the Owner shall promptly notify the PHA, and the PHA shall make no additional housing assistance payment to the Owner for any month after the month during which the Family moves. The Owner may retain the housing assistance payment for the month during which the Family moves.

(h) *Utility Reimbursements.* (1) Where the rent to the Owner does not include some or all utilities and the Family pays the utility company directly, occasionally the housing assistance payment will exceed the rent payable to the Owner for the unit. In such a case, the PHA shall pay to Family as a Utility Reimbursement the excees of the housing assistance payment (as determined in accordance with paragraphs H. (a)-(d) of this section) over the rent payable to the Owner. Without this reimbursement, the Family's housing assistance payment would be less than the amount for which the family is eligible under the statutory formula. In accordance with paragraph H.(d) of this section, the Family will, in all cases, be required to pay at least 10 percent of its Monthly Income (1/12th of Annual Income) toward rent, including, where applicable, the Utility Allowance.

(2) For example, given an Applicable Standard of $500, if $120 is 30 percent of a Family"s Monthly Adjusted Income, the housing assistance payment would be $380. If the rent payable to the Owner is $350, and the Utility Allowance is $150, the PHA would pay $350 to the Owner and the remaining $30 of the Housing Voucher payment to the Family as a Utility Reimbursement.

(3) If the Family and the utility company consent, the PHA may pay the Utility Reimbursement jointly to the Family and the utility company or directly to the utility company.

I. Finders-Keepers Policy

Except as described in paragraph I. (c) below, this section sets forth the same policy as that applicable to the Certificate Program.

(a) A Family with a Housing Voucher is responsible for finding a housing unit suitable to the Family's needs and desires in any area where the PHA (including the Receiving PHA when the Family is paritcipating under the portability procedures in section III.J. of this Notice) determines that it is not legally barred from entering into Contracts. A Family may select the dwelling unit which it already occupies, if the unit is approvable. Upon request, the PHA shall assist a Family in finding a unit where, becaue of age, handicap, large Family size or other reasons, the Family is unable to locate an approvable unit. The PHA also shall provide such assistance where the Family alleges that illegal discrimination on grounds of race, color, religion, sex, national origin, age or handicap is preventing it from finding a suitable unit, and in this case shall provide the Family with a copy of a HUD-903 form for use in filing a housing discrimination complaint. This assistance shall be in accordance with the PHA's approved equal opportunity housing plan.

(b) Neither in assisting a Family in finding a unit nor by any other action shall the PHA directly or indirectly reduce the Family's opportunity to choose among the available units in the Housing market.

(c) This section III.I. applies to al Families holding Housing Vouchers, including Families who are residing in or may wish to reside in Congregate Housing or Independent Group Residences meeting the Housing Quality Standards of § 882.109 or SRO Housing that meets the requirements of section III.K. of this Notice. The Finders-Keepers policy does not apply to the first occupancy of a dwelling unit with Housing Voucher assistance by a Family that agrees to move initially into a project rehabilitated under the Rental Rehabilitation Program. However, after initial use of the Housing Voucher in the rehabilitated project, the Family is free to move to any other approvable unit in the PHA's jurisdiction, consistent with the Finders-Keepers policy, or to move to another PHA's jurisdiction under section III.J. of this Noticed, Portability of Housing Vouchers.

J. Portability of Housing Vouchers

(a) *General Introduction.* (1) This section III.J. announces portability procedures for Families participating in the Housing Voucher program. It is different from, and replaces, the protability procedures described in the 1984 NOFA. Housing Voucher portability is not intended to supplant voluntary mobility programs in place for the Section 8 Certificate program that PHAs wish to extend to Housing Voucher participants.

(2) If a PHA is administering a Housing Voucher program in the location to which a (Housing Voucher holder or participant) Family wishes to move, the PHA shall accept the Family and provide services to the Family as if the Family were part of its Housing Voucher program. Where there is not a Housing Voucher assistance on behalf

of the Family or to issue the Family one of the "Receiving PHA's" available section 8 Certificates. The details of the Housing Voucher portability program are discussed in paragraph (d) of this section.

(b) *Mobility Under Current Section 8 Procedures.* Current § 882.103(c) of the regulations for the Section 8 Certificate program encourages PHAs to promote greater choice of housing opportunities for Eligible Families by:

(1) Seeking participation of Owners within the PHA's jurisdiction;

(2) Advising Families of their opportunities to lease housing throughout the PHA's area of operation;

(3) Cooperating with other PHAs by issuing Certificates to Families already receiving the benefit of section 8 housing assistance payments who wish to move from the operating area of one PHA to another; and

(4) Entering into administrative arrangements with other PHAs in order to permit Certificate holders to seek housing in the broadest range of areas.

(c) *Applicability of Current Mobility Procedures.* Current procedures for the Section 8 Existing Housing Certificate program to facilitate mobility of assisted Families discussed in paragraph (b) of this section apply to the Housing Voucher program, wherever feasible to increase the opportunities of Families participating in the Housing Voucher program. If the Family desires to move and can move with the opportunity for continued Housing Voucher or Certificate assistance under a voluntary mobility program described in paragraph (b) of this section, the PHA is not required to use the portability procedures described in paragraph (d) of this section.

(d) *Portability Under the Housing Voucher Program.*—(1) *Scope.* The procedures in this paragraph (d) are to be used only for the Housing Voucher program.

(2) *General.* The purpose of this paragraph (d) is to establish procedures to be used in the Housing Voucher program when a Family desires to stay in the program, but wishes to move outside its current PHA's jurisidiction.

(i) Portability will provide an opportunity to a Housing Voucher holder or participant to move to any other Housing Voucher jurisdiction, by requiring the Receiving PHA to accept the Family, subject to the limitations identified in this paragraph (d). The Receiving PHA may choose to bill the Initial PHA for assistance payments made on behalf of the Family, or it may decide to provide Housing Voucher assistance to the Family under its own ACC.

(ii) This portability feature also promotes moves of Housing Voucher holders or participants to non-Housing Voucher jurisdictions by encouraging PHSs with Certificate programs to participate on a voluntary basis. If the Family chooses to move to an area without a Housing Voucher program, the Receiving PHA is not required to accept the Family. The Receiving PHA may administer the Housing Voucher and bill the Initial PHA or it may issue the Family one of its Certificates.

(3) *Eligibility for portability.* A Family is eligible for portability if it lives in the Initial PHA's jurisdiction and holds a current Housing Voucher, or if the Family is a current participant (see § 882.209(a)) in the Initial PHA's Housing Voucher program.

(4) *Determination to deny or terminate assistance.* Either the Initial PHA or the Receiving PHA may make a determination to deny or terminate assistance to the Family in accordance with § 882.210, as modified by section III.R. of this Notice.

(5) *Responsibilities of the Initial PHA.* (i) The Initial PHA shall manage its Housing Voucher program in such a way to assure that it has the financial ability to provide continued Housing Voucher assistance in accordance with these portability procedures.

(ii) The Initial PHA may deny the request to move if the number of Families moving under these portability procedures would be more than 25 percent of units under lease in the Initial PHA's Housing Voucher program.

(iii) If a Family eligible for portability notifies the Initial PHA that it wants to move under these procedures and the area to which the Family wants to move, the Initial PHA shall determine whether the PHA in the new area administers a Housing Voucher program and, if it does not, but opeates a Certificate program, whether the Receiving PHA is willing to accept the Family under paragraph (d)(6)(ii) of this section III.J.

(iv) If the Family is going to move under the portability provisions above, the Initial PHA shall notify the Receiving PHA to expect the Family. The Initial PHA shall verify to the Receiving PHA that the Family met the income-eligibility requirement for admission to the program, and that the Initial PHA issued the Family a Housing Voucher consistent with § 882.209(d), and shall state the date by which the Family must submit a Request for Lease Approval in the jurisdiction of the Receiving PHA, which is governed by section III.G. of this Notice.

(v) When the Family moves out of the Initial PHA's jurisdiction, the Initial PHA retains funding for the Housing Voucher under its ACC.

(vi) The Initial PHA shall reimburse the Receiving PHA for the full amount of the housing assistance payments made by the Receiving PHA on behalf of the Family. The amount of housing assistance shall be based on the Applicable Standard in effect at the Receiving PHA. If the Receiving PHA elects to provide assistance to the Family utilizing funding under the ACC for its own Certificate or Housing Voucher program, the Initial PHA is not required to reimburse the Receiving PHA.

(vii) The Initial PHA shall reimbuse the Receiving PHA 80 percent of the Initial PHA's administrative fee for each unit month that the Family is under a Housing Voucher contract in the Receiving PHA's jurisdiction.

(viii) The Initial PHA may receive up to the preliminary fee for new units for cost-justified expenses for this purpose, if the portable Housing Voucher qualifies for the preliminary fee.

(ix) If the portability Family leaves the Housing Voucher program, or if the Receiving PHA elects to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher or Certificate program, the Initial PHA is free to use for other Families the funding previously needed to support payment of subsidy for the portable Housing Voucher.

(6) *Responsibilities of the Receiving PHA.* (i) A Receiving PHA that administers a Housing Voucher program shall issue a Housing Voucher to a Family moving from the Housing Voucher program of another PHA. (But see paragraphs (c) and (d)(4) of this section.) A Receiving PHA that administers a Housing Voucher program may not limit the number of Housing Vouchers issued to such Families. The Receiving PHA may either bill the Initial PHA for the housing assistance payments on behalf of the Family or may provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher program. As an alternative to issuing a Housing Voucher (if the Receiving PHA also administers a section 8 Certificate program) the Receiving PHA may issue a Certificate to the Family utilizing funding under the ACC for its own Certificate program.

(ii) A Receiving PHA that does not administer a Housing Voucher program but does administer a Certificate program may:

(A) Refer the Initial PHA to a Statewide or other PHA that administers a Housing Voucher program in its jurisdiction;

(B) Administer the Housing Voucher assistance on behalf of the Family and bill the Initial PHA for amounts authorized in this paragraph (d); or

(C) Issue a Certificate to the Family utilizing funding under the ACC for its own Certificate program.

(iii) The Receiving PHA shall recertify the Family's income initially and at least annually thereafter for purposes of determining the housing assistance payments. The Receiving PHA shall not deny the Family a Housing Voucher on the ground that the Family's income exceeds the income limits for Housing Voucher eligibility in the Receiving PHA's jurisdiction.

(iv) The Receiving PHA shall notify promptly the Initial PHA if a Family fails to submit a Request for Lease Approval by the date specified by the Initial PHA.

(v) The amount of Housing Assistance payments to be made on behalf of the Family shall be determined in accordance with section III.H. of this Notice. A non-Housing Voucher PHA shall use a Payment Standard based on the appropriate Fair Market Rent for the Receiving PHA as the Applicable Standard at the Family's initial lease approval.

(iv) The Receiving PHA shall perform all of the functions normally associated with providing assistance to a Family in a Housing Voucher program, including lease approval, annual recertification of income and annual inspection of the unit.

(vii) The Receiving PHA may bill the Initial PHA for an amount equal to 80 percent of the Initial PHA's administrative fee unless it elects to provide assistance to the Family utilizing funding under the ACC for its own Certificate or Housing Voucher program. The Receiving PHA may receive up to the preliminary fee for Housing Voucher for cost-justified expenses.

(viii) The Receiving PHA is responsible for payments it makes on behalf of the Family to the Owner in its jurisdiction. To accomplish this, in cases in which it does not elect to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher or Certificate program, the Receiving PHA bills the Initial PHA for the amount of the housing assistance payments.

(ix) The Receiving PHA shall promptly notify the Initial PHA if the Family ceases to be a current participant in the Initial PHA's Housing Voucher Program.

(7) *Subsequent moves.* (i) A Family may move more than once, using the portability procedures in this paragraph (d), although the Initial PHA may limit Family moves to not more than once in any twelve-month period.

(ii) When the Family wishes to move from an area in which the Receiving PHA has been billing the Initial PHA, the PHA in the new jurisdiction to which the Family moves becomes the Receiving PHA. It then has all of the choices and obligations of a Receiving PHA as described in this section. The first Receiving PHA is no longer involved, because the Initial PHA retains funding authority for the Housing Voucher.

(iii) When a Family wishes to move from an area in which the Receiving PHA has elected to provide assistance to the Family utilizing funding under the ACC for its own Housing Voucher program, this Receiving PHA becomes the new Initial PHA. It has all of the choices and obligations of an Initial PHA has described in this section. The PHA in the new jurisdiction to which the Family moves becomes the Receiving PHA and has all of the choices and obligations of a Receiving PHA as described in this section. In this situation, the Initial PHA that originally selected the Family is no longer involved.

K. Eligible Housing

(a) Existing dwelling units determined by the PHA to be Decent, Safe, and Sanitary may be used under the Housing Voucher Program, except for the following types of housing:

(1) A unit that is owned by the PHA administering the ACC under this Notice, including both the Receiving PHA and Initial PHA under the portability provisions of section III.J. of this Notice;

(2) A unit that is receiving other assistance under the U.S. Housing Act of 1937, other than assistance under section 17;

(3) Nursing homes, units within the grounds of penal, reformatory, medical, mental and similar public or private institutions, or facilities that provide continual psychiatric, medical or nursing services; and

(4) Housing that is occupied by its owner (including the owner of a manufactured home leasing a manufactured home space). However, the 1937 Act provides that a PHA may use up to five percent of Housing Voucher authority to provide assistance with respect to cooperative or mutual housing that has a resale structure that maintains affordability for Lower Income Families, if the PHA determines such assistance will assist in maintaining affordability of such housing for Lower Income Families. The PHA must obtain HUD Headquarters approval before using Housing Vouchers in cooperative or mutual housing. HUD will consider granting such approval on a case-by-case basis, and, for this purpose, may provide for appropriate modifications of requirements under this Notice.

(b) Elderly, handicapped, disabled, or displaced Families and individuals may use Congregate Housing. Eligible elderly, handicapped or disabled Families and individuals who require a planned program of continual supportive services may use Independent Group Residences. The definitions of and relating to Congregate Housing and Independent Group Residences in § 882.102 and the Housing Quality Standards for Independent Group Residences and Congregate Housing under § 882.109 shall apply to the Housing Voucher Program.

(c)(1) SRO Housing may be used only if: (i) The property is located in an area in which there is a significant demand for SRO units, as determined by the HUD Field Office; (ii) the PHA and the unit of general local government in which the property is located approve the use of SRO units for such purpose; and (iii) the unit of general local government and the local PHA certify to HUD that the property meets applicable local health and safety standards for SRO housing.

(2) The Housing Quality Standards under § 882.109 shall apply to SRO Housing, except for the standards in §§ 882.109 (a), (b), (c), (m), and (n). In the absence of local health and safety standards for SRO housing (see paragraph (c)(1)(iii) of this section), sanitary facilities, space and security must meet the requirements for habitable rooms used for living and sleeping purposes contained in the American Public Health Association's Recommended Housing Maintenance and Occupancy Ordinance. Each SRO unit shall be occupied by no more than one person. Exterior doors and windows accessible from outside the SRO unit shall be lockable.

(d) The 40 percent limitation under § 882.110(c) on the number of certain subsidized units in specified types of federally assisted housing shall apply. The PHA shall count Housing Voucher units in determining compliance with the 40 percent limitation.

L. Shared Housing

The Department published a proposed rule on December 7, 1984 (49 FR 48006) to permit Families to live in shared housing arrangements for all components of the section 8 Housing Assistance Payments Program. Shared

housing in the Section 8 Existing Housing and Moderate Rehabilitation Programs for Elderly Families was authorized by section 211 of the Housing and Urban-Rural Recovery Act of 1983 (1983 Act) (Pub. L. 98–181, approved November 30, 1983).

The Department believes that shared housing could provide numerous benefits to assisted tenants. In the section 8 Existing Housing or Housing Voucher Program, it could provide a wider choice of housing types by enabling Families who would otherwise be in apartments to share single family homes. By pooling resources, Families may be able to upgrade both their choice of home and neighborhood. Families also may choose shared housing for the benefits of security and shared responsibilities. Shared housing could help to provide affordable housing, since the shared use of existing homes is a highly cost-effective way to use existing housing stock.

In the proposed rule, the Department also stated its intent to provide for shared housing in the Housing Voucher Program, indicating that when a final shared housing rule is developed a corresponding revision to the Housing Voucher Notice would be published. The Department reaffirms its intention to implement shared housing in the Housing Voucher program. Because a final rule has not been published for shared housing, this Notice does not contain details for program application to Housing Vouchers. A separate notice authorizing shared housing in the Housing Voucher program will be published at the time of effectiveness of the shared housing final rule.

M. Approving Units and Executing Leases and Housing Voucher Contracts

(a) *Information to Owners and Requests to PHA for Lease Approval.* (1) The PHA shall respond to inquiries from Owners who have been approached by Housing Voucher holders by explaining the major program procedures, including Lease provisions, Lease approval procedures, housing quality inspections, Contract provisions and payment procedures and by furnishing copies of pertinent forms.

(2) When a Family has found a unit it wants and the Owner is willing to lease, the Family shall submit to the PHA a Request for Lease Approval signed by the Owner of the unit and the Family. At the same time, the Family shall submit a copy of the proposed Lease, which shall include the lease provisions prescribed by HUD for the Housing Voucher program. At the time of submission of the Lease, it shall be complete except for execution.

(b) *Decent, Safe, and Sanitary Condition of the Unit.* In accordance with § 882.209(h), the PHA shall inspect units to determine whether they are Decent, Safe, and Sanitary before the Housing Voucher Contract is executed.

(c) *Unit Sizes That Vary from Housing Voucher.* (1) Regardless of the number of bedrooms stated on a Housing Voucher, the PHA shall not prohibit a Family from renting an otherwise acceptable unit on the ground that it is too large for the Family.

(2) The PHA may not prohibit a Family from renting a unit with fewer bedrooms than stated on the Housing Voucher. However, the unit must meet the space requirements of the Housing Quality Standards under § 882.109(c) or such variation as HUD may have approved, or must meet the requirements of section III.K.(c) of this Notice, in the case of SRO Housing.

(3) If the PHA determines that the assisted unit occupied by a participant Family does not meet the space requirements of the Housing Quality Standards under § 882.109(c) (or of section III.K.(c) for SRO Housing) because of an increase in Family size or a change in Family composition, the PHA shall issue the participant Family a new Housing Voucher, and the Family and the PHA shall try to find an acceptable unit as soon as possible.

(4) The policies stated in paragraphs (c)(1)–(3) are similar to policies applied in the Certificate Program (see §§ 882.209(i) and 882.213). References to compliance with maximum rent restrictions are not included, since there are no maximum rents under the Housing Voucher Program.

(d) *Lease Requirements.* (1) *General.* (i) The lease between the Owner and the Family shall be in accordance with section III.O. of this Notice and any applicable HUD requirements. The lease shall include all provisions required by HUD and shall not contain any provisions prohibited by HUD.

(ii) In addition to the requirements identified in this paragraph (d), a lease for an Independent Group Residence also shall comply with § 882.209(j)(2).

(2) *Term of Lease.* (i) The term of the lease shall begin on a date stated in the lease and shall continue until:

(A) A termination of the lease by the Owner in accordance with section III.O. of this Notice.

(B) A termination of the lease by the Family in accordance with the lease or by mutual agreement during the term of the lease. The lease shall permit a termination of the lease by the Family without cause, at any time after the first year of the term of the lease, on not more than 60 days written notice by the Family to the Owner (with a copy to the PHA); or

(C) A termination of the Housing Voucher Contract by the PHA.

(ii) The term of the lease shall begin at least one year before the end of the term of the last funding increment under the ACC. The Contract and the lease shall end if the PHA determines, in accordance with procedures prescribed by HUD, that funding under the ACC is in sufficient to support continued assistance.

(iii) The Owner may offer the Family a new lease for execution by the Family after approval by the PHA for a term beginning at any time after the first year of the term of the lease. The Owner shall give the tenant written notice of the offer, with a copy to the PHA, at least 60 days before the proposed beginning date of the new lease term. The offer may specify a reasonable time limit for acceptance by the Family.

(e) *Approval and Disapproval of Leases and Execution of Housing Voucher Contracts and Related Documents.* The PHA shall approve or disapprove leases and provide for execution of HUD-prescribed forms of Housing Voucher Contracts and related documents in accordance with §§ 882.209(k) and (1) and § 882.215(b). References to approving the amount of rent payable to the Owner and the rent reasonableness certification under § 882.106(b) shall not apply, since there is no maximum rent payable to the Owner under the Housing Voucher Program.

N. Maintenance, Operation and Inspections; Security Deposits

(a) *Maintenance, Operation and Inspections.* The requirements of § 882.211 concerning maintenance, operation and inspections of units shall apply. In addition, the PHA shall not make any housing assistance payments for a unit that fails to meet Housing Quality Standards, unless the Owner promptly corrects the defect and the PHA verifies the correction.

(b) *Security Deposits and Utility Deposits.* (1) If at the time of the initial execution of the lease the Owner wishes to collect a security deposit, the amount shall not exceed the greater of 30 percent of the Family's Monthly Adjusted Income or $50. The amount of the security deposit also shall be limited by any applicable limitation under State or local law. If a Housing Voucher Family rents its pre-program unit, a security deposit collected in excess of the maximum amount that was collected before PHA approval of a lease under the Housing Voucher program does not

have to be refunded until the Family vacates the unit subject to the lease terms. The Family is expected to pay security deposits and utility deposits from its own resources or from other public or private sources.

(2) Subject to State and local law, the Owner may use the security deposit, including any interest on the deposit, in accordance with the Housing Voucher Lease, as reimbursement for any unpaid rent payable by the Family or for other amounts the Family owes under the lease. The Owner shall give the Family a written list of all items charged against the security deposit and the amount of each item. After deducting the amount used to reimburse the Owner, the Owner shall refund promptly the full amount of the unused balance to the Family.

(3) If the Family moves from the unit, the Owner may claim reimbursement from the PHA for:

(i) The amount the Family owes under the Lease (but not more than one month's rent) minus

(ii) The greater of the security deposit actually collected or the maximum security deposit the Owner could have collected at initial lease execution in accordance with paragraph (b)(1) of this section.

(4) Any reimbursement under this section must be applied first toward any unpaid rent due under the lease and then to any other amounts owed. No reimbursement may be claimed from the PHA for unpaid rent for the period after the Family vacates the unit.

O. Termination of Tenancy by Owners

(a) The Owner shall not terminate the tenancy except for:

(1) Serious or repeated violation of the terms and conditions of the Lease;

(2) Violation of Federal, State, or local law which imposes obligations on a tenant in connection with the occupancy or use of the dwelling unit and surrounding premises; or

(3) Other good cause. However, during the first year of the term of the lease, the Owner may not terminate the tenancy for "other good cause", unless the termination is based on malfeasance or nonfeasance of the Family.

(b) The following are some examples of "other good cause" for termination of tenancy by the Owner:

(1) Failure by the Family to accept the offer of a new lease in accordance with section III.M.(d)(iii) of this Notice;

(2) A Family history of disturbance of neighbors or destruction of property, or of living or housekeeping habits resulting in damage to the unit or property;

(3) Criminal activity by Family members involving crimes of physical violence to persons or property;

(4) The Owner's desire to utilize the unit for personal or family use or for purpose other than use as a residential rental unit; or

(5) A business or economic reason for termination of the tenacy (such as sale of the property, renovation of the unit, desire to rent the unit at a higher rental).

(c) The list of examples in paragraph (b) of the section is intended as a non-exclusive statement of some situations included in "other good cause", but shall in no way be construed as a limitation on the application of "other good cause" to situations not included in the list. The owner may not terminate tenancy during the first year of the term of the Lease for "other good cause" (see paragraph (a)(3) of this section) for the grounds stated in paragraph (b)(1), (b)(4), or (b)(5) of this section.

(d) Any notice required under this section III.O. or section III.M.(d) of this Notice may be combined and run concurrently with any notice required under State of local law.

P. Reexamination of Family Income and Composition

(a) The PHA shall reexamine Family income and Family size and composition at least annually, and in accordance with 24 CFR Part 813.

(b) After reexamination, the PHA shall adjust the amount of the housing assistance to reflect any changes in Family Monthly Adjusted Income or Monthly Income, using the Applicable Standard determined in accordance with sections III.H.(b) and (c) of this Notice.

(c) If one year has elapsed since the date of the last housing assistance payment in accordance with section III.H. of this Notice, the Contract will terminate automatically.

(d) At any time, a Family may request a redetermination of the housing assistance payment on the basis of change in Family Income or Adjusted Income.

Q. Family Obligations

(a) A Family shall:

(1) Supply any certificate, release, information or documentation that the PHA or HUD determines to be necessary in the administration of the program, including information for use by the PHA in a regularly scheduled reexamination or interim reexamination of Family income and composition in accordance with HUD requirements;

(2) Allow the PHA to inspect the dwelling unit at reasonable times and after reasonable notice;

(3) Notify the PHA before vacating the dwelling unit; and

(4) Use the dwelling unit solely for residence by the Family, and as the Family's principal place of residence.

(b) A family shall not:

(1) Sublease or assign the lease or transfer the unit;

(2) Own or have any interest in the dwelling unit, except as provided in section III.K.(a)(4);

(3) Commit any fraud in connection with the Housing Voucher Program; or

(4) Receive duplicative assistance under the Housing Voucher Program while occupying, or receiving assistance for occupancy of, any other unit assisted under any other Federal housing assistance program (including any section 8 program).

R. Grounds for Denial or Termination of Assistance

Section 882.210 shall apply to the Housing Voucher Program. However, the applicable Family obligations are covered in section III.Q. of this Notice, not in § 882.118.

S. Informal Review or Hearing

(a) The informal review or hearing requirements of § 882.216 shall apply to applicants and participating Families. References to a participant's right to an informal hearing in cases involving the amount of the Total Tenant Payment or Tenant Rent under § 882.216(b)(i) shall be considered to be references to computation of the amount of housing assistance payment for the Family. Section 882.216(b)(1)(iii), concerning hearings where the PHA determines a Family is residing in a unit with a larger number of bedrooms than appropriate, shall not apply.

(b) If a Housing Voucher holder or participant wants to move with continued assistance under the Housing Voucher program using the portability procedures in section III.J.(d) of this Notice, the Family shall be given the opportunity for an informal hearing in accordance with § 882.216(b) if the Initial PHA or Receiving PHA decides to deny or terminate such continuing assistance. However, a Receiving PHA which does not administer a Housing Voucher Program is not required to give the opportunity for an informal hearing on the PHA's election not to administer Housing Voucher assistance on behalf of the Family.

IV. Waivers

Upon determination of good cause, the Assistant Secretary for Housing-Federal Housing Commissioner may, subject to statutory limitations, waive any

provision of this Notice. Each such waiver shall be in writing and shall be supported by documentation of the pertinent facts and grounds.

V. Summary of Comments

The Department received 38 comments on its July 12, 1984 Notice of Funding Availability. Approximately 90 percent of these comments were from Public Housing Agencies, while the remainder were from a professional membership organization, a trainer for section 8 programs, and two consortia of local governments. The comments generally were negative, although many pointed out positive aspects of the program. The principal reason for the negative comments was a feeling of satisfaction concerning the section 8 Existing Housing Certificate Program and lack of interest in a new program.

A. General Dissatisfaction With the Notice of Funding Availability

Eighteen commenters expressed general concern about the program, submitting a common message that the section 8 certificate program works well and that there is, therefore, no need to change it. These same commenters questioned the Department's relinace on the Experimental Housing Allowance Program (EHAP), and sought additional information concerning it. There was a general uneasiness about switching to a housing program that does not control the rent or the amount a family can contribute toward its housing needs.

EHAP was an experiment authorized by Congress in 1970, designed to determine the feasibility of a housing allowance program. The Experimental Housing Allowance Program was begun in 1973 and the final evaluation was completed in 1983. In all, approximately 25,000 families participated, in twelve locations. Some of the conclusions of EHAP confirmed the efficacy of the Section 8 Existing Housing Certificate Program, while several indicated program elements that could be improved. Among those elements were the ceiling on rents and the limit on family contribution.

Specifically, EHAP results indicated that the voucher-style payment served as a "shopping incentive" for families to seek a standard dwelling that met their needs at the most economical rent level. About one-third of the participants in EHAP chose housing units renting at or below the Fair Market Rent (FMR) equivalent, and about half chose units renting above the FMR equivalent. Removing the FMR cap allows assisted families to choose housing units in much the same way that unassisted families choose their units.

It also was found that allowances have virtually no effect on the price of housing. In the two sites where a full entitlement allowance program was implemented, five years of program operation produced a rent increase attributable to the program of only a fraction of one percent per year. Similar results were found when the short-run inflationary impacts of a housing allowance program were modeled for twenty metropolitan areas throughout the country.

The Department believes that the Housing Voucher Program described in this NOFA represents an improved method, as compared with the Certificate Program, of providing housing assistance to those in need. The principal changes made to the Certificate program in developing the Housing Voucher Demonstration reflect conclusions drawn from actual experience. Additional changes to the program have been made in response to the comments, and are described below.

B. Adequacy of Annual Contributions and the PHA Administrative Fee

Eighteen commenters questioned the level of funding for the Housing Voucher Program, with seven questioning the method of determining the annual contributions amount to be included in the Annual Contributions Contract. Sixteen raised questions about the adequacy of the administrative fee.

Annual Contributions. Commenters questioned the adequacy of a system with annual contributions based on 115 percent of the estimated first-year housing assistance payments, noting that slow initial lease-up would result in lower subsidy needs during the first year.

It is true that PHAs will continue to prepare the required financial forms using procedures similar to those used in the Certificate program, estimating the actual number of months a unit will be leased in the initial year based upon the HUD-approved leasing schedule or past experience. However, HUD recognizes that the lease-up rate will vary among PHA's. To accommodate these variations, HUD will compute the base for calculating the 115 percent of first-year subsidy needs by assuming 100 percent lease-up, thus making available an estimated full-year subsidy amount for each unit. If the PHA does not need the full annual amount available during the PHA fiscal year in which the term begins, the excess is available for use later in the ACC term for the funding increment.

Section 8(o)(7)(B) of the U.S. Housing Act of 1937 specifies that "each contract with a public housing agency for annual contributions under this subsection shall provide annual contributions equal to 115 perentum of the estimated aggregate amount of assistance required during the first year of the contract." The Department believes that this amount will be adequate for the five-year term of the ACC, given economic data available to the Department, including a low inflation rate. There should not be inadequate program funding, since the PHA will determine any increases in the Applicable Standard in subsequent years.

PHA Administrative Fee. Commenters questioned the lower administrative fee for the Housing Voucher Program. (The administrative fee for the Housing Voucher Program is based in a percentage of the published two bedroom FMR, as in the Certificate Program. The Housing Voucher administrative fee is 85 percent of the administrative fee for the Certificate Program. Under both programs, the PHA may collect a preliminary fee for cost-justified items up to $215 for each Housing Voucher when it is first issued.) Most PHAs felt that conversion to a new program does not reduce or steamline administrative overhead, and that the possibility of PHAs' monitoring and collecting security deposits actually will increase the burden, particularly since staff will need to be trained to implement the new program.

Before it determined a fee based on a percentage of the amount paid to a PHA in the section 8 Certificate Program, the Department determined that PHAs would not be required to perform certain duties. In administering the Housing Vocher Program, PHAs will not be involved in:

(1) Negotiating rent between the Owner and the Family;

(2) Documenting rent reasonableness;

(3) Determining that rents are within the Fair Market Rent limitations;

(4) Reviewing and approving requests for exception rents; and

(5) Processing request for vacancy payments.

In additional, the Department has changed the provisions of the House Voucher NOFA on security deposits (see section III.N.(b) of this Notice) and has removed references to PHA loans for security deposits, which were the basis for concerns about collection and monitoring functions. The Department also has provided for an additional administrative fee called the "hard-to-house" fee, of $45, to cover the cost of special assistance given by the PHA to a Family with three of more minors to help the Family find acceptable housing. PHAs will receive $45 for each

qualifying Family successfully housed (i.e., for which a lease and Housing Voucher Contract are initially executed). The hard-to-house fee is not provided for a hard-to-house Family that remains in its pre-Housing Voucher program unit. If an assisted large Family meeting the hard-to-house definition moves to another unit with continued Housing Voucher assistance, the PHA will receive another $45 hard-to-house fee.

C. Housing Voucher Payments and Affordability Adjustments

While 31 commenters submitted comments on the housing assistance payments and affordability adjustments provisions of the NOFA, there was no unanimity of position. Several commenters noted that setting the housing assistance payments at the amount by which the applicable payment standard exceeds 30 percent of a Family's monthy income will cause some Families to pay over 30 percent of their income for rent—if their unit cost is higher than the applicable payment standard. Some of these commenters stated that a system that allows such a situation if ill-advised, since many lower income Families cannot afford rent contributions in excess of 30 percent of their income. Others noted that a Family may welcome this as a means of security housing in a desired location or with special facilities.

On the other hand, several commenters stated that some Families will receive a "windfall," if it is possible to pay less than 30 percent of monthly income when unit rents are less than the applicable payment standard.

The Department believes that this feature of the program is beneficial, because it provides an assisted Family with the same flexibility and freedom of choice in the marketplace as an unassisted family. The Department recognizes that if a Family rents a unit for more than the applicable payment standard, the Family will pay more than 30 percent of its income toward rent. The Department believes that this creates a "shopping incentive" for the Family to find the most economical housing it can, within the Housing Quality Standards. If the Family *chooses* to pay more for a unit, it is exercising the same choice as an unassisted Family in the rental marketplace.

Specific comments on the Payment Standard include:

(1) By using the Payment Standard in effect when the ACC is executed by HUD, subsequent increases in market rents will not be reflected.

The PHA is not limited to using the Payment Standard in effect at the beginning of the ACC term. As discussed in section III.H.(b) of this NOFA, the PHA may establish a schedule to determine the Applicable Standard for Families entering the program and participating Families who move into new units based on a variety of factors. The Adjustment Standard schedules discussed in section III.H.(b) of this Notice are designed to allow adjustments in the Applicable Standard for changes in market conditions. Consistent with section 8(o)(7)(A) of the 1937 Act, the NOFA allows the PHA to establish Adjustment Standard schedules as frequently as twice during any five-year period to assure continued affordability of housing by participating Families. The Department affirms its position that the PHA can best manage its own programs to meet local needs.

The Notice states that an affordability adjustment may be made for all participating Families or for certain categories of Families (for example, unit size or Family type (handicapped, elderly)). If the affordability adjustment is made only for certain categories of Families, it still will constitute one of the two statutory affordability adjustments permitted during the five-year period.

In addition, the PHA must consult the public and the unit of general local government for its area of operation regarding the impact of these adjustments on the number of Families that can be assisted. This consultation is required by section 8(o)(7)(D) of the 1937 Act. Although the commenters requested additional instruction concerning the adequacy of "consultation" we have not made the NOFA more specific. Each PHA should determine the most appropriate method of soliciting the comments of the public and of the unit of general local government, based on local circumstances.

(2) Two commenters stated that owners would be "more inclined to accept smaller annual rent increases than only two increases in a five-year period."

These commenters misunderstood the NOFA. What the Owner charges for rent is to be negotiated between the Owner and the Family. The Applicable Standard does not limit the amount the Owner can charge, and the Family does not have to agree to a rent equal to the Applicable Standard. Research findings and HUD experience indicate that rents tend to cluster around a rent cap, when there is one (such as the FMR in the Certificate Program). However, EHAP findings indicate that when there is not a cap, the rents are more widely distributed. Research further demonstrates that there are fewer rent increases if there is no rent ceiling involved.

(3) Commenters stated that the Payment Standard should not include utilities since it only confuses the Owners and Families. The PHA should deal with the utility allowance directly with the Family.

Section 8(o) provides that the assistance payment for a Housing Voucher participant shall be the difference between the Payment Standard and 30 percent of Adjusted Income, and further requires that the Payment Standard be based on the published Fair Market Rents, which include the cost of utilities. Also, section 8(o)(2) (the "minimum rent" provision) requires that the assistance payment may not exceed rent for the unit, including the utility allowance where tenants pay utilities directly, and 10 percent of income. In addition to the statutory requirement, failure to include provision for tenant-paid utilities in the minimum rent calculations would be inequitable to Families in units with tenant-paid utilities.

(4) Commenters objected to the provision that Housing Voucher Program Families are not eligible to receive a utility reimbursement payment where the utility allowance exceeds the household's gross Family contribution. Commenters stated that this is diffferent from the section 8 Certificate program and that this result is contrary to the legislative concept of "rent-paying ability".

Utility reimbursements are treated differently in the Housing Voucher and Certificate Programs because of the differences in the way that the assistance payment on behalf of the Family is determined. With the total tenant payment in the Certificate program fixed at a specified percentage, the utility reimbursement equals the amount by which the utility allowance exceeds the Family's specified total tenant payment. This reimbursement assures that the Total Tenant Payment by the Family is within the statutory limit on rent as a percentage of income. Under the Housing Voucher Program, a Family may reduce the amount it pays for rent, or it may increase it; the subsidy is the fixed element in the formula. Therefore, the utility reimbursement is the amount by which the subsidy (*i.e.*, generally, the applicable standard minus 30 percent of monthly adjusted income) exceeds the amount of the assistance payment due to the Owner.

(5) Commenters also stated that removing the cap on the Family's share of the rent would be a strong impetus for HUD to further minimize increases in

Fair Market Rents to the point that they are no longer fair.

The Department is required to determine Fair Market Rents annually, in accordance with section 8(c) of the 1937 Act. The Department determines rents based on a formula, which is described when the rents are published for comment. The public is invited to submit comments on the adequacy of the rent level for a particular area as well as on the formula itself. The Department finds no basis for the comment submitted on the Housing Voucher NOFA.

D. No PHA Reimbursement for Amounts Family Owes Owner—Owner May Charge a Security Deposit

The 1984 NOFA provided that a PHA would not reimburse an Owner for the portion on the rent not covered by the housing assistance payment, damages or other amounts due under the lease. It also allowed the Owner to collect up to one month's rent as a security deposit. (The NOFA also stated that PHAs may decide to provide repayable advances to Families unable to pay the security deposit.)

Three PHAs were in favor of no PHA reimbursements to the Owner. Twenty-three commenters identified a variety of problems confronting a program designed in this way—including inadequate motivation for Owners to participate; possible security deposit by landlords; unlikelihood of landlords being able to collect any damage claim; and excessive workload for a PHA in taking on "collection agency" functions. Two commenters recommended that security deposits and HAP contract guarantees as provided under the Certificate program be incorporated into the Housing Voucher program.

The 1985 NOFA reflects a revised policy on security deposits and damage claims. The Department is adopting the section 8 provisions, with one change—damage claims will be limited to one month's actual rent (instead of two months). Accordingly, for the Housing Voucher program, the Owner may require a Family to pay a security deposit equal to the greater of 30 percent of the Family's monthly adjusted income or $50. If the security deposit is insufficient to reimburse the Owner for amounts owed under the lease, the Owner may claim reimbursement from the PHA up to the lesser of (1) the amount owed the Owner, or (2) one month's total rent, as reflected in the lease.

E. Portability of Housing Vouchers

Seventeen organizations submitted comments on the portability feature of the Housing Voucher Program. Most commenters liked the concept of portability, but expressed concern about its workability. Several suggested streamlining the procedures to limit the burden on PHAs. Others requested more or fewer restrictions on the categories of eligible Families, or intended use, of the portable assistance.

In addition to the pool of Certificates described in the 1984 Housing Voucher NOFA, the Department has published a proposed rule for a portability program for the section 8 Certificate Program (see the October 19, 1984 issue of the **Federal Register**, 49 FR 41072). The proposal for the Certificate Program was not bsed on a National pool, but on the concept of one PHA working with another PHA. Thus, when a PHA issues a Portability Statement so that one of its participants or Certificate holders could relocate, that PHA would retain contract and budget authority for the Certificate. The second PHA (receiving PHA) would recover money it spends on behalf of the Family by billing the first PHA.

The Department received 174 comments on the Certificate portability rule, and the comments contained numerous questions and alternatives to the proposed rule. Several of the commenters recommended that the Department adopt the pool concept identified in the 1984 Housing Voucher NOFA, while other commenters on the 1984 NOFA stated that a pool was cumbersome. Analysis of the comments on the Certificate proposed rule is continuing.

The Department affirms its commitment to promoting mobility for Families receiving Section 8 assistance. While analysis of portability for Section 8 Certificates continues, portability for holders of Housing Vouchers or those receiving assistance under the Housing Voucher Program is provided for, effective with the publication of this Notice.

However, in response to comments on both the 1984 NOFA and the Certificate program and suggestions contained in those comments, this Notice establishes a new portability procedure in place of the portability program described in the 1984 NOFA. The changes are highlighted below:

1. Portability is available to an Eligible Family that is receiving Housing Voucher assistance or that has just been issued a Housing Voucher and lives in the PHA's jurisdiction.

2. Portability is not limited to those Families whose heads, spouses, or sole member is under 62 years old.

3. Portability is not limited to those moving in search of employment.

4. Portability is not limited to Families wishing to move to a different market area in a different State.

5. Both PHAs will be eligible for up to the preliminary fee for processing a new unit.

6. Portability is not limited to the amount of resources available to fund a limited National pool.

The new Housing Voucher Portability program is described in detail in Section III.J. of this Notice.

F. Housing Vouchers Used in Connection With the Rental Rehabilitation Program

Five organizations submitted comments concerning the use of Housing Vouchers in connection with the Rental Rehabilitation Program. Four commenters questioned different aspects of the actual coordination—why was HUD using Housing Vouchers with the Rental Rehabilitation Program; why cannot PHAs issue Housing Vouchers to non-Very Low-Income Families who reside in properties to be rehabilitated, without case-by-case approval by HUD Headquarters; and won't Housing Voucher Families living in Rental Rehabilitation buildings be living in the least desirable areas?

The legislation authorizing the Housing Voucher Program (section 207 of the Housing and Urban-Rural Recovery Act of 1983, adding section 8(o) to the U.S. Housing Act of 1937) requires the use of Housing Vouchers in support of the Rental Rehabilitation Program. In response to the second comment, any person receiving assistance under the 1937 Act must meet the income requirements of section 16 of the 1937 Act, that limits nationally the number of Lower Income Families with incomes greater than 50 percent of median that can be admitted into the program. However, the Department intends to authorize a specified number of exceptions to the section 16 requirements for each PHA adminstering Housing Vouchers in support of a Rental Rehabilitation program. The PHA will be able to admit eligible displaced Families without prior HUD approval up to the authorized number. The number of such Families admitted must be reported to HUD for recordkeeping purposes.

The third question assumes that Families receiving Housing Vouchers in support of the Rental Rehabilitation program will be limited to using the Housing Vouchers in those properites. However, a Family issued a Housing Voucher because of its occupancy in a project to be rehabilitated is free to move elsewhere with its Housing

Voucher assistance. Some families may be issued a Housing Voucher on condition that they move initially into a Rental Rehabiliation project, but after that initial occupancy they will have the opportunity to move with continued assistance. Thus, Families will not be restricted to Rental Rehabilitation projects.

The last commenter stated that rural areas receiving FmHA assistance were precluded from participating in the Housing Voucher Program, since Housing Vouchers are to be used in connection with the Rental Rehabilitation Program, and the statute excludes rural areas receiving assistance under the FmHA from the Rental Rehabilitation Program.

This year's Small/Rural component, as well as the formula allocation of a certain number of Housing Vouchers to the HUD Regional Offices, should provide increased opportunties for rural areas to participate inthe Housing Voucher Program.

G. Freestanding Component of the Housing Voucher Program

Five commenters submitted questions on the Freestanding component of the Housing Voucher Program. A common concern was the relationship between the size of the PHA and the level of turnover—one commenter suggested that at least 50 percent of the Housing Voucher allocation be matched with Certificates, since Certificate turnover may not be sufficient to issue Housing Vouchers expeditiously, while three commenters said that PHA selection should not be limited to PHAs having Certificate Programs with more than one thousand units.

The design of this demonstration included the selection of programs large enough to ensure a sufficient level of Family turnover (which eliminates the first concern) as well as an adequate mix of Family types and sizes. This required selecting PHAs with a minimum of one thousand units.

One commenter questioned the legality of the Department's providing Housing Vouchers "to people who have specifically applied for section 8 units". The Department considers the Certificate and Housing Voucher Programs as two variations of section 8 assistance. It is appropriate that those who have been on waiting lists who are offered assistance should be provided the opportunity of the first kind that becomes available—whether it is a Certificate or a Housing Voucher. In the Rental Rehabilitation and FY '85 formula allocation programs, Families selected from the waiting list may choose whether to accept the first type of assistance offered or to wait for the other type of assistance to become available.

H. No Payments for Vacancies

Ten commenters objected to the lack of provision for vacancy payments, and cited this as the elimination of an important incentive for Owners to participate in the program.

Section 8(o)(5) of the 1937 Act specifically eliminates any payment for a dwelling unit vacated by a Family after the month in which the unit was vacated.

I. Removal of Rent Reasonableness Certification

Eight commenters requested that HUD restore the requirement for a rent reasonableness determination, because it protects the Family against rent gouging. We disagree with the comment, principally because the results of the EHAP demonstrated a contrary conclusion. The Housing Voucher Program design is intended to give the Family the flexibility and responsibility of rent negotiation. This aspect of the Housing Voucher program will be one area of study in the Freestanding Housing Voucher Demonstration. This research project will evaluate, among other points, the comparative rent burdens of Families with Certificates and those with Housing Vouchers.

J. Unit Sizes That Vary From Housing Voucher Designation

One commenter states that overcrowding will result if a Family is permitted to occupy a rental unit with fewer bedrooms than stated on the Housing Voucher, with a result antithetical to the purpose of the 1937 Act—to provide Decent, Safe and Sanitary housing.

The PHA has an obligation to inspect the unit in the Housing Voucher Program to ensure that it meets Housing Quality Standards (HQS) space requirements. The HQS requires that a unit provide adequate space and security. Acceptability criteria for judging whether a unit meets this requirement state that the dwelling unit shall contain a living room, kitchen area, and bathroom and that the dwelling unit shall contain at least one bedroom or living/sleeping room of appropriate size for each two persons. Persons of the opposite sex, other than husband and wife or very young children, shall not be required to occupy the same bedroom or living/sleeping room. This procedure should ensure no overcrowding.

K. Miscellaneous Comments

(1) One commenter asked how potential additional monies realized by participants in the Housing Voucher Program will affect Public Aid Grants and Food Stamp Allotments.

It appears that the effect on a Family with regard to AFDC or Food Stamp benefits may be no different when the Family is assisted under the Housing Voucher Program than when it is assisted under the Certificate Program. In both programs, the subsidy payment is made directly to the Owner.

(2) One commenter asked how long the Housing Voucher Demonstration will run.

Each funding increment under an Annual Contributions Contract signed by the Department and the PHA will have an initial life of 60 months (5 years) as prescribed by section 8(o)(6) of the 1937 Act. Future authorizations will determine whether ACCs are extended.

(3) Three commenters raised questions about the Department's announcing this program through a Notice of Funding Availability.

The Department does not know if Housing Vouchers will become a permanent program—although HUD strongly advocates legislation to that end. Until the future of the Housing Voucher Program is known, the Department will continue to publish announcements of its procedures in the same manner that it announces all of its demonstrations—through a Notice of Funding Availability. The Department has made a special effort, however, to solicit and consider the views of interested persons in this process.

(4) One commenter strongly urged the Department to extend the Housing Voucher Program to the renters and owners of manufactured homes and manufactured home space.

Housing Vouchers are available to Eligible Families who wish to rent a manufactured home and space. Housing Vouchers are not available to owners of manufactured homes who need to rent a manufactured home space. The reason for the distinction is statutory. Section 8(j) of the 1937 Act authorizes section 8 Certificate assistance for owners who need to rent the manufactured home space. There in no similar provision authorizing Housing Voucher assistance for owners of manufactured homes who wish to rent a manufactured home space.

VI. Other Matters

An environmental finding under the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary since

the Certificate Program and the Voucher Program are part of the section 8 Existing Housing Program, which is categorically excluded under HUD regulations at 24 CFR 50.20(d).

The information collection requirements contained in this Notice have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520. All requirements except the Damage and Security Deposit Claim form have been approved and assigned OMB Control Numbers. The OMB control numbers are as follows: 2052–0123; 2502–0138; 2502–0161 2502–0185; 2502–0348 2502–0350; 2577–0067 and 2577–0083.

Authority: Section 8(o) of the U.S. Housing Act of 1937 (42 U.S.C. 1437f(o)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Dated: May 3, 1985.

Shirley McVay Wiseman,

General Deputy Assistant Secretary for Housing-Deputy Federal Housing Commissioner.

[FR Doc. 85-11127 Filed 5-7-85; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of the Final Environmental Assessment; Fakahatchee Strand: A Florida Panther Habitat Preservation Proposal

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Assessment *"Fakahatchee Strand: A Florida Panther Habitat Preservation Proposal"* is available for public distribution. The U.S. Fish and Wildlife Service proposes the preservation of up to 88,000 acres of habitat in Collier County, Florida, that is critical to the needs and recovery of the Florida panther. The FWS has made a Finding of No Significant Impact concerning the Proposed Action.

Six alternative levels of preservation ranging from "No Action" to complete "Fee Title Acquisition by the FWS" were considered to prevent habitat disruption and water quality degradation in the study area. The Proposed Action (Alternative 6) relies on a "team approach" using the varied resources of the U.S. Department of the Interior and the State of Florida to achieve the resource protection objectives set by the FWS. The primary methods of preservation will be fee title and easement acquisition; however, management agreements, land exchanges, leases, and other means are also proposed to be used by the key participating agencies.

DATE: The EA will be available to the public on May 10, 1985.

ADDRESS: Requests for the EA should be addressed to: U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Butts, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; Commercial (404) 221–3543 or FTS 242–3543.

SUPPLEMENTARY INFORMATION: The FWS prepared the EA proposing to preserve up to 88,000 acres of habitat in Collier County, Florida, that is critical to the needs and recovery of the Florida panther. Jeffery M. Donahoe, Fish and Wildlife Biologist, Atlanta, Georgia, and Wendell D. Metzen, Wildlife Management Biologist, Jacksonville, Florida, are the primary authors of this document.

The Proposed Action (Alternative 6) calls for the following: (1) The FWS would acquire, in fee title, over 30,000 acres in the northern portions of Fakahatchee Strand; (2) the FWS would encourage the National Park Service to acquire fee title to about 15,000 acres for addition to its Big Cypress National Preserve; (3) the State of Florida and the FWS would cooperate in identifying and implementing protection strategies for the remaining unprotected acres west of the Fakahatchee Strand State Preserve; (4) the FWS would encourage landowners to convey conservation easements on certain lands within the study areas to a third party; and (5) the FES and the State of Florida would cooperatively manage all acquired and protected lands in the Fakahatchee Strand area as a refuge for the Florida panther.

This action is designed to preserve habital that has been identified as critically important for the survival and recovery of the Florida panther—one of the most endangered mammals in the Nation with only 20 to 30 individuals inhabiting the Big Cypress-Everglades region. The three population centers within the know range of the panther include the Fakahatchee Strand, the Big Cypress National Preserve, and the Everglades National Park. The latter two populations are relatively secure, while large portions of the habitat used by the Fakahatchee Strand population are threatened by developments and other land uses.

This action will result in perpetual preservation of the most important remaining panther habitat that is not in public ownership. Additionally, preservation of the study area will allow the existing ecological, biological, and hydrological values to be maintained and will enhance public use values.

The other major alternatives that were considered are:

Alternative 1, No Action—The FWS would not take any additional action under this alternative, other than to rely on existing Federal, State, and local regulatory authorities to conserve the resource values of the Fakahatchee Strand.

Alternative 2, Strengthen Enforcement of Regulatory Authorities—The FWS would take the following actions under this alternative: (1) Conduct necessary ecological studies to support and document FWS positions in regulatory proceedings; (2) develop a broad statement of FWS concerns and interests for presentation to other agencies; and (3) draft a memorandum of understanding with the U.S. Army Corps of Engineers, the State, and the county to ensure that the FWS is notified of all potentially harmful project proposals.

Alternative 3, Fee Title Acquisition by the Fish and Wildlife Service—The FWS would acquire fee title to the 88,000-acre study area for inclusion in the National Wildlife Refuge System.

Alternative 4, Acquisition of Conservation Easements by the Fish and Wildlife Service—The FWS would acquire conservation easements on lands in the study area.

Alternative 5, Acquisition/Management by Others—The FWS would rely on other agencies and organizations to protect and manage the Fakahatchee Strand area.

Other Government agencies and several members of the general public contributed to the planning, preparation, and evaluation of this EA.

Dated: May 1, 1985.

David B. Allen,

Acting Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 85-11095 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-55-M

Revised Regional Resource Plans

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of revised regional resource plans.

SUMMARY: Notice is given that the Fish and Wildlife Service (Service) has completed the 2nd-cycle (edition) of its Regional Resource Plans (RRP's) and that these revised plans are, or will soon be, available for review. These plans address the five National Species of Special Emphasis (NSSE) and one species group that were added to the NSSE list in 1984 in addition to the previous list of 47 NSSE and 19 groups (see Figure 1). RRPs are not static documents. They are reviewed on a periodic basis to strengthen and refine plans for species addressed in previous planning cycles; to improve coordination among regions, States, and others; and to prepare plans for newly designated NSSE.

DATES: The public is invited to submit comments on RRPs at any time.

ADDRESSES: Revised RRPs are available for review at the Service's regional offices (see Figure 2). Comments should be directed to the applicable Regional Planning Coordinator. Reproduction costs for RRPs may be charge for requested copies because they are voluminous.

FOR FURTHER INFORMATION CONTACT: Dennis Buechler, Project Manager for National Planning, Division of Program Plans, Fish and Wildlife Service (Room 2556), 18th & C Streets NW., Washington, D.C. 20240; telephone (202) 343–4902.

SUPPLEMENTARY INFORMATION: Regional Resource Plans (RRPs) are used by the Service to coordinate resource management activities among regions, programs, and the various organizational levels, and to aid in budget preparation. The development of RRPs consists of seven steps: (1) Pre-planning (including strategies for public participation and interagency coordination); (2) resource analysis; (3) establishment of fish and wildlife objectives; (4) problem analysis; (5) strategy development, evaluation and selection; (6) development of operation plans; and (7) production of Regional Resource Plan. National Species of Special Emphasis (NSSE) are the focus of RRPs and are selected on the basis of biological, social, economic, and political criteria. Defining National Species of Special Emphasis serves to identify priority wildlife management needs on a National scale, and to focus and coordinate Service planning efforts. Some 859 species of special emphasis were initially identified. However, it was fiscally impractical to develop detailed plans for all 859 species. Therefore, the initial 1981 list was narrowed to 46 NSSE with one species (the spotted owl) added after public review. Five more NSSE and one species group were added in 1984 (48 FR 55049, December 8, 1983). To date, the Service has designated a total of 52 NSSE and 20 species groups.

The Service currently has no plans to change the NSSE list, as it is in the process of implementing, evaluating and refining the management plans for the existing NSSE. It should be noted that designation of NSSE does not create any additional regulation of the species, nor does it restrict the Service's ability to respond to management needs concerning other species under FWS jurisdiction.

Dated: May 1, 1985.

F. Eugene Hester,

Acting Director, U.S. Fish and Wildlife Service.

FIGURE 1

National Species of Special Emphasis

Mammals

Grizzly bear
Polar bear
Black-footed ferret
Sea otter
  Southern
  Alaskan population
Coyote
Gray wolf
  Eastern
  Rocky mountain and Mexican
Pacific walrus
West Indian manatee

Birds

Brown pelican
  Eastern population
  California population
Tundra swan
  Eastern population
  California population
Trumpeter swan
  Mid-continent population
  Pacific Coast population
White-fronted goose
  Eastern Mid-continent
  Western Mid-continent
  Tule population
  Pacific Flyway population
Snow goose
  Greater
  Lesser
    Mid-continent population
    Western Central Flyway
    Western Canadian Arctic
    Wrangel Island
Brant
  Atlantic
  Pacific
Canada Goose
  Atlantic Flyway
  Tennessee Valley
  Mississippi
  Eastern Prairie
  Great Plains
  Tall Grass Prairie
  Hi-Line
  Short Grass Prairie
  Western Prairie
  Rocky Mountain
  Pacific population
  Pacific Flyway
  Vancouver
  Dusky
  Cackling
  Aleutian
Pintail duck*
Wood duck
Black duck
Mallard
Canvasback
  Eastern population
  Western population
Ring-necked duck*
Redhead
California condor
Osprey
Bald eagle
  Southeastern population
  Chesapeake Bay
  Northern population
  Southwest population
  Pacific States
  Alaska population
Golden eagle
  Western population
Peregrine falcon
  Eastern
  Rocky Mountain-Southwestern
  Pacific Coast
  Alaska
Attwater's prairie chicken
Masked bobwhite
Clapper rail
  Yuma
  Light-footed
Sandhill crane
  Eastern
  Mid-continent
  Rocky Mountain
  Lower Colorado River
  Central Valley
  Pacific Flyway
Whooping crane
American woodcock
Piping plover*
Least tern
  Interior
  Eastern
  California
Roseate tern*
White-winged dove
Mourning dove
Spotted owl
Red-cockaded woodpecker
Kirtland's warbler

Reptiles and Amphibians

American alligator

Fish

Sea lamprey
Sockeye salmon (Alaskan)*
Coho salmon
  Non-Alaskan U.S. stocks
  Alaskan stocks
Chinook salmon
  Non-Alaskan U.S. stocks
  Alaskan stocks
Cutthroat trout (Western U.S.)
Steelhead trout
  Non-Alaskan U.S. stocks
  Alaskan stocks
Atlantic salmon
Lake trout (Great Lakes)
Striped bass

Cui-ui

Species Groups of Special Emphasis

Seabird group
Surface feeding duck group
Bay duck group
Shorebird group
Gull and tern group
Songbird group
Heron and allies group
Hawaiian forest bird group
Hawaiian water bird group
Blackbird and starling group
Endangered freshwater molusc group
Southwest cactus group
Sea turtle group
Pacific salmon group
Stream trout group
Great Lakes percidae group
Upper Colorado River endangered fish group
Shad group
Exotic fish group

*Species added for FY 1984 RRP planning cycle.

Reference: **Federal Register** Vol. 48, No. 237, December 8, 1983.

FIGURE 2

Region 1—CA, HI, ID, NV, OR, WA

Regional Planning Coordinator, U.S. Fish and Wildlife Service, Lloyd 500 Building, Suite 1692, 500 NE Multnomah Street, Portland, OR 97323; Telephone (503) 231–2164.

Region 2—AZ, NM, OK, TX

Regional Planning Coordinator, U.S. Fish and Wildlife Service, Box 1306, Albuquerque, NM 87103; Telephone (505) 766–5935.

Region 3—IL, IN, IA, MI, MN, MO, OH, WI

Regional Planning Coordinator, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, MN 55111; Telephone (612) 725–3306.

Region 4—AL, AR, FL, GA, KY, LA, MS, NC, SC, TN, and Puerto Rico

Regional Planning Coordinator, U.S. Fish and Wildlife Service, Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303; Telephone (404) 221–3580.

Region 5—CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, WV

Regional Planning Coordinator, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, MA 02158; Telephone (617) 965–5100.

Region 6—CO, KS, MT, NE, ND, SD, UT, WY

Regional Planning Coordinator, U.S. Fish and Wildlife Service, Box 25486, Denver Federal Center, Denver, CO 80225; Telephone (303) 236–7909.

Region 7—AK

Regional Planning Coordinator, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, AK 99503; Telephone (907) 786–3539.

[FR Doc. 85–11100 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–55–M

Bureau of Land Management

[F–14940–A2]

Alaska Native Claims Selection; Dinyea Corp.

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(a) of the Alaska Native Claims Settlement Act of December 18, 1971 (ANCSA), 43 U.S.C. 1601, 1613(a), will be issued to Dinyea Corporation for approximately 19,562 acres. The lands involved are in the vicinity of Stevens Village.

Fairbanks Meridian, Alaska

T. 16 N., R. 7 W.

A notice of the decision will be published once a week for four (4) consecutive weeks, in The Fairbanks Daily News-Miner. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513. ((907) 271–5960).

Any party claiming a property interest which is adversely affected by the decision shall have until June 7, 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. 85–11132 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–JA–M

Cedar City District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 that a meeting of the Cedar City District Grazing Advisory Board will be held on Thursday, June 6, 1985. The meeting will begin at 9:30 a.m. in the Bureau of Land Management Cedar City District Office located at 1579 North Main Street, Cedar City, Utah.

The agenda is as follows: (1) SUSC Allotment Allocation; (2) Report on Wildhorse Gathering; (3) District Ear Tagging Program; (4) Ranking of FY 1986 Projects; and (5) General Board Business.

Grazing Advisory Board meetings are open to the public. Interested persons may make oral statements or file written statements for the Board's consideration. Oral statements will be received at 9:30 a.m. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Mangement, 1579 North Main Street, Cedar City, Utah 84720, phone 801–586–2401, by June 3, 1985. Depending on the number of persons wishing to make statements, a per person time limit may be established by the District Manager.

Summary minutes of the Board meetings will be maintained in the District Office and be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Morgan S. Jensen,

District Manager.

April 30, 1985.

[FR Doc. 85–11153 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–DQ–M

[Serial No. I–8856]

Idaho; Partial Termination of Proposed Withdrawal and Reservation of Lands

April 30, 1985.

Notice of an application, serial number I–8856, for withdrawal and reservation of lands was published as **Federal Register** Document No. 74–25195 on page 38243 of the issue for October 30, 1974. The applicant agency has cancelled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR Subpart 2091, such lands will be at 9:00 a.m. on June 4, 1985, relieved of the segregative effect of the above-mentioned application.

The lands involved in this notice of termination are:

Boise Meridian

T. 5 S., R. 3 W.,
Sec. 6, lots 3, 17, 18, 19, 20, 27, SE¼NW¼, E½SE¼.

The area described aggregates 196.54 acres in Owyhee County, Idaho.

Louis B. Bellesi,

Deputy State Director for Operations.

[FR Doc. 85–11166 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–GG–M

Colorado, Craig District Advisory Council; Meeting

In accordance with Pub. L. 94–579, notice is hereby given that there will be

a meeting of the Craig District Advisory Council on May 22, 1985.

The meeting will begin at 10 a.m. at the Little Snake Resource Area Office, 1280 Industrial Avenue, Craig, Colorado.

Agenda items will include:

1. Discussion of the Preferred Alternative for the Little Snake Resource Management Plan.
2. Review of Critical Wildlife Habitat Maps.
3. Summary of public comments on Little Snake Resource Management Plan.
4. Update on BLM/Forest Service Land Interchange.

The meeting will be open to the public and interested persons may make oral statements to the Council beginning at 10:30 a.m. The District Manager may establish a time limit for oral statements, depending on the number of people wishing to speak. Anyone wishing to address the Council or file a written statement, should notify the District Manager, Bureau of Land Management, 455 Emerson Street, Craig, Colorado 81625, by May 17, 1985.

Summary minutes of the Council Meeting will be maintained in the Craig District Office and will be available for public inspection and reproduction during regular business hours.

Dated: May 2, 1985.

William J. Pulford,

District Manager.

[FR Doc. 85-11318 Filed 5-7-85; 10:14 am]

BILLING CODE 4310-JB-M

[A-20346-B]

Realty Action; Exchange of Public Lands, Pinal, Maricopa, and Yavapia Counties, AZ

Correction

In FR Doc. 85-7222 beginning on page 12083 in the issue of Wednesday, March 27, 1985, make the following corrections:

1. On page 12084, second column, eighth line, the second "SE¼" should read "SW¼".

2. On the same page, second column, land description beginning T. 11 N., R. 2 E., the first line of Sec. 8, add "NW¼" at the end of the line after "NW¼".

3. On the same page, third column, land description beginning T. 9 N., R. 2 E., second line of Sec. 22, add "NW¼" between "NW¼" and ".W½"; and in the fourth line add "NW¼" between "NW¼" and ".W½".

4. On the same page, third column, land description beginning T. 11 N., R. 3 E., Sec. 3, "NW¼" should read "NE¼".

5. On the same page, third column, land description beginning T. 9½N., R. 3 E., Sec. 30, add a comma (,) after "1—4" and after "W½".

6. On the same page, third column, *Pinal County*, second line, the last "SW¼" should read "SE¼"; and the fifth line should read "T. 7 S., R. 13 E.,".

7. On page 12085, first column, ninth line, "NM½SE¼"should read "N½SE¼ ".

BILLING CODE 1505-01-M

California Desert District Advisory Council; Emergency Change in Meeting Date

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to Advisory Council Meeting Date.

SUMMARY: On April 11, 1985, the meeting of the Advisory Council of the Bureau's California Desert District was announced as being scheduled for May 16 to 18, 1985. [FR page 14321, Vol 50, No. 70.] The meeting will now be limited to May 16 and 17 only. The field trip to view areas near Ridgecrest and the Inyo Mountains has been cancelled. The meeting will still be held in Ridgecrest and agenda topics for discussion remain as in the earlier notice.

Dated: May 3, 1985.

Gerald E. Hiller,

District Manager

[FR Doc. 85-11209 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-40-M

Minerals Management Service

Oil and Gas and Sulphur Operations in the Outer Continental Shelf; Chevron U.S.A., Inc.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document.

SUMMARY: This Notice announces that Chevron U.S.A. Inc., Unit Operator of the Main Pass Block 299 Field Federal Unit Agreement No. 14-08-0001-8850, submitted on April 23, 1985, a proposed Development Operations Coordination Document describing the activities it proposes to conduct on the Main Pass Block 299 Field Federal unit.

The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the plan and that it is available for public review at the offices of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 N. Causeway Blvd., Room 147, Metairie, Louisiana 70002.

FOR FURTHER INFORMATION CONTACT: Minerals Management Service, Records Management Section, Room 143, open weekdays 9:00 a.m. to 3:30 p.m., 3301 N Causeway Blvd., Metairie, Louisiana 70002, phone (504) 838-0519.

SUPPLEMENTARY INFORMATION: Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in the proposed development operations coordination document available to affected States, executives of affected local governments, and other interested parties became effective on December 13, 1979 (44 FR 53685). Those practices and procedures are set out in a revised §50.34 of Title 30 of the Code of Federal Regulations.

Dated: April 30, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 85-11176 Filed 5-7-85; 8:45 am]

BILLING CODE 4310-MR-M

Availability of the Draft Environmental Impact Statement and Intent To Hold Public Hearings Regarding Proposed Central and Western Gulf of Mexico Outer Continental Shelf Region; Lease Sales 104 (April 1986) and 105 (July 1986)

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a draft environmental impact statement (Draft EIS) relating to proposed 1986 Outer Continental Shelf (OCS) oil and gas lease sales of available unleased blocks in the Central and Western Gulf of Mexico (GOM). The proposed Central Gulf Sale 104 will offer for lease approximately 33.1 million acres and the Western Gulf Sale 105 will offer approximately 28.2 million acres.

Single copies of the Draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico OCS Region, Post Office Box 7944, Metairie, Louisiana 70010.

Copies of the Draft EIS will be available for review by the public in the following libraries: Austin Public Library, 401 West Ninth Street, Austin, Texas; Houston Public Library, 500 McKinney Street, Houston, Texas; Dallas Public Library, 1513 Young Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; LaRatama Library, 505 Mesquite Street, Corpus Christi, Texas; Southmost College Library, 1825 May Street, Brownsville, Texas; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana; Louisiana State Library Post Office Box 131, 760 Riverside, Baton Rouge, Louisiana; Lafayette Public Library, Post Office Box 3427, Lafayette, Louisiana; Calcasieu Parish Library, Downtown Branch, Lake Charles, Louisiana; Harrison County Library, 14th Avenue and Beach Street, Gulfport, Mississippi; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida; Northwest Regional Library System, 25 West Government Street, Panama City, Florida; Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida; Lee County Library, 3355 Fowler Street, Fort Meyers, Florida; Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte, Florida; Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida.

In accordance with 30 CFR 256.26, public hearings pertaining to these lease sales will be held at the following locations and times:

Corpus Christi State University, The Student Union Building, Conference Room One, 6300 Ocean Drive, Corpus Christi, Texas 78412, June 18, 1985—9:00 a.m.

Minerals Management Service, Gulf of Mexico OCS Region, Conference Room 437, 3301 North Causeway Boulevard, Metairie, Louisiana 70010, June 20, 1985—9:00 a.m.

These hearings are for the purpose of receiving comments and suggestions relating to the Draft EIS. Comments concerning this document will be accepted through July 5, 1985, and should be sent to the Regional Supervisor (LE–2), Gulf of Mexico OCS Region, Minerals Management Service, Post Office Box 7944, Metairie, Louisiana 70010.

John B. Rigg,

Acting Director, Minerals Management Service.

Approved.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 85–11128 Filed 5–7–85; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Concurrent Jurisdiction in Iowa

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given that, effective August 10, 1984, concurrent jurisdiction was established over lands and waters administered by the National Park Service within the following units of the National Park System situated in the State of Iowa:

Effigy Mounds National Monument
Herbert Hoover National Historic Site.

Concurrent jurisdiction was conveyed pursuant to Iowa House File 2480, Seventieth General Assembly and accepted by Stanley T. Albright, Acting Director of the National Park Service, pursuant to applicable Federal statutory law. Cession and acceptance of concurrent jurisdiction was acknowledged by letter by the Honorable Terry E. Branstad, Governor of the State of Iowa, on September 13, 1984.

Dated: May 3, 1985.

Stanley T. Albright,

Acting Director, National Park Service.

[FR Doc. 85–11188 Filed 5–7–85; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Tehama-Colusa Canal Central Valley Project, CA; Intent To Prepare a Supplemental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Department of the Interior proposes to prepare a supplement to the Final Environmental Impact Statement (EIS) FES 72–17, Tehama-Colusa Canal, Central Valley Project, California, 1972. The proposed supplement will provide more recent information regarding the marketing of water from Tehama-Colusa and Corning Canals for agricultural purposes in Tehama, Glenn, Colusa and Yolo Counties. The supplement will specifically address any impacts that may result from long-term water contracting.

Portions of the Tehama-Colusa Canal service area are within floodplain and wetland areas. Accordingly, the objectives and requirements of Presidential Executive Orders 11988 and 11990, and the Reclamation Instructions, Chapter 376.5, will be considered throughout the planning and preparation of the EIS.

Meetings to solicit information from all interested public entities and persons to assist in determining the scope of the supplemental EIS will be held during the first part of June, 1985. Notice of meeting places and dates will be issued once they are identified and established.

The contact person for this supplemental environmental impact statement will be Joel Verner, Bureau of Reclamation, Attention: MP–410, 2800 Cottage Way, Sacramento, California 95825, Telephone (916) 484–4328.

Dated: April 30, 1985.

Robert A. Olson,

Acting Commissioner.

[FR Doc. 85–11039 Filed 5–7–85; 8:45 am]

BILLING CODE 4310-09-M

Office of Surface Mining Reclamation and Enforcement

Intent To Prepare a Combined Draft Unsuitability Petition Evaluation Document/Environmental Impact Statement for an Area Adjacent to the City of Black Diamond in King County, WA

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

ACTION: Notice of intent to prepare a combined draft unsuitability petition evaluation document/environmental impact statement.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) intends to prepare a combined draft unsuitability petition evaluation document/environmental impact statement (PED/EIS) on a petition by the Citizens Concerned About Strip Mining (CCASM) to designate certain lands adjacent to the city of Black Diamond in King County, Washington, as unsuitable for surface coal mining and reclamation operations in accordance with the Surface Mining Control and Reclamation Act of 1977 (SMCRA). In compliance with the National Environmental Policy Act of 1969 (NEPA), the OSM will consider and analyze the impacts of the five alternatives as described in the supplementary information section of this notice. Also, the OSM is opening an additional comment period to provide the public a further opportunity to participate in determining the scope of the document and identifying significant issues, related to the proposed action, that should be analyzed in the PED/EIS. This PED/EIS will assist the Secretary of the Interior in making a decision on the petition.

DATE: Written comments must be received by no later than 4 p.m. on June 7, 1985, at the address below:

ADDRESSES: Written comments should be sent to OSM, Western Technical Center, Attn: Charles Albrecht, Second Floor, Brooks Towers, 1020 15th Street, Denver, Colorado 80202.

Copies of the petition may be obtained upon request from OSM at the address listed above. The public record on the petition is available for public review during normal working hours at the OSM office listed above and at OSM, 2625 Parkmont Lane, SW., Building B3, Olympia, Washington.

FOR FURTHER INFORMATION CONTACT: Charles Albrecht at the address listed above (telephone: 303–844–5656 or FTS 564–5656).

SUPPLEMENTARY INFORMATION: On August 15, 1984, a notice was published in the **Federal Register** (49 FR 32686) announcing (1) the receipt of a complete petition and (2) the opening of a comment period requesting comments on issues raised in the petition. The scope of evaluation for the petition has been expanded to include the EIS to comply with section 102(2)(C) of the NEPA. Thus, the OSM is opening an additional comment period on the scope of the PED/EIS. (See "Date" and "Addresses.")

According to section 522 of SMCRA, the Secretary of the Interior is required to make a decision on the Black Diamond petition. Because the OSM has already rejected the petition as it relates to that portion of the petition area coinciding with Pacific Coast Coal Company's (PCCC's) proposed John Henry No. 1 mine permit area, this PED/EIS will address the remaining portion of the petition area for which OSM has accepted the petition for further processing. In the PED/EIS, this remaining area will be called the "curtailed petition area." However, the CCASM has filed an appeal with the Interior Board of Surface Mining and Reclamation Appeals to process the petition so as to address the proposed John Henry No. 1 mine permit area as part of the petition area. A decision on this appeal has not yet been rendered. The approximately 472-acre curtailed petition area is located on private lands immediately adjacent to the city of Black Diamond in King County, Washington. The OSM has prepared an EIS (OSM–EIS–13, February 1985) on PCCC's proposed mine, which would extract 5.32 million short tons of run-of-mine coal and disturb 363 acres of land over the 16.2-year life of the mine.

The petition contains four primary allegations, three of which address the entire petition area, including PCCC's proposed John Henry No. 1 mine permit area. These three primary allegations are that (1) natural hazard lands, which are unsuitable for surface coal mining operations, exist in the petition area, (2) fragile lands, which are unsuitable for surface coal mining operations, exist in the petition area, and (3) lands proximate to population, and so unsuitable for surface coal mining operations, exist in the petition area. The fourth primary petition allegation addresses the proposed John Henry No. 1 mine permit area only.

The several alternatives available to the Secretary range from designating all lands in the curtailed petition area unsuitable for all or certain types of surface mining operations to not designating any of the lands in the area as unsuitable. The Secretary also has the option of designating only parts of the area as unsuitable for all or certain types of surface coal mining operations. The alternatives are as follows:

Alternative A: Designate the entire curtailed petition area as unsuitable for all surface coal mining operations.

Alternative B: Not designate any of the curtailed petition area as unsuitable for surface coal mining operations.

Alternative C: Designate parts of the curtailed petition area as unsuitable for surface coal mining operations.

Alternative D: Designate the entire curtailed petition area as unsuitable for surface coal mining operations, but allow underground coal mining.

Alternative E: No action.

Dated: May 3, 1985.

Brent W. Wahlquist,

Assistant Director, Technical Services and Research.

[FR Doc. 85–11179 Filed 5–7–85; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–212]

Certain Convertible Rowing Exercisers, Determination To Review and Reverse Initial Determination Partially Suspending Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has determined to review and reverse the administrative law judge's (ALJ) initial determination (ID) (Order No. 6) to suspend the above-captioned investigation as to respondent Weslo Design International, Inc.

Authority:

The authority for disposition of this matter is contained in section 1337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.56 of the Commission's Rules of Practice and Procedure (49 FR 46123 (Nov 24, 1984); to be codified at 19 CFR 210.53–210.56).

FOR FURTHER INFORMATION CONTACT: Jack Simmons, Esq., Office of the General Counsel, telephone 202–523–0493.

SUPPLEMENTARY INFORMATION: ON March 29, 1985, the ALJ issued an ID suspending the investigation as to respondent Weslo Design International and an order denying suspension as to all other parties. The Commission investigative attorney petitioned for review of the ID. After reviewing the ID, the petition for review, and the response of Weslo to the petition, the Commission determined to review the ID and to reverse the suspension of the investigation as to respondent Weslo.

Issued: May 2, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–11174 Filed 5–7–85; 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: Rescheduling of the hearing to be held in connection with the subject investigation.

SUMMARY: The Commission hereby announces the rescheduling of the hearing to be held in connection with the subject investigation from 10:00 a.m. on June 6, 1985, to 10:00 a.m. on July 30, 1985.

For further information concerning the conduct of the 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, Aug. 15, 1984).

EFFECTIVE DATE: April 22, 1985.

FOR FURTHER INFORMATION CONTACT: Nancy Fulcher (202–523–0290) or Nita Kavalauskas (202–523–5413), Office of Industries, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

On March 12, 1985, the Commission instituted the subject investigation and scheduled a hearing to be held in connection therewith for June 6, 1985 (50 FR 16166 Apr. 24, 1985). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 28, 1985, to July 25, 1985. The Commission, therefore, is revising its schedule in the investigation to conform with Commerce's new schedule. As provided in section 735(b)(2)(B) of the Tariff Act of 1930 (19 U.S.C. § 1673d(b)(2)(B)), the Commission must make its final determination in antidumping investigations within 45 days of Commerce's final determination, or in this case by September 9, 1985.

Staff report

A public version fo the prehearing staff report in this investigation will be placed in the public record on July 16, 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 July 30, 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 July 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 9:30 a.m. on July 25, 1985, in room 117 of the U.S. International Trade Commission Building. The deadline for filing prehearing briefs is July 26, 1985.

Testimony at the public hearing is governed by § 207.23 of the Commission's rules (19 CFR 207.23). This rules 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, 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 section 207.24 (19 CFR 207.24) and must be submitted not later than the close of business on August 6, 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 to the investigation on or before August 6, 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, 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 § 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 section 207.20 of the Commission's rules (19 CFR 207.20, as amended by 49 FR 32569, Aug. 15, 1984).

Issued: April 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 11172 Filed 05–07–85; 8:45 am]

BILLING CODE 7020-02-M

Report to the President on Investigation No. TA–201–54; Potassium Permanganate

April 30, 1985.

Determination

On the basis of the information developed in the course of investigation No. TA–201–54, the Commission has determined [1] that potassium permanganate, provided for in item 420.28 of the Tariff Schedules of the United States (TSUS), is not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Background

On November 30, 1984, the United States International Trade Commission instituted investigation No. TA–201–54, under section 201(b)(1) of the Trade Act of 1974 (19 U.S.C. 2251(b)(1)), in order to determine whether potassium permanganate is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article. The investigation was instituted following the receipt of a petition for import relief filed on behalf of Carus Chemical Co., the sole domestic producer of potassium permanganate.

Notice of the institution of the Commission's investigation and of the 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 December 19, 1984 (49 FR 49392). The

[1] Commissioner Eckes determined that potassium permanganate is being imported into the United States in such increased quantities as to be a substantial cause of serious injury to the domestic industry producing an article like or directly competitive with the imported article.

hearing was held in Washington, DC on March 5, 1985, at which time all persons were afforded the opportunity to appear in person, present evidence, and be heard. The Commission's determination in this investigation was made in a public meeting held on April 8, 1985.

The report is being furnished to the President in accordance with section 201(d)(1) of the Trade Act. The information in the report was obtained from fieldwork and interviews by members of the Commission's staff, and from information obtained from other Federal agencies, responses to Commission questionnaires, information presented at the public hearing, briefs, submitted by interested parties, the Commission's files, and other sources.

The Commission's public report, Potassium Permanganate (investigation No. TA-201-54, USITC Publication 1682, 19850, contains the views of the Commissioners and information developed during the investigation. Copies may be obtained by calling 202-523-5178 or from the Office of the Secretary, 701 E Street NW., Washington, DC 20436.

Issued: April 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-11171 Filed 5-7-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-208]

Certain Shoe Stiffener; Initial Determination Terminating Respondents on the Basis of Settlement Agreement

AGENCY: 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 respondents on the basis of a settlement agreement: Emhart Corporation (Emhart), Bush Co., Ltd. (Bush) and Gould & Scammon Inc. (G&S).

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 30, 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 Comment

Interested persons may file written comments with the Commission concerning termination of the aforementioned respondents. The original and 4 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 reasons 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 30, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-11173 Filed 5-7-85; 8:45 am]

BILLING CODE 7020-02-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30653]

Walking Horse & Eastern Railroad Co., Inc.; Modified Certificate of Public Convenience and Necessity

May 1, 1985.

On April 16, 1985, a notice was filed by the Walking Horse and Eastern Railroad Company, Inc. (WH&E) for a modified certificate of public convenience and necessity under 49 CFR Part 1150 Subpart C. That carrier is now authorized to provide service over a line of railroad from Shelbyville, TN, at or near milepost JA-8.20 to Wartrace, TN, at milepost JA-0.44 in Bedford County, TN, a distance of approximately 7.76 miles connecting with the Louisville & Nashville Railroad Company at Wartrace. The line was formerly owned by Seaboard System Railroad, Inc. (SSR) but was authorized to be abandoned.[1] The Bedford Railroad Authority (the Authority) intends to acquire the line from SSR by a recorded contract of sale with the Tennessee Department of Transportation (Tennessee DOT). The Authority, in exchange for rehabilitation funding to be provided for the line by Tennessee DOT, will provide service over the line for a minimum of three (3) years. WH&E will operate the line pursuant to a service agreement with the authority.

This notice must be served upon the Association of American Railroads (Car Service Division) as agent of all railroads subscribing to the car-service and car-hire agreement, and upon the American Short Line Railroad Association.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 85-11185 Filed 5-7-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Clean Water Act; Atlas Corp.; Correction

This document corrects a notice concerning a proposed consent decree involving Atlas Corporation that appeared at page 13,091 in the **Federal Register** of Tuesday, April 2, 1985 (50 FR 13091). This notice is necessary to correct the description of the facilities which are the subject of the proposed consent decree.

The Department of Justice will receive comments on the proposed decree pursuant to the procedures described in the April 2, 1985 notice until 30 days from the date of this publication.

The following changes are made in the previous notice:

On page 50 FR 13091, first paragraph of the notice, final sentence, "openpit copper mine" is corrected to read "underground uranium mine".

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-11167 Filed 5-7-85; 8:45 am]

BILLING CODE 4410-01-M

---

[1] Docket No. AB-55 (Sub-No. 116), *Seaboard System Railroad, Inc.—Abandonment—In Bedford County, TN* (not printed), served March 14, 1985.

Lodging of Consent Judgment Pursuant to Clean Air Act; Lilhead Corp.

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on March 30, 1985, a proposed Consent Judgment in *United States* v. *Lilhead Corporation*, Case No. 84–6050 Civ-NCR, was lodged with the United States District Court for the Southern District of Florida. The proposed Consent Judgment concerns a complaint filed by the United States on January 24, 1984, alleging violations of Title II of the Clean Air Act by Lilhead Corporation. In the proposed Consent Judgment, Lilhead agreed to pay a civil penalty of $2,000 and to advertise warnings about the improper use of leaded fuel. The Consent Judgment provides for a stipulated penalty of $2,000 if Lilhead fails to comply with its obligation to advertise and also specifically provides that it is subject to the provisions of 38 CFR 50.7.

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 judgment. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, United States Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *Lilhead Corporation* D.J. Ref. 90–5–2–1–647.

The proposed Consent Judgment may be examined at the office of the United States Attorney, 155 South Miami Avenue, Miami, Florida 33130 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of the Consent Judgment may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1742, Ninth Street and Pennsylvania Avenue, NW., Washington, D.C. 20530. A copy of the proposed Consent Judgment may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the United States Department of Justice.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–11166 Filed 5–7–85; 8:45 am]

BILLING CODE 4410–01–M

Lodging of Consent Decree Pursuant to Clean Water Act; Orlando, FL

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 30, 1985 a proposed consent decree in *United States* v. *City of Orlando, Florida and State of Florida*, Civil Action 84–0758–Civ-ORL–18 was lodged with the United States District Court for the Middle District of Florida. The complaint filed by the United States alleged violations of the Clean Water Act by the City of Orlando due to its failure since 1983 to meet the requirements of its NPDES permit at its "Iron Bridge Regional Water Pollution Control Facility," located in Oviedo, Florida. The complaint sought injunctive relief to require the defendants to comply with the Clean Water Act and civil penalties for past violations. The consent decree provides that the defendants will comply with the NDPES permit and undertake remedial actions set forth in the consent decree. The defendants are enjoyed from further violations, and are required to pay a civil penalty of $40,000.00 in settlement of the government civil penalty claims. In the event that compliance with the terms of the NPDES permit is not achieved by December 20, 1986, an additional penalty of $60,000.00 will be paid.

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 of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *City of Orlando*, D.J. Ref. 90–5–1–1–2157.

The proposed consent decree may be examined at the office of the United States Attorney, 501 Federal Building, 80 N. Hughey Avenue, Orlando, Florida 32801 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street, N.E., Atlanta, Georgia 30365. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1712, 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 enclose a check in the amount of $1.70 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85–11170 Filed 5–7–85; 8:45 am]

BILLING CODE 4410–01–M

Lodging of a Proposed Consent Decree Pursuant to the Clean Air Act; Shell Oil Co.

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 11, 1985, a proposed consent decree in *United States* v. *Shell Oil Company*, Civil Action No. 83–4494 (E.D. La.) was lodged with the Eastern District of Louisiana. The complaint alleges violations of the Clean Air Act and the National Emission Standards for Hazardous Pollutants (NESHAP) for vinly chloride by the defendants. The complaint seeks both injunctive relief, requiring the defendant to comply with the Clean Air Act and the NESHAP for vinyl chloride in the future, and civil penalties for past violations. The proposed Consent Decree requires Shell Oil Company ("Shell") at its facility in Norco, Louisians, to submit and implement a remedial program prior to the restart of the plant. This program shall include improvements to process design and equipment; the development of a manual with the operating procedures for upset conditions; formal employee training; inspections and preventive maintenance for all equipment in vinyl chloride service. The Decree also requires compliance with the National Emissions Standards for Hazardous Air Pollutants ("NESHAPS") regulations for vinly chloride and the Clean Air Act along with the payment of civil penalties for past violations.

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 of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to the *United States* v. *Shell Oil Company*, Civil Action No. 83–4494 (E.D. La.) D.J. Ref. 90–5–2–1–609.

The proposed consent decree may be examined at Office of the United States Attorney, Hale Boggs Federal Building, 500 Camp Street, New Orleans, Louisiana 70130 and at the Region VI Office of the Environmental Protection Agency, Interfirst Two Buildings, 1201 Elm Street, Dallas, Texas 75270. Copies of the Consent Decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth 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 enclose a check in the amount of $1.80 payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-11169 Filed 5-7-85; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

[Docket No. 85-9]

Bernard Leroy Langston, III, M.D., Shallotte, NC; Hearing

Notice is hereby given that on December 17, 1984, the Drug Enforcement Administration, Department of Justice, issued to Bernard Leroy Langston, III, M.D., an Order to Show Cause as to why the Drug Enforcement Administration should not deny his application executed on May 25, 1984, for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing have been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, May 14, 1985, in Courtroom 401, New Hanover Judicial Building, 4th and Princess Streets, Wilmington, North Carolina.

Dated: April 30, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-11129, Filed 5-7-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-10]

Campbell's Pharmacy, Okeechobee, FL; Hearing

Notice is hereby given that on January 15, 1985, the Drug Enforcement Administration, Department of Justice, issued to Campbell's Pharmacy, an Order to Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, AC5212129, and deny the application, executed on July 9, 1984, for renewal of such registration as a retail pharmacy under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 9:30 a.m. on Tuesday, May 21, 1985, in Courtroom I, South Courtroom, Old Courthouse Building, U.S. District Court, 300 NE. First Avenue, Miami, Florida.

Dated: May 2, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-11130 Filed 5-7-85; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 85-14]

Michael A. Rush, D.P.M., Hollywood, FL; Hearing

Notice is hereby given that on February 1, 1985, the Drug Enforcement Administration, Department of Justice, issued to Michael A. Rush, D.P.M., an Order To Show Cause as to why the Drug Enforcement Administration should not deny his application for registration as a practitioner under 21 U.S.C. 823(f).

Thirty days having elapsed since the said Order To Show Cause was received by Respondent, and written request for a hearing having been filed with the Drug Enforcement Administration, notice is hereby given that a hearing in this matter will be held commencing at 1:30 p.m., or as soon thereafter as this matter may be reached, on Tuesday, May 21, 1985, in Courtroom I, South Courtroom, Old Courthouse Building, U.S. District Court, 300 NE. First Avenue, Miami, Florida.

Dated: May 2, 1985.

John C. Lawn,

Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-11131 Filed 5-7-85; 8:45 am]

BILLING CODE 4410-09-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. STN-50-529-OL, STN-50-530-OL, ASLBP No. 80-447-01 OL]

Arizona Public Service Co., et al., (Palo Verde Nuclear Generating Station, Units 2 and 3 Operating License Proceeding); Public Hearing on Application for Operating Licenses for Palo Verde Units 2 and 3

May 1, 1985.

On July 25, 1980, the U.S. Nuclear Regulatory Commission published in the **Federal Register** a notice of receipt of an application for facility operating licenses for Palo Verde Nuclear Generating Stations Units 1, 2 and 3 and notice of opportunity for hearing (45 FR 49732). The July 25, 1980 notice is a clarification of an earlier notice published in the **Federal Register** (45 FR 46941-46943) on July 11, 1980. Such licenses would authorize Arizona Public Service Company, Salt River Project Agricultural Improvement and Power District, Southern California Edison Company, El Paso Electric Company, and Public Service Company of New Mexico (Joint Applicants) to possess, use and operate Palo Verde Nuclear Generating Station, Units 1, 2 and 3, three pressurized water nuclear reactors (the facilities) located on the Joint Applicants' site in Maricopa County, Arizona, approximately 36 miles west of the City of Phoenix.

This operating license proceeding remains before the Licensing Board by reason of its grant of the late petition for leave to intervene of the West Valley Agricultural Protection Council, Inc. (West Valley). On the strength of that grant, the Board reopened the evidentiary record for the purpose of considering the environmental issue raised by West Valley; —*viz.*, the asserted adverse impact that the salt deposition associated with the operation of the Palo Verde facility will have upon the productivity of nearby agricultural lands by West Valley members. *See* LBP-82-117B, 16 NRC 2024 (1982). For reasons stated in that opinion, the Board confined the record reopening to Units 2 and 3 of the Palo Verde facility. In a contemporaneously issued decision, the Licensing Board resolved in the Joint Applicants' favor all issues previously raised by another intervenor. Accordingly, the Board authorized the issuance of an operating license for Unit 1 alone. LBP-82-117A, 16 NRC 1964 (1982).

All persons who request the opportunity to make a limited appearance will be afforded an opportunity to state their views or to file a written statement on the first day of

the hearings or at such other times as the Licensing Board may for good cause designate.

Wherefore, it is ordered, in accordance with the Atomic Energy Act, as amended, and the Rules of Practices of the Commission, and PLEASE TAKE NOTICE, that an evidentiary hearing in this proceeding shall convene at 9:30 a.m., local time, Tuesday, June 11, 1985, in Courtroom No. 2 (7th floor) of the Federal Building, 230 North First Avenue, Phoenix, Arizona 85025. The hearing shall be conducted continuously day to day until all evidence on matters outstanding has been received or until continued by further order of the Board.

Members of the public are invited to attend the hearing.

Dated at Bethesda, Maryland, this 1st day of May 1985.

For the Atomic Safety and Licensing Board.

Robert M. Lazo,

Chairman, Administrative Judge.

[FR Doc. 85-11163 Filed 5-7-85; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-717]

Application and Opportunity for Hearing: Bear, Stearns & Company.

May 2, 1985.

Notice is hereby given that Bear, Stearns & Company ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order exempting Applicant from the registration provisions of section 12(g) of the 1934 Act with respect to its Class B limited partnership interests.

The Applicant states in part:

1. In the absence of an exemption, Applicant would be required to register its Class B limited partnership interests under section 12(g) of the 1934 Act, and would be required to comply with all reporting requirements thereunder.

2. Applicant believes that the exemptive order it requests is appropriate in view of the fact that all holders of the Class B limited partnership interests of the Applicant are engaged in the Applicant's business, and that there is no market for the Class B limited partnership interests.

For a more detailed statement of the information presented all persons are referred to said application which is on file in the Offices of the Commission at the Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than May 28, 1985 may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will received any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, on order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11081 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14499 (File No. 812-6103)]

E. F. Hutton & Company Inc. and The E. F. Hutton Group Inc.; Application and Temporary Order

May 2, 1985.

Notice is hereby given that E. F. Hutton & Company Inc. ("Hutton") and The E. F. Hutton Group Inc. ("Group") (collectively, the "Applicants"), filed an application on May 2, 1985 requesting an order of the Commission pursuant to section 9(c) of the Investment Company Act of 1940, as amended (the "Act"), exempting Applicants from the provisions of section 9(a) of the Act in respect of the circumstances described below a temporary exemption from section 9(a) pending the Commission's determination of the application for a permanent exemption.

Hutton states that it serves as investment adviser and distributor (principal underwriter) for Cash Reserve Management, Inc., Municipal Cash Reserve Management, Inc., Hutton AMA Cash Fund, Inc., Hutton Government Fund, Inc., Hutton Investment Series Inc., Hutton California Municipal Fund Inc., Hutton National Municipal Fund Inc., Hutton New York Municipal Fund Inc, Hutton Telecommunications Tax-Advantaged Trust and Hutton VIP Fund (collectively, the "Registered Investment Companies") each of which Hutton states is an open-end investment company registered under the Act, and Pennsylvania School District Liquid-Asset Fund, Illinois School District Liquid-Asset Fund Plus and Minnesota School District Liquid-Asset Fund Plus (collectively, the "Investment Companies") each of which Hutton states is an investment company as defined in the Act. The Registered Investment Companies and the Investment Companies are collectively referred to herein as the "Funds." Hutton states that from time to time it acts as a depositor and sponsor for unit investment trusts (the "UITs") registered as investment companies under the Act. In addition, Hutton states it may serve as an investment adviser, principal underwriter or depositor for other registered investment companies in the future.

Hutton states it is a registered broker-dealer and registered investment adviser with over 400 offices. Hutton is a wholly-owned subsidiary and the principal operating subsidiary of Group, a publicly owned securities firm holding company. Through its Hutton Asset Management Division, Hutton states it acts as investment adviser to the Funds and as a result has over $10 billion of Fund assets under management. As distributor (principal underwriter) for the Funds, Hutton engages in the sale and redemption of shares of the Funds with, according to Hutton, their over 500,000 shareholders, as well as additional investors in the Funds. Hutton also makes a secondary market for units of the more than 200 series of UITs it has sponsored and anticipates doing so with respect to UITs sponsored by it in the future.

Applicants state that on May 2, 1985, Hutton entered a plea of guilty to an Information (the "Information") filed in the United States District Court for the Middle District of Pennsylvania. Applicants state that the Information charged that Hutton had violated the Federal mail and wire fraud statutes in connection with its handling of its checking accounts it maintained for the deposit of its own funds and enjoined Hutton and Group from engaging in the activities which gave rise to the Information. Applicants state that no criminal charges were brought against Group or any individuals.

Applicants state that the activities forming the basis for the plea took place during the period from July 1, 1980 to February 28, 1982. Applicants state that in December 1981, the first individual instances of such activities came to the attention of management. Applicants state that the offices involved were

ordered to stop such activities and did stop. Applicants further state that when senior management became aware that such activities might be more widespread, they began an internal investigation which Applicants state led to the permanent cessation of all such activities. Applicants state that the injured parties were certain commercial banks to which Hutton will make full restitution. Applicants state that none of the acts alleged in the Information involved funds or securities owned by the Funds, the UITs or any brokerage or other investment advisory clients of Hutton. Applicants state that none of the activities enjoined involved the conduct of Hutton's brokerage and investment advisory business with its customers and clients; thus, it is anticipated that the injunction will have no impact on the conduct of business by the Applicants.

In entering its plea, Hutton agreed to pay a criminal fine of $2,000,000 and $750,000 and defray the costs of the Government's investigation. Hutton states it further agreed to establish a restitution program for the benefit of the banks who may have been damaged. In addition, Hutton states it is installing a new branch information processing system which, among other things, is being designed to prevent future occurences of the activities alleged in the Information.

Section 9(a) of the Act, insofar as it is pertinent here, disqualifies any person or company, from serving or acting in the capacity of an investment adviser, principal underwriter or depositor of any registered open-end company or registered unit investment trust, if such person has been (a) convicted of any felony or misdemeanor arising out of such person's conduct as an underwriter, broker, dealer, or investment adviser, or (b) permanently or temporarily enjoined from engaging in or continuing any conduct or practice in connection with acting as an underwriter, broker, dealer or investment adviser. Applicants do not concede that the plea and related injunction would disqualify Hutton under section 9(a) of the Act. In order, however, to resolve fully any questions as to the applicability of that Section and in full compliance with all applicable Federal securities laws, Applicants have submitted this Application pursuant to section 9(c) of the Act for exemption from the provisions of section 9(a).

Section 9(c) of the Act provides that upon application, the Commission shall grant an exemption from the provisions of section 9(a) either unconditionally or on appropriate temporary or other conditional basis if it is established that: (a) The prohibitions of section 9(a), as applied to the specific application, are unduly or disproportionately severe; and (b) the conduct of such person has been such as not to make it against the public interest or protection of investors to grant such application.

In support of their position that the Commission should grant Applicants an exemption from the provisions of section 9(a) of the Act, Applicants represent the following:

1. The allegations of the Information and the terms of the injunction and the facts and circumstances to which they relate in no way involve any activities of the Funds, Hutton's activities on behalf of the Funds, the UITs or Hutton's activities with respect to any of its other investment advisory or brokerage clients or customers. No criminal charges were brought against Group.

2. Applicants state that more than three years have elapsed since the activities alleged in the Information took place.

3. Hutton has agreed to pay a $2,000,000 penalty, has put in place a restitution program for the benefit of the banks which may have been damaged. In addition, Hutton is in the process of installing a new branch information processing system designed, among other things, to prevent a recurrence of the violations alleged.

4. The prohibitions of section 9(a) would be unduly and disproportionately severe as applied to Hutton because they would deprive the Funds of Hutton's investment advisory and distribution services; and deprive the UITs of Applicant's market making function. The prohibition of section 9(a) could thus operate significantly to the detriment of the financial interests of the Funds (which Hutton states have an aggregate of approximately $10 billion in assets) and their shareholders and unitholders of the UITs, none of which were affected in any way by the events that gave rise to the Information, the plea and the injunction.

5. The prohibitions of section 9(a), to the extent applicable to Hutton, would unfairly deprive Hutton of its ability to serve as an investment adviser, principal underwriter or depositor to other registered investment companies in the future.

6. The events that gave rise to the Information, the plea and the injunction are not such as to make it against the public interest or protection of investors to grant Applicant's application.

7. In order to maintain uninterrupted operations of the Funds and the UITs, it is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act that the temporary exemption requested herein be issued forthwith.

8. In making its application, Hutton acknowledges, understands and agrees that the application and any temporary exemption issued herein shall be without prejudice to, and shall not limit the Commission's rights in any manner with respect to, any Commission investigations or enforcement actions pursuant to the Federal securities laws, or the consideration by the Commission of any application for exemptions from statutory requirements, including, without limitation, the consideration of Hutton's instant application for a permanent exemption pursuant to section 9(c) from the provisions of section 9(a) of the Act or the revocation or removal of any temporary exemption granted in connection with this application.

9. Hutton further represents and undertakes that:

a. it will cooperate and use its best efforts to cause its present and former officers, directors, employees and agents to cooperate with the Commission in any investigation by the Commission into any matters relating to, regarding or arising out of the facts alleged in the Information; including the production of documents within its possession, custody or control and the testimony of its officers, directors, employees and agents; and

b. it will support an application by the Commission for disclosure, to the Commission or its staff only, of testimony before the Grand Jury or of documents or other things subpoenaed by, submitted to or made available for submission to the Grand Jury in connection with the investigation which led to the filing of the Information, and will not object to disclosure, to the Commission or its staff only, of materials within the scope of Federal Rule of Criminal Procedure 6(e).

10. Applicants have never before applied for an exemption from the provisions of section 9(a) of the Act.

Accordingly, the application concludes that the Applicants believe that granting the requested order and temporary order, pursuant to section 9(c) of the Act, exempting them from the provisions of section 9(a) of the Act is not inconsistent with the public interest and the protection of investors and the purposes fairly intended by the policy of the Act.

The Commission has considered the matter and finds that:

(1) The prohibitions of section 9(a) may be unduly or disproportionately severe as applied to Applicants and any investment companies for which Applicants may be an investment adviser, principal underwriter or depositor and

(2) In order to maintain the uninterrupted services provided by Applicants to the Funds and the UITs, it is necessary and appropriate in the public interest, and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act, that a temporary order be issued forthwith.

Accordingly, it is ordered that, pursuant to section 9(c) of the Act, Applicants as of the date of this Order, be and hereby are granted a temporary exemption from the prohibitions of section 9(a) of the Act with respect to their affiliation with the Funds, and UITs and any other investment companies for which Hutton may be an investment adviser, principal underwriter or depositor, for a period of 180 days from the date of this Order, or at such earlier time as the Commission may direct, or unless otherwise extended by the Commission on its own motion or upon further application by the Applicants, pending final determination by the Commission of the application for an order granting an exemption from such prohibtions; provided, however, that this temporary exemption is conditioned upon Applicants' compliance with its undertakings as set forth above.

Notice is further given that any interested person may, not later than May 29, 1985, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matters, including the date of the hearing (if ordered) and any postponements thereof.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 85-11085 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-716]

Application and Opportunity for Hearing; Greenbelt Cooperative, Inc.

April 30, 1985.

Notice is hereby given that Greenbelt Cooperative, Inc. (the "Applicant"), a consumer cooperative, has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), for an exemption from certain of the reporting requirements under section 13 of that Act. In the absence of an exemption, Applicant would be required to file periodic reports to the standards specified by Forms 10-K, 10-Q and 8-K under the Exchange Act. Applicant believes that the information required by forms 10-K and 10-Q is not useful to its security holders. Accordingly, Applicant seeks an exemption which would eliminate the Form 10-Q requirement and would permit the filing of modified reports on Form 10-K as outlined in the application.

For a more detailed statement of the information presented, all persons are referred to the application, which is on file at the offices of the Commission in the Public Reference Room, 450 Fifth Street, NW., Washington D.C. 20549.

Notice is further given that any interested person may submit to the Commission in writing, not later than May 27, 1985, his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will rceive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after that date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11082 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 81-720]

Application and Opportunity for Hearing; Manufacturers Hanover Mortgage Corp.

May 1, 1985.

Notice is hereby given that Manufacturers Hanover Corporation ("Applicant") has filed an application pursuant to section 12(h) of the Securities Exchange Act of 1934, as amended, (the "1934 Act") for an order exempting Applicant from certain reporting requirements under section 13 and from the operation of section 16 of the 1934 Act.

For a detailed statement of the information presented, all persons are referred to the application which is on file at the offices of the Commission in the Public Reference Room, 450, Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that any interested person, not later than May 27, 1985, may submit to the Commission in writing his views or any substantial facts bearing on the application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert.

Persons who request a hearing or advice as to whether a hearing is ordered will received any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponement thereof. At any time after that date, an order granting the

application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11089 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-8734]

Issuer Delisting; Application To Withdraw From Listing and Registration; Medco Containment Services, Inc.

April 30, 1985.

The aboved named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the Common Stock, $.01 Par Value, of Medco Containment Services, Inc. ("Company") from listing and registration on the Boston Stock Exchange, Inc. ("Exchange").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

Medco containment Services, Inc., has determined to include its stock in the NASDAQ National Market System and, therefore, wishes to remove its security from listing and registration on the Boston Stock Exchange, Inc.

Any interested person may, on or before May 21, 1985, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11086 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22000; File No. SR-AMEX-85-09]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Proposed Rule Change and Partial Accelerated Approval of Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 5, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" of "Exchange") proposes to amend Exchange Rule 950 to (i) expand the definition of spread and combination orders and (ii) provide for stock-option orders, thus permitting such orders to be executed under the priority trading rule. *Italic* indicates material proposed to be added; [brackets] indicate material proposed to be deleted.

Rule 950 Rules of General Applicability

(a)-(c) No change.

(d) The provisions of Rule 126, with the exception of subparagraphs (a) and (b) thereof, shall apply to Exchange option transactions and the following additional commentary shall also apply:

* * * Commentary

.01 When a member holding a spread order, a straddle order, [or] a combination order, *or a stock-option order* and bidding or offering on the basis of a total credit or debit for the order has determined that the order may not be executed by a combination of transactions with or within the bids and offers established in the *options* marketplace, then the order may be executed as a spread, straddle, [or] combination, *or stock-option order* at the total credit or debit with one other member without giving priority to either bids or offers established in the marketplace that are not better than the bids or offers comprising such total credit or debit, provided that, (i) in executing a spread order, the member does not buy at the established bid for the option contract to be bought and sell at the established offer for the option contract to be sold or, (ii) in executing a straddle or combination order, the member does not either buy both sides of the order at the established bids or sell both sides of the order at the established offers, *or (iii) in the case of a spread order, when the number of contracts to be purchased and sold are not the same, or do not represent the same number of shares at option (if the underlying security is a stock) or the same principal amount (if the underlying security is a Government security), a Registered Options Trader or a Specialist may not execute such spread pursuant to this Commentary .01 with another Registered Options Trader or Specialist.*

.02 No change.

(e) The types of order specified in Rule 131 and the following additional types of orders shall be applicable to Exchange option transactions:

(i) Spread Order-A spread order is an order to buy a stated number of option contracts and to sell *up to three times* the [same] number of option contracts, or contracts representing *up to three times* [same] number of shares at option (if the underlying security is a stock) or *up to three times* the [same] principal amount (if the underlying security is a Government security [or a certificate of deposit]), in a different series of the same class of options.

(ii) Straddle Order-No change.

(iii) Combination Order—A combination order is an order [to buy a number of call option contracts and the same number of put option contracts with respect to the same underlying security, or put and call option contracts] *involving a number of call option contracts and the same number of put option contracts in the same underlying security and* representing the same number of shares at option (if the underlying security is a stock) or the same principal amount (if the underlying security is a government security) [or a certificate of deposit), which contracts do not have both the same exercise and expiration date; or an order to sell a number of call option contracts and the same number of put option contracts with respect to the same underlying security, or put and call option contracts representing the same number of shares at option (if the underlying security is a Government security or a certificate of deposit), which contracts do not have both the same exercise price and expiration date. (E.G., an order to buy two XYZ April 50 calls and to buy two XYZ July 40 puts is a combination order)]. In the case of adjusted option contracts, a combination order need not consist of the same number of put and

call contracts if such contracts represent the same number of shares at option.

(iv) Facilitation Order—No change.

(f)—(m)—No change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Over the last several years, the Exchange has observed this significant and continually increasing role that spread and combination orders, as well as certain stock-option transactions, play in the options markets. In that regard, the Exchange is proposing amendments to certain options rules to provide options investors and traders with an efficient and effective marketplace within which to execute such orders.

By expanding the current definition of spread and combination orders and creating a stock-option order, all such orders would be eligible to be executed in trading crowds under the appropriate priority trading rule. The priority rule, Exchange Rule 950(d), governs the execution of certain option orders which have two components ("legs"). The rule permits one leg of such an order to be executed at the established bid or offer (thus taking priority over such bid or offer) so long as the other leg of the transaction is simultaneously executed with the same party at a price which is better than the established bid or offer for such other series.

(1) *Combination Orders.* Conversion and reverse conversion tradig continues to play an active and increasing role in the options markets. Conversion and reverse conversion trading is generally utilized by professional traders and sophisticated investors either to hedge common stock positions or to "lock in" a specific rate of return on an investment over the life of the option components.[1]

Currently, Exchange members wishing to execute the two option legs of a conversion or reverse conversion must enter two separate orders. For example, in the case of a conversion, a member must enter an order to sell a call option and another order to purchase a put option. The member is therefore, at risk in that one of the orders may be filled, while the other order goes unexecuted.

The Exchange now proposes to expand the definition of a combination order to include put and call options on the same side of the market (i.e., long puts and short calls or short puts and long calls) with any combination of exercise prices and expiration months. Accordingly, the operation portions of a conversion or reverse conversion could be entered as a single combination order. Under the new definition, a combination order would involve the same number of puts and calls.

It should be noted that on January 29, 1982 the Commission approved a substantively *identical* rule change proposed by the Chicago Board Options Exchange ("CBOE") (see SEC Release No. 18458).

(2) *Spread Orders.* A spread order is an order to simultaneously buy and sell either put option contracts or call option contracts. Under the current definition, each leg of a spread order relates to the same number of shares of the underlying stock. The Exchange now proposes to amend the definition of spread orders to include ratio orders, with ratios not in excess of 1 to 3.[2] Thus, ratio orders could be entered at a total net debit or credit and executed under the priority trading rule.

Ratio orders are used by investors and traders to "roll" from one option position to another option position, as the price of the underlying stock moves. This strategy typically involves the buying of a certain number of option contracts and the simultaneous selling of up to two or three times that number of option contracts. To ensure that ratio spread orders executed under the spread priority rule facilitate public order, the Exchange further proposes that Registered Options Traders and Specialists may execute spreads under the priority rule only when an off-floor customer order is on the other side of the trade.

(3) *Stock-Options Orders.* Two of the most popular strategies used by public customers in the options markets today are covered call writing and protective put buying. Each strategy involves an underlying stock position and an offsetting (hedged) option position. A covered call is comprised of a long stock position and a short call option; a protective put is comprised of a long stock position and a long put option.

A major objective of investors in writing covered calls is to earn a greater return (from the premium income received when the call is sold) than would be earned on the stock investment alone. With regard to protective puts, investors desiring to protect profits in share of stock currently owned or in newly acquired shares of stock often purchase put options as a hedge against a decline in stock prices. In effect, the put options provide protection—"insurance"—against a sharp near-term decline in the price of the stock.

In recognition of these two popular strategies among public customers, the Exchange proposes to create a new type of order to be called a "stock-option order". The proposal herein is limited to those options strategies that hedge stock positions on a share-for-share basis (e.g., buying 100 shares of stock and selling 1 call option).

Under the proposal, customers would be able to execute stock-option orders under the priority rule only when they are establishing both compenents of a covered call or protective put position. For example, an order to buy 100 XYZ shares and simultaneously sell 1 XYZ call option could be entered as a stock-option order.

Since the stock component of a covered call and protective put position will be executed in another marketplace, the proposed rule will also require stock-option orders to be appropriately marked. This will enable Exchange staff to monitor compliance for executions under the priority rule and, thus, ensure the integrity of the Amex's options marketplace (See Exhibit I).

The Commission has recognized the utility of stock-option orders and has granted such orders limited priority under the priority trading rule (see SEC Release No. 20294, dated October 17, 1983, approving SR-CBOE-83-04). Specifically, the Commission permitted such orders to have priority over bids or the offers in the trading crowd. However, the Commission did not

[1] A conversion is a three component position comprised of a long position in common stock, a short call option and a long put option. A reverse conversion is comprised of a short position in common stock, a long call and a short put. The option components of a conversion of reverse conversion are usually, although not always, transacted with the same exercise price and expiration month.

[2] An example of a spread order under the current definition is:

Buy 1 XYZ July 45 call
Sell 1 XYZ July 50 call

The new definition would permit:

Buy 1 XYZ July 45 call
Sell 3 XYZ July 50 calls

extend priority over bids or offers on the limit order book.

The Exchange strongly believes that the extension of the priority rule is now warranted so that stock-option orders could have priority over both the trading crowd and the limit order book. As stated above, the Commission already has recognized the utility of conversions and reverse conversions (which are strategied primarily transacted by professional traders) and has allowed these orders to fall within the priority rule. Therefore, stock-option orders, which are the "backbone" of the public customer business, should receive similar treatment.

The proposed rule change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by facilitating the execution of combination, spread and stock-option orders, thus enhancing depth and liquidity in the options markets. Therefore, the proposed rule change is consistent with section 6(d)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members Participants, or Others

The Options Committee, a committee of the AMEX Board of Governors comprised of members and representatives of member firms, has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

With respect to that portion of the proposed rule change described in Sections II.A (2) and (3), within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Accelerated Approval of Proposals Described in Section II.A.(1).

As noted above, the Amex proposal to amend the current definition of combination orders is essentially identical to a CBOE rule proposal the Commission approved several years ago.[1] For the reasons discussed in the order approving that CBOE proposal, the Commission finds that the Amex proposal to expand the definition of combination orders is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6. This Commission finds good cause for approving this portion of the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the Commission previously approved a substantially identical proposal by the CBOE, and has received no adverse comments regarding the CBOE rule.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change described in Section II.A.(1) above is approved.

V. Solicitiation of Comments

The Commission is publishing this release to solicit comment on the proposed rule changes described in Sections II.A (2) and (3) above. Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

April 30, 1985.

[1] *See* rule filing No. SR-CBOE-81-5, approved in Securities Exchange Act Release No. 18458 (January 29, 1982), 47 FR 5560 (February 5, 1982). Surveillance of stock-option orders would be conducted as follows:

(1) For every option transaction on the Exchange, a reporter currently captures on a card read by a computer the name of the option, the number of contracts bought or sold, the price and the identifying number of the initiating broker. For all stock-option orders, the reporter also would be required to mark the card with an "S" to indicate such order. (The "S" indicator is presently used on the Amex's audit trail to identify other spread orders.) The card then is fed into the computer, which automatically marks the time of execution. All information later would be reviewed in computer printout form by the Trading Analysis Division to reconstruct the option component of the stock-option order.

(2) All Specialities and Registered Options Traders are currently required to report every order to purchase or sell a security underlying their options trading. These "958C Reports" indicate the terms of each order, the quantity, the price and the time of execution. The Exchange would merely require the Specialist or Trader to write "spread" on all stock transactions that were part of stock-option orders. Thus, the Trading Analysis Division would review the 958C Reports to determine if the Specialist or Trader, in fact, engaged in a stock transaction at the time he entered a stock-option order.

(3) To ensure that the stock was transacted as represented on the 958C Report, the Trading Analysis Division would than verify the information represented on the 958C Report against data passed through the Intermarket Surveillance Group ("ISG"). (ISG is the entity that disseminates intermarket data among the exchanges.) The Trading Analysis Division presently reviews ISG reports to monitor other trading activity. The ISG data captures the terms of each transaction, as well as the clearing information for the buyer and seller. The ISG Reports, in effect, serve as a "double-check" on the 958C Reports in reconstructing the stock portion of the trade.

[FR Doc. 85-11084 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22001; File No. SR-AMEX-85-8]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc.; Relating to Amex/Toronto Trading Linkgage

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1985, the American Stock Exchange ("Amex") Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange is requesting SEC approval of a joint Plan and accompanying rule changes implementing an electronic trading linkage between the Amex and the Toronto Stock Exchange.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) *Purpose.* In December 1984, the Amex and the Toronto Stock Exchange agreed in principle to the establishment of an electronic trading linkage between the two exchanges. The primary objective of the linkage is to provide a mechanism for the direct flow of orders between the two trading floors, thereby providing greater liquidity for issues traded in both markets and affording investors in both Canada and the United States an opportunity to obtain the best price available in either country. The linkage, initially limited to dually-listed stocks, will commence on a pilot basis in approximately seven of the most actively traded issues.[1] As experience is gained with the linkage, the pilot will eventually be expanded to include all dually-listed stocks.

It is anticipated that trading through the linkage could begin on a one-way basis from Toronto to the Amex as soon as approval is received from the SEC and the Ontario Securities Commission. Two-way trading could begin as soon as a mechanism for clearance and settlement of northbound trades is completed, probably in late June of July. Since agreeing in principle in December, both exchanges have been working on the details of the linkage and joint Plan has been developed reflecting agreement with respect to its operation. The Plan, along with implementing rule changes, is now being submitted to the SEC for its approval. A summary of the major provisions of the Plan is set forth below.[2]

1. Quotations. Each exchange will display on its trading floor the quotes distributed by the other exchange in linkage stocks. Amex quotes will be U.S. currency, while Toronto quotes will be displayed as a composite showing the Canadian dollar quote and, as soon as possible, the equivalent price converted to U.S. dollars.[3]

2. *Transmission and Execution of Orders.* Orders will be transmitted between the two trading floors using the existing automated routing systems of the two exchanges—the Post Execution Reporting ("PER") System on the Amex and the Market Order System of Trading ("MOST") on the Toronto.

(a) *Marketable Orders.* Initially, the linkage will provide only for the execution of marketable limit orders. Such orders will be treated as "immediate or cancel" orders, to be promptly executed or cancelled depending on whether they are marketable when received by the market maker. Marketable agency orders will be guaranteed an execution at the best available quote on the receiving exchange up to a specified minimum amount, initially 1,000 shares. The minimum guarantee may be different for specific stocks as they are added to the linkage in the future. Professional orders will not be entitled to a guarantee, but will otherwise be handled in the same manner.

(b) *Away from the Market Orders.* While the linkage will initially be restricted to marketable limit orders, it is planned to eventually accommodate "away from the market" orders up to 1,000 shares. Agency orders will be subject to the normal priority rules on each exchange, while professional orders will be on a parity with the respective market makers on each floor.

In addition, the exchanges have agreed that the bids and offers distributed by each exchange and displayed on the other exchange should be given a limited form of trade-through protection. Due to the complications introduced by differences in currencies and other problems, the details of this arrangement still have to be worked out.

3. *Clearing Trades.* Each exchange will be responsible for submitting trades executed in its market to the National Securities Clearing Corporation ("NSCC") for clearance and settlement. All such transactions will be submitted as locked-in compared trades and will be settled by NSCC through its present interface with the Canadian Depository Service ("CDS").

Both sides of Amex-executed trades will be settled in U.S. funds. For trades executed in Toronto in Canadian dollars, Toronto is in the process of developing a mechanism for the immediate conversion of U.S. and Canadian dollars. This will allow Amex members to settle their side of the trade in U.S. currency and Toronto members to settle the other side in Canadian currency, without being subject to the risk of currency fluctuations.

4. *Surveillance.* Trade data will be exchanged on a regular basis and on request to monitor trading through the linkage. The exchanges have also agreed to cooperate fully with each other in the investigation of any matter involving trading through the linkage.

5. *Administration.* A six-member joint Operating Committee will be responsible for administering the linkage. The Committee, meeting periodically, will oversee the development and implementation of the linkage, review operational concerns, and advise with respect to enhancements of expansion of the linkage. Disputes relating to orders sent through the linkage will be resolved in accordance with the on-floor dispute resolution procedures of the receiving

---

[1] The pilot stocks are expected to be Asamera Inc., Canadian Marconi Co., Dome Petroleum Ltd., Echo Bay Mines Ltd., Gulf Canada Ltd., Husky Oil Ltd., and Imperial Oil Ltd.

[2] The Amex has included as Exhibit A to its filing the Amex-Toronto linkage plan which describes in detail trading operations, as well as procedures for comparison and settlement, surveillance, investigations, administration, and arbitration. In addition, Amex has included as Exhibit B, the text of the new series 240 rules, designed to implement the linkage plan, as well as specific amendments to existing Amex rules. Exhibits A and B are available for inspection and copying at the Commission's Public Reference Room or at the Amex.

[3] The Toronto Exchange also has the ability to distribute quotes denominated in U.S. dollars and may do so from time to time. Such quotes will also be displayed on the Amex floor.

exchange or pursuant to arbitration, where appropriate.

Linkage Rule Changes

The new series 240 rules are designed to implement the Linkage Plan and assure the applicability of Exchange rules to order received from Toronto and executed on the Amex. Commentary to Rule 244 also makes certain Amex rules applicable to orders sent from the Amex to Toronto where deemed appropriate. The remaining rule amendments make necessary conforming changes to existing Amex rules, enabling them to accommodate linkage orders.

(2) *Basis.* The proposed Linkage Plan and implementing rule changes are consistent with section 6(b) of the Exchange Act in general and further the objectives of section 6(b)(5) in particular, in the the Linkage is intended to provide greater depth and liquidity for issues traded in both markets and afford investors in both Canada and the U.S. an opportunity to obtain the best price available in either country.

B. Self-Regulatory Organization's Statement of Burden on Competition

The proposed Linkage Plan and implementing rule changes will impose no burden on competition, and will in fact enhance competition by providing for the direct flow of orders between the two trading floors.

C. Self-Regulatory Organization's Statement on Comments on the proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed Plan and rule changes.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 5th Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 29, 1985.

For the Commission, by the Division of Market Regulation , pursuant to delegated authority.

April 30, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-11088 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22008; File Nos. SR-Amex-85-10; SR-CBOE-85-12; SR-NYSE-85-10; SR-PSE-85-7; SR-Phlx-85-8]

Self-Regulatory Organizations; Filing and Order Granting Accelerated Approval of Proposed Rule Changes; American, et al.

The American ("Amex"), New York ("NYSE"), Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges, and the Chicago Board Options Exchange ("CBOE") ("Exchanges") have submitted proposed rule changes, pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act"),[1] and Rule 19b-4 thereunder [2] to amend their respective rules concerning the Options Allocation Plan.

I. Background and Description of Proposed Rule Changes

Recently, the Commission approved a proposed rule change by the NYSE which is substantially similar to the NYSE and other Exchange proposals discussed herein.[3] The NYSE proposal already approved by the Commission expands the Allocation Plan currently followed by the Amex, CBOE, PSE and Phlx to accommodate the NYSE as a fifth participant in the Plan. In this connection, the NYSE used a five-by-five matrix similar to the four-by-four matrix adopted by the four existing stock options Exchanges at the inception of the Allocation Plan, in 1980.[4]

Concurrent with its recent approval of the NYSE's Options Allocation Plan proposal, described above, the Commission requested the stock options exchanges to adopt conforming amendments to their respective rules.[5] Accordingly, the five Exchanges have discussed the NYSE's version of the Options Allocation Plan, as approved, and have determined to incorporate that Plan, with certain slight modifications agreed to by all five participants, into their respective rules.[6] As stated in the Exchanges' filings, the primary modification concerns the use of a slightly different selection matrix.[7] In particular, in its filing, the NYSE stated that the new matrix preserves the random selection of the Exchanges and provides for a mathematically fair system of choices for the matrix as a whole, as well as for the *de facto* sub-matrixes that would result should an allocation be called for other than in five rounds. In this connection, the Exchanges believe that the proposed rule change is consistent with section 6(b)(5) of the Act, which provides that

---

[1] 15 U.S.C. 78s(b) (1984).

[2] 17 CFR 240.19b-4 (1984).

[3] In Securities Exchange Act Release No. 21759 (February 14, 1985), 50 FR 7250 (February 21, 1985) ("NYSE Entry Order"), the Commission approved NYSE entry into the market for individual listed stock options and, simultaneously, the NYSE's proposed Options Allocation Plan, which modified the existing procedures for the selection and replacement of stocks underlying equity options to accommodate the NYSE as the fifth participant in the individual stock options marketplace. (This NYSE Allocation Plan Proposal is contained in File No. SR-NYSE-84-10.)

[4] Approval of the original Allocation Plan, jointly submitted by Amex, CBOE, PSE, and Phlx, was published in Securities Exchange Act Release No. 16863 (May 30, 1980), 45 FR 37926 (June 5, 1980) ("May 1980 Release").

[5] NYSE Entry Order, *supra* note 3, 50 FR at 7256.

[6] In their filings, CBOE and Phlx noted that although the Options Allocation Plan is being amended to accommodate the NYSE as a fifth participant, should the NYSE and PSE agree to merge, the Exchanges would expect the Options Allocation Plan to be modified to reflects the change from five to four participants, by having the NYSE and PSE be treated as one, for purposes of the Allocation Plan. In addition, CBOE suggested the potential need for provisions inhibiting the combined entity from participating in certain future allocations or adjusting the options classes allocated to the NYSE and PSE, pursuant to the Allocation Plan as adopted herein, once the combination occurs.

[7] In addition, the Exchanges have made technical amendments to the NYSE plan by including the text of the Plan's history (deleted by the NYSE, intially) although with minor modifications designed to eliminate specific references to previous amendments to the Plan and to clarify the purely historical application of certain provisions.

the rules of the Exchanges be designed to foster cooperation and coordination between persons engaged in regulating the securities marketplace, as well as to promote just and equitable principles of trade and protect the investing public.

II. Solicitation of Comments

The Commission is publishing this release to solicit comment on the proposed rule changes described above. Persons interested in commenting on these proposals should submit six copies of their comments within 21 days from the date of publication of this notice in the **Federal Register.** Comments should be sent to the Secretary of the Commission, 450 5th Street, NW., Washington, D.C. 20549. Copies of the proposed rule changes, including amendments, and all documents relating to the proposed rule changes, except those that may be withheld from the public pursuant to 15 U.S.C. 552, are available for inspection and copying at the Commission's Public Reference Room. Copies of the filings also are available at the Exchanges.

III. Approval of Proposed Rule Changes

As indicated above, the Exchanges' proposals are substantially similar to the NYSE proposal which the Commission recently approved.[8] The Commission finds that the Exchanges' proposals are consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and, in particular, the requirements of section 6.[9] In addition, the Commission finds good cause for approving these proposed rule changes prior to the thirtieth day after the date of publication of notice of filing thereof, in that over 30 days ago the Commission published an order approving a substantially similar proposal (File No. SR–NYSE–84–10), after an extended comment period. In this connection, the Commission also notes that the Exchanges have communicated with one another, agreed upon the format of the Options Allocation Plan which shall apply to the five existing options Exchanges, and jointly submitted this plan, the format of which is not dissimilar from the one originally submitted by the NYSE, and approved by the Commission.[10]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule changes described above are approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

May 1, 1985.

[FR Doc. 85–11092 Filed 5–7–85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34–21999; File No. SR–CBOE–85–11]

Self-Regulatory Organizations; Proposed Rule Change By Chicago Board Options Exchange, Inc.; Relating to Opening Rotations in Government Securities Options

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on April 4, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

To: All Members and Member Firms
From: Floor Procedure Committee
Re: Summary of Procedures Regarding Opening Rotations in Government Securities Options

The purpose of this memorandum is to summarize the rotation procedures in Government securities options.

In conducting the opening rotation in each class of Government security options, the Post Coordinator has broad discretion concerning the order and timing of opening series for trading. Ordinarily, the following procedure is followed. Frist, the Post Coordinator opens those series with the nearest expiration that are at-the-money, first in-the-money, and first out-of-the-money. The Post Coordinator then opens any other near term options within the class for which a broker requests a market. Next, the Post Coordinator ordinarily opens any longer-term series within the class for which a broker requests a market. The Post Coordinator may then proceed to the next options class, notwithstanding that all series within the previous class may not have been opened.

Series for which there was no buying or selling interest during opening rotation will be opened during the trading day in response to buying or selling interest, or forty minutes prior to the close, whichever is sooner. The Post Coordinator may permit a later opening, where unusual market conditions are present.

No quotations will be posted for series of options until they are opened for trading. Once a series is opened for trading, current market quotations thereon will be maintained and disseminated for the remainder of the trading day.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C), below.

(A) Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

Exchange Rule 21.11(a), which was approved by the Commission on December 23, 1981, governs trading rotations in Government securities options.[1] By its terms, Rule 21.11(a) vests the Post Coordinator for Government securities with considerable discretion in determining the sequence and timing of the opening rotation in Government

---

[8] *See* note 3, *supra.*

[9] In the NYSE Entry Order, the Commission discussed the alternatives of multiply trading all listed stock options or options on any remaining listed stocks, and allocating (according to various formulas) the remaining listed stocks for options trading, as has been done in the past. In this connection, the Commission analyzed the commentators' concerns including the competitive concerns associated with these alternatives. The Commission concluded that expansion of the Allocation Plan to the NYSE, as a fifth participant, was most appropriate because it would further legitimate purposes of the Act (including the protection of investors) without imposing unnecessary competitive burdens. *See* generally NYSE Entry Order *supra*, note 3, 50 FR 7255–56.

[10] *See supra* note 3.

[1] This rule provides as follows:

Trading Rotations: Rule 21.11(a) The opening rotation in each series of each class of Government securities options shall be overseen by an Exchange employee designated as the Post Coordinator for Government securities options and shall be held as promptly following availability of opening quotations on the quotation display mechanism(s) approved by the Exchange as the Post Coordinator deems appropriate under the circumstances. Generally, the Post Coordinator shall open first those series of a class with respect to which the greatest buying and selling interest has been expressed (deferring opening relatively inactive series); provided, however, that more than one series may be opened simultaneously. These procedures may be altered or supplemented by the Board (or the Committee designated by the Board).

securities options. The rule further provides that the procedures for opening Government securities options may be "altered or supplemented" by the Board of Directors or a committee designated by the Board. Acting pursuant to its delegated authority, the Exchange's Floor Procedure Committee recently voted to standardize and abbreviate the procedure to be followed by the Post Coordinator in opening Government securities options.

The Floor Procedure Committee acted in response to a number of perceived difficulties unique to the trading of bond options. First, the sheer number of series opened for trading, due largely to the greater than usual number of striking prices within each options class, made the opening rotations unduly time-consuming. Second, a number of deep in-the-money and far out-of-the-money series are available, even though there has not been any recent buying or selling interest in such series. Given the number of possible strikes for each options class, maintaining current quotes in all the inactive series has been unduly burdensome. Thus the market quotes in the many inactive series, which quotes are posted and disseminated to traders, can become stale during the trading day, unless traders give these inactive series undue attention instead of properly focusing on the actively trading options.

Furthermore, most bond options traders rely on the Telerate system for their quote information. The Telerate display format is such that in order to arrive at the current bids and offers in the relatively few active options series, the user had to page through several screens of information on options which had not recently been traded.

To eliminate the needless opening at the beginning of the trading day of inactive bond options series, and to facilitate the dissemination of fresh and accurate quotation information, the Floor Procedures Committee has established the following rotation procedures for Government securities options. First, the Post Coordinator ordinarily will open within an options class those series with the nearest expirations that are at-the-money, first in-the-money and first out-of-the money. The Post coordinator will then open any other near term options within the class for which a broker requests a market. Next the Post Coordinator will open any longer-term series within the class of which a broker requests a market. The Post Coordinator may then proceed to open the next options class, notwithstanding that all series within the previously-opened class may not have been opened. Service for which there was no buying or selling interest [2] during opening rotation will be opened during the trading day in response to buying or selling interest, or forty minutes prior to the close, whichever is sooner.[3] No quotations will be posted for series of bound options until they are opened for trading. Once a series is opened, however, current market quotations for such series will be maintained and disseminated.

The proposed rule change is consistent with the requirement of the Securities Exchange Act of 1934 ("the Act") and the rules and regulations thereunder applicable to the Exchange, by alleviating burdens relating to the opening of inactive series of Government securities options and by promoting the dissemination of accurate quotation information in a form that can be most easily interpreted and used by investors. Thus, the proposed rule change furthers the objectives of section 6(b)(5) of the Act in that it protects investors and the public interest.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that this proposed rule change will impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

[2] The term "buying or selling interest" was used by the Floor Procedure Committee in order to track the original language of Exchange Rule 21.11(a).

[3] Of course, in periods of unusual market activity, or when other extraordinary circumstances are present, the Post Coordinator is vested prior to the close of trading then the forty minutes provided for in the Floor Procedure Committee memorandum.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by May 29, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11083 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22004; SR-NSCC-85-3]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Granting Accelerated Approval of Proposed Rule Change on a Temporary Basis

National Securities Clearing Corporation ("NSCC") on April 4, 1985, submitted a proposed rule change to the Commission under section 19(b)(1) of the Securities Exchange Act of 1934. The Commission is publishing this Order to solicit comments on the proposed rule change and to approve the proposed rule change temporarily on an accelerated basis.

I. Introduction

NSCC's proposed rule change will implement Phase V of NSCC's Municipal Bond Comparison System. In April 1984, NSCC Implemented Phase IV of its Municipal Bond Comparison System ("MBCS").[1] Phase IV enabled municipal

[1] *See* Securities Exchange Act Release No. 20795 (March 28, 1984), 49 FR 13814 (April 15, 1984) and Securities Exchange Act Release No. 20976 (May 18, 1984), 49 FR 22426 (May 29, 1984).

securities brokers, dealers and dealer banks to comply with the requirements of Municipal Securities Rulemaking Board ("MSRB") Rule G–12. That Rule, among other things, provides that, in certain circumstances, municipal securities trades must be compared through an automated comparison system of a registered clearing agency.[2]

II. Description of Proposed Rule Change

NSCC's proposed rule change will allow an increased number of municipal securities trades to be submitted for automated comparison by expanding NSCC's MBCS to permit the submission of: (1) municipal bond when-issued data and (2) trades that require extended settlement time beyond the standard industry practice of five business days.[3] Additionally, under Phase V, the following NSCC procedures will be amended to enhance the processing of municipal securities transactions.

Under Phase V, NSCC will provide municipal securities brokers and dealers with a one-sided delete capability. This will permit a broker to delete a trade from the comparison cycle the day the trade appears, either as a compared or uncompared trade, on its contract sheet.[4] While deleted trades will be exited from NSCC's comparison process, that action will not eliminate the brokers' trade obligations. NSCC believes that this enhancement is necessary because municipal securities brokers sometimes execute trades believing that the traded issue is guaranteed, non-callable or has some other distinguishing feature, and, they subsequently discover from their contract sheets that the issue is materially different *e.g.*, callable or non-guaranteed. NSCC believes that a one-sided delete capability will enable brokers to delete such transactions from the comparison process and to resolve, between the executing parties, differences regarding execution of the trade. After resolution, new trade data would be submitted into NSCC's MBCS.

The proposal also would amend NSCC's procedures regarding Demand As Of's for municipal securities. Currently, Part I.D.10. of NSCC's Procedures provides that a participant may partially accept a Demand As Of Advisory. Partial deliveries, however, are not yet accepted for municipal securities trades.[5] NSCC has found that some municipal securities brokers and dealers have used this partial acceptance feature to circumvent this industry practice. NSCC also has found that Participants are not using the partial acceptance feature for debt issues. Accordingly, under Phase V, NSCC would delete this feature for all debt issues. NSCC believes that this is necessary to avoid confusion that could result if the feature remained available for corporate debt issues and unit trust fund transactions but not for municipal securities issues.

Additionally, because the same bond system is used for all debt issues, it would be very difficult and expensive for NSCC to adjust the system to allow partial acceptance for corporate debt issues and unit trust fund transactions but not for municipal bonds.

The proposed rule change also would modify Part I.E.2.f. of NSCC's Procedures to clarify NSCC's response to the notification of postponement of settlement of, or cancellation of a municipal bond issue. If NSCC receives such a notification after it has produced municipal securities receive and deliver orders, those receive and deliver order will be considered by NSCC to be null and void.

Finally, NSCC Procedure II.D.9. would be amended to remove participants' capability to delete a trade from comparison through the Demand Withhold process. NSCC has found that participants do not use this feature. Participants, however, would be able to continue to delete trades through the Regular Withhold process.[6]

II. NSCC's Rational

NSCC believes that the implementation of Phase V of its MBCS will enhance the automated comparison and settement of municipal securities transactions by allowing and increased number of municipal securities trades, *e.g.*, when issued trades, to be compared through the system. NSCC further believes that the proposed technical amendments will facilitate the prompt and accurate clearance and settlement of municipal securities transactions.

IV. Discussion

For the following reasons, the Commission believes that NSCC's proposed rule change should be approved. The commission believes the NSCC's expansion of its MBCS to allow municipal bond when-issued data into the automated comparison and settlement system will substantially increase the number of municipal securities transactions processed through NSCC's MBCS. Thus, the Commission believes that the proposal enhances the automated comparison and settlement of municipal securities transactions and, accordingly, helps to achieve the goals of MSRB Rules G–12 and G–15.[7]

The Commission further believes that the proposal will facilitate the prompt and accurate clearance and settlement of municipal securities transactions. First, Participants, as part of trade input, will be able to extend settlement date up to 15 days beyond the regular way settlement date. This is beneficial to Participants in situations where a Participant must redeliver the physical securities out-of-town after the when-issued settlement date. NSCC, prior to settlement, would price the bond to the extended settlement date and add the necessary accrued interest to the principal amount. Second, the addition of the one-sided delete capability enhances MBCS by providing municipal securities brokers with a comparison mechanism better tailored to the current nature of the municipal securities market. This new feature should enable participants to more efficiently resolve differences regarding municipal securities trades. Third, the proposal's elimination of partial acceptance of Demand-As-Of's is consistent with current municipal securities industry practice of not accepting partial deliveries. Thus, the proposal will help to reduce the potential for confusion in the municipal securities markets. Finally, the remaining technical amendments clarify NSCC's procedures regarding municipal securities transactions and thereby enhance the automated comparison of municipal securities transactions.

V. Conclusion

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the requirements of the Act and, in

---

[2] *See* Securities Exchange Act Release No. 20365 (November 14, 1983), 48 FR 52531 (November 18, 1983).

[3] Under Phase IV, processing of municipal trade transactions was limited to regular-way municipal trades.

[4] NSCC's procedures also provide brokers with a one-sided delete capability for NYSE/Amex equity securities. *See* NSCC Procedure II.B.1.

[5] MSRB Rule G–12(e)(iii) provides that a purchaser is not required to accept partial deliveries of municipal securities. Currently, industry practice in the municipal securities market is to reject partial deliveries for municipal securities.

[6] In a Regular Withhold, previously compared trades may be deleted on any day following T+1 only if both the purchaser and the seller submit Withhold tickets. In a Demand Withhold, either the purchaser or the seller may delete a previously compared trade by submitting a Demand Withhold on T+2 only. *See* NSCC Procedure I.D.9.

[7] MSRB Rule G–15 requires that municipal securities brokers and dealers book-entry settle certain municipal securities transactions through a registered clearing agency.

particular, with section 17A and the rules and regulations thereunder.

NSCC requested accelerated approval of the proposed rule change because it believes that implementation of Phase V will enable the municipal securities industry to comply with the MSRB's intention to obtain maximum usage of automated comparison for municipal securities trades. The Commission agrees with NSCC and, therefore, finds good cause for approving the proposed rule change for a period that will extend 30 days beyond publication of this Order in the **Federal Register**. At the end of the 30 days period, the Commission will decide whether to approve the proposed rule change on a permanent basis.

You may submit written comments within 21 days from the date of publication in the **Federal Register**. Six copies of comments should be filed with the Secretary of the Commission, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Please refer to File No. SR-NSCC-85-3.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, the NSCC's proposed rule change be, and thereby is, approved for a period, expiring 30 days after publication of this Order in the **Federal Register**.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: May 1, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-11090 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Pacific Stock Exchange, Incorporated

April 30, 1985.

The above named national securities exchange has filed applications with the Securities and Exhange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following stocks:

Worldwide Energy Corporation
Common Stock, $.20 Par Value, (File No. 7-8405)
Nord Resources Corporation
Common Stock, $.01 Par Value, (File No. 7-8406)
Foothill Group, Inc.
Common Stock, No Par Value, (File No. 7-8407)
Home Depot, Inc.
Common Stock, $.5 Par Value, (File No. 7-8408)
Bowater, Inc.
Common Stock, $1.00 Par Value, (File No. 7-8409)
Gannett, Co., Inc.
Common Stock, $1.00 Par Value, (File No. 7-8410)
Circle K Corporation
Common Stock, $1.00 Par Value, (File No. 7-8411)
General Datacom
Common Stock, $.10 Par Value, (File No. 7-8412)
Louisville Gas & Electric Co.
Common Stock, No Par Value, (File No. 7-8413)
Diebold, Inc.
Common Stock, $1.25 Par Value, (File No. 7-8414)
Wisconsin Public Service Corporation
Common Stock, $8.00 Par Value, (File No. 7-8415)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before May 21, 1985, written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-11087 Filed 5-7-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[License No. 10/10-5181]

Calista Business Investment Corp.; Filing of an Application for an Exemption Under the Conflict of Interest Regulation

Notice is hereby given that Calista Business Investment Corporation, 516 Denali Street, Anchorage, Alaska 99501, a Federal Licensee under the Small Business Investment Act of 1958, as amended (the Act), has filed an application with the Small Business Administration (SBA) pursuant to § 107.903(b) of the Regulations governing small business investment companies (13 CFR 107.903(b) 1985)) for an exemption from the provisions of the cited Regulation.

Subject to SBA approval, Calista Business Investment Corporation proposes to provide funds to Kwethluk, Inc. for working capital use.

The proposed financing is brought within the purview of § 107.903(b) of the Regulations because Matthew Nicolai, Vice President of the Licensee, owns 107 shares of the 45,200 shares outstanding, and Messrs. Phillip Guy, Nicori and Moses Nicolai are close relatives of Mr. Matthew Nicolai and are considered Associates of Calista Business Investment Corporation as defined by Section 107.3 of the Regulations.

Notice is hereby given that any interested person may, not later than fifteen (15) days from the date of this Notice, submit written comments on the proposed transaction to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this Notice will be published in a newspaper of general circulation in the Kwethluk, Alaska area.

(Catalog of Federal Domestic Assistance Program No. 59.001, Small Business Investment Companies)

Dated: April 30, 1985.

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-11091 Filed 5-7-85; 8:45 am]

BILLING CODE 8025-01-M

[License No. 03/03-5171]

Consumers United Capital Corp.; Issuance of a Small Business Investment Company License

On July 23, 1984, a notice was published in the **Federal Register** (49 FR 29693) stating that an application has been filed by Consumers United Capital Corporation, with the Small business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1984)) for a license as a small business investment company.

Interested parties were given until close of business August 22, 1984, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(d) of the Small Business Investment Act of 1958, as amended,

after having considered the application and all other pertinent information, SBA Issued License No. 03/03-5171 on April 22, 1985, to consumers United Capital Corporation to Operate as a small business investment company.

Dated: April 30, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

[FR Doc. 85-11060 Filed 5-7-85 8:45 am]

BILLING CODE 8025-01-M

[Application No. 09/09-5361]

Jeanjoo Finance, Inc.; Application for License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 (1985)) by Jeanjoo Finance, Inc., 700 South Flower Street, Suite #400, Los Angles, California 90017 for a license to operate as a small business investment company (SBIC) under the Small Business Investment Act of 1958 (the Act), as amended (15 U.S.C. *et seq.)*

The proposed officers, directors and shareholders are:

Name and address	Title or relationship	Percentage of shares owned
Chester Koo, 28205 Ridgethorne Ct., Rancho Palos Verdes, California 90274, (213) 404-1224.	Director, President	95
Kum-Sook Koo, 28205 Ridgethorne Ct., Rancho Palos Verdes, California 90274, (213) 541-0836.	Director, chief financial officer	0
Sung-Hyun Kim, 2740 Kennington Drive, Glendale, CA 91206, (213) 622-4477.	Director, secretary	5
Frank R. Romski, 4861 Ashbury Street, Cypress, CA 90630, (714) 826-2836.	General manager	0

The Applicant will begin operations with a capitalization of $1,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns.

The Applicant will conduct its operations in the State of California.

As a small business investment company under section 301(d) of the Act, the Applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities contemplated under the Act and will provide assistance solely to small concerns which will contribute to a well balanced national economy by facilitating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the application include the general business reputation and charter of the proposed owners and management, and probability of successful operations of the new company under their management, including profitability and financial soundness in accordance with the Act and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of the Notice will be published in a newspaper of general circulation in Los Angles, California.

Dated: April 30, 1985.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Robert G. Lineberry,

Deputy Associate Administrator for Investment.

[FR Doc. 85-11062 Filed 5-7-85; 8:45 am]

BILLING CODE 8025-01-M

Region I Advisory Council Meeting; Montpelier, VT

The Small Business Administration Region I Advisory Council located in the geographical area of Montpelier, Vermont, will hold a public meeting at 10:00 A.M., Wednesday, May 22, 1985, at the Chittenden Trust Company, Two Burlington, Square, Burlington, Vermont, to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call David C. Emery, District Director, U.S. Small Business Administration, Federal Building, 87 State Street, P.O. Box 605, Montpelier, Vermont 05602. (802) 229-0538.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 2, 1985.

[FR Doc. 85-11059 Filed 5-7-85; 8:45 am]

BILLING CODE 8025-01-M

Region II Advisory Council Public Meeting; Hato Rey, PR

The Small Business Administration Region II Advisory Council located in the geographical area of Hato Rey, Puerto Rico will hold a public meeting at 9:00 a.m., Wednesday, May 22, 1985, at Room G-59, Federal Building, Carlos Chardon Avenue, Hato Rey, Puerto Rico, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others attending.

For further information, write or call Wilfred Benítez Robles, District Director, Small Business Administration, Federal Building, Room 691, Carlos Chardon Avenue, Hato Rey, Puerto Rico, 00918-(809) 753-4003.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 1, 1985.

[FR Doc. 85-11057 Filed 5-7-85; 8:45 am]

BILLING CODE 8025-01-M

Region X Advisory Council Meeting; Portland, OR

The Small Business Administration Region X Advisory Council, located in the geographical area of Portland, will hold a public meeting at 9:00 a.m on Friday, May 17, 1985, in Room 333 of the Edith Green-Wendall Wyatt Federal Building, 1220 S.W. Third Street, Portland, Oregon, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, and others present.

For further information, write or call Edwin G. Sleater, Acting District Director, U.S. Small Business Administration, 1220 SW. Third, Room 676, Portland, Oregon 97204, (503) 294-5221.

Jean M. Nowak,

Director, Office of Advisory Councils.

May 2, 1985.

[FR Doc. 85-11058 Filed 5-7-85; 8:45 am]

BILLING CODE 8025-01-M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences; Public Hearings

The purpose of this notice is to announce public hearings, pursuant to the ongoing General Review of the U.S. Generalized System of Preferences (GSP) as announced in the notice published on February 14, 1985 (50 FR 6295), concerning beneficiary country practices. Parties should refer to the February 14 notice for further information concerning the General Review.

1. Deadline for Receipt of Requests to Participate in the Public Hearings

The GSP Subcommittee of the Trade Policy Staff Committee will hold public hearings on June 24 and 25 concerning

the practices of GSP beneficiary countries relevant to the ongoing General Review of the GSP Program. Interested parties, including represenatives of beneficiary countries, are invited to submit testimony or written comments.

Requests to present oral testimony in connection with public hearings should be accompanied by twenty copies, in English, of all written briefs or statements and should be received by the Chairman of the GSP Subcommittee no later than the close of business June 10. Oral testimony before the GSP Subcommittee will be limited to 10 minute presentations that summarize or supplement information contained in briefs or statements submitted for the record. Post-hearing briefs or statements will be accepted if submitted in twenty copies, in English, no later than close of business July 15, 1985. Parties not wishing to appear may submit written briefs or statements in twenty copies, in English, provided that such submissions are received by July 15, 1985. Rebuttal briefs will be accepted if submitted in twenty copies, in English, by close of business August 15, 1985.

The hearing will be held on June 24 and 25 beginning at 10:00 a.m. in Washington, D.C. in the GSA Auditorium at 18th and F Streets. Parties requesting to testify will be notified by June 17 of the date and estimated time of their appearance before the GSP Subcommittee. The hearing will be open to the public and the transcript will be made available for public inspection or purchase from the reporting company

2. Comments

The General Review is being conducted pursuant to section 504(c)(2)(A) of Title V of the Trade Act of 1974, as amended (the Act). As stated in the February 14 announcement of the General Review, the President must take into account the general level of development of each benficiary country, its competitiveness and the extent to which, commensurate with its level of development, each beneficiary is adhering to the disciplines of the trading system. Opportunities for comments with respect to benficiaries' competitiveness and the application of the competitive need waiver authority will be provided in the fall of 1985.

Comments for this aspect of the review should be keyed to practices of GSP beneficiary countries relevant to the General Review of the GSP Program as delineated in sections 502(c) (4) through (7) of Title V of the Act. They should include: (1) A detailed description of the practice of concern; (2) an estimate of the value of trade affected by the practice, if applicable; and (3) what measures a beneficiary could take to reduce or eliminate any adverse effect resulting from the practice.

Parties are encouraged where possible, to review the considerations in the context of the beneficiaries' level of development, which will be a key consideration in the President's deliberations. Therefore, parties are also encouraged to focus on the factors elaborated in the statute and the efforts currently being taken with respect to the factors in light of beneficiary countries' development levels.

For those parties interested in commenting on the issue of intellectual property rights as it pertains to section 502(c)(5) of Title V of the Act, it should be noted that all written comments provided to the Trade Policy staff Committee (TPSC) pursuant to the notice published on January 28, 1985 (50 FR 3853) will be examined in the contest of the general review. Thus, there is no need for those parties who have submitted statements in accordance with that notice to make separate representation in this review.

3. Information Subject to Public Inspection

Information submitted in connection with the hearings will be subject to public inspection by appointment with the GSP Information Center, except for information granted "business confidential" status pursuant to 15 CFR 2003.6 and 15 CFR 2006.10. Parties submitting briefs or statements containing confidential information must indicate clearly on the cover page of each of the twenty copies submitted and on each page within the document, where appropriate, that confidential material is included. Non-confidential summaries of all confidential material must be submitted in twenty copies, in English, at the same time that confidential submissions are filed.

4. Communications

All communications with respect to this notice should be addressed to the Executive Director, Generalized System of Preferences, Office of the United States Trade Representative, Room 316, 600 17th Street NW., Washington, D.C./ 20506. Questions may be directed to any member of the GSP Information Center at (202) 395-6971.

Donald M. Phillips,

Chairman, Trade Policy Staff Committee.

[FR Doc. 85-11138 Filed 5-7-85; 8:45 am]

BILLING CODE 3190-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Douglas County

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Douglas County, Nebraska.

FOR FURTHER INFORMATION CONTACT: Wm. H. Wendling, Area Engineer, FHWA, Federal Building, 100 Centennial Mall North, Lincoln, Nebraska 68508, Telephone: (402) 471-5527; Gerald Grauer, Project Development Engineer, Nebraska Department of Roads, P.O. Box 94759, Lincoln, Nebraska 68509, Telephone: (402) 479-4795.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Nebraska Department of Roads (NDOR), will prepare an Environmental Impact Statement (EIS) on a proposal to upgrade a section of US-275 in Douglas County, Nebraska. The proposed improvement begins at the junction of US-275 and N-36 and extends southeast for about nine miles to the junction of US-275 and N-64 near Waterloo, Nebraska. This proposal is to build a four-lane divided highway utilizing the existing two lanes to carry traffic in one direction and to build a new adjacent two-lane roadway to carry traffic in the opposite direction.

A special study was conducted for a 1.5 mile segment of US-275 in the Valley area where five design alternatives have been studied. One of the proposed alternatives would bypass the town of Valley. Another would be a no build alternative. The remaining three alternatives would follow the existing highway corridor through Valley with some modifications. A brief summary of each alternative in the Valley vicinity is as follows:

Alternative 1 would be a rural four-lane highway which bypasses Valley along the north and east edge of the town and which would provide access to the town at three locations by building short connecting roads. Alternative 2 would be to rebuild the highway on existing alignment and provide a 68 foot back-to-back curb section in the urban area. Alternative 3 would be an urban four-lane divided roadway along a line shifted about 75 feet further away from the railroad than the existing centerline. Alternative 4

would be an urban four-lane divided roadway along a line shifted about 50 feet closer to the railroad. Alternative 5 would be a no build option.

No formal scoping meeting is planned at this time. A public hearing will be held after the Environmental Impact Statement has been made available for public and agency revew and comment. Public notice will be given of the time and place of the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action and the EIS should be directed to the FHWA or the NDOR at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The provisions of OMB Circular No. A-95 regarding state and local clearinghouse review of federal and federally assisted programs and projects apply to this program.)

Wm. H. Wendling,

Area Engineer, Nebraska Division, Federal Highway Administration, Lincoln, Nebraska.

[FR Doc. 85-11165 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-22-M

Maritime Administration

Removal From Roster of Approved Trustees

Notice is hereby given pursuant to 46 CFR 221.27 that Alaska State Bank, with offices at Pouch 7015, Anchorage, Alaska, has failed to file its Annual Supplemental Certifications for the periods 1980 through 1985 as required. Therefore, Alaska State Bank has been removed from the Roster of Approved Trustees, pursuant to Pub. L. 89-346 and 46 CFR 221.21-221.30.

This Notice shall become effective on the date of publication.

Dated: May 2, 1985.

By order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 85-11066 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-81-M

Saint Lawrence Seaway Development Corporation

Advisory Board Meeting

Pursuant to sec. 10(a)(2) of the Federal Advisory Committee Act [Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 2:00 p.m., June 11, 1985, at the Corporation's Administration Offices, Room 5424, 400 Seventh Street SW., Washington, D.C. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later than June 4, 1985, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, D.C. 20590; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, D.C., on May 2, 1985.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 85-11154 Filed 5-7-85; 8:45 am]

BILLING CODE 4910-61-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 89
Wednesday, May 8, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

1

COMMISSION ON CIVIL RIGHTS

PLACE: Fifth Floor Conference Room, 1121 Vermont Avenue, NW., Washington, D.C.

DATE AND TIME: Friday, May 10, 1985, 9 a.m.–5 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Directors' Report
  A. Status of Funds
  B. Personnel Report
  C. Office Director's Reports
IV. SAC Recharters
V. Delaware and Virginia SAC Reports on Migrant Workers
VI. Presentation by the National Council on the Handicapped
VII. Civil Rights Developments in the Southern Region

FOR FURTHER INFORMATION PLEASE CONTACT: Barbara Brooks, Press and Communications Division, (202) 376–8312.

Lawrence B. Glick,
Solicitor.
May 6, 1985.

[FR Doc. 85–11242 Filed 5–6–85; 2:42 pm]
BILLING CODE 6335-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 10:00 am., Monday, May 13, 1985.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, D.C.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

ANSI/CPSC Coordinating Committee Meeting

The Commission and staff will meet with members of the American National Standards Institute (ANSI)/CPSC Coordinating Committee to discuss voluntary standard issues of mutual interest.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301—492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md 20207 301—492–6800

May 3, 1985.

Sheldon D. Butts,
Deputy Secretary.

[FR Doc. 85–11189 Filed 5–6–85; 8:45 am]
BILLING CODE 6355-01-M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:25 p.m. on Thursday, May 2, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Bank of Commerce, Chanute, Kansas, which was closed by the State Bank Commissioner for the State of Kansas on Thursday, May 2, 1985; (2) accept the bid for the transaction submitted by Bank of Commerce, Chanute, Kansas, a newly-chartered State nonmember bank subsidiary of Neosho County Bancshares, Inc., Chanute, Kansas; (3) approve the applications of Bank of Commerce, Chanute, Kansas, for Federal deposit insurance, for consent to purchase certain assets of and to assume the liability to pay deposits made in The Bank of Commerce, Chanute, Kansas, and to establish the two branches of The Bank of Commerce as branches of Bank of Commerce; 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 effect the purchase and assumption transaction.

At that same meeting the Board also considered a recommendation with respect to the initiation and conduct of removal proceedings against a certain individual participating in the conduct of the affairs of an insured bank (the name of the individual and the name and location of the bank is exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii))).

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. H. Joe Selby, acting in the place and stead of Director C.T. Conover (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no 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: May 3, 1985.

Federal Deposit Insurance Corporation
Hoyle L. Robinson,
Executive Secretary.

[FR Doc. 85–11231 Filed 5–6–85; 12:46 pm]
BILLING CODE 6714-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 3, 1985.

TIME AND DATE: 10:00 a.m., Thursday, May 16, 1985.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. United States Steel Mining Co., Inc., Docket No. PENN 82–299. (Issues include whether the administrative law judge erred in concluding that the operator violated 30 CFR 75.1003, which deals with the guarding of trolley wires.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the commission in advance of those needs. Thus, the Commission may, subject to the limitations of 29 CFR 2706.150(a)(3) and §2706.160(e), ensure access for any handicapped person who gives reasonable advance notice.

CONTACT PERSON FOR MORE INFO: Jean Ellen (202) 653–5632.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 85–11273 Filed 5–6–85; 8:45 am]
BILLING CODE 6735-01-M

Reader Aids

Federal Register

Vol. 50, No. 89

Wednesday, May 8, 1985

INFORMATION AND ASSISTANCE

SUBSCRIPTIONS AND ORDERS

Subscriptions (public)	202-783-3238
Problems with subscriptions	275-3054
Subscriptions (Federal agencies)	523-5240
Single copies, back copies of FR	783-3238
Magnetic tapes of FR, CFR volumes	275-2867
Public laws (Slip laws)	275-3030

PUBLICATIONS AND SERVICES

Daily Federal Register

General information, index, and finding aids	523-5227
Public inspection desk	523-5215
Corrections	523-5237
Document drafting information	523-5237
Legal staff	523-4534
Machine readable documents, specifications	523-3408

Code of Federal Regulations

General information, index, and finding aids	523-5227
Printing schedules and pricing information	523-3419

Laws

Indexes	523-5282
Law numbers and dates	523-5282
	523-5266

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the President	523-5230
Weekly Compilation of Presidential Documents	523-5230

United States Government Manual 523-5230

Other Services

Library	523-4986
Privacy Act Compilation	523-4534
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, MAY

18445-18626.....1
18627-18848.....2
18849-18984.....3
18985-19160.....6
19161-19304.....7
19305-19516.....8

CFR PARTS AFFECTED DURING MAY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

The President

Executive Orders:
12348 (Revoked by EO 12512).....18453
12511.....18449
12512.....18453
12513.....18629

Proclamations:
5331.....18445
5332.....18447
5333.....18451
5334.....18627

7 CFR

226.....19305
301.....19313
800.....18985
810.....18455
908.....18814
910.....18979
911.....18849
918.....19321
925.....18849
944.....18849
981.....19161
989.....18631
1032.....18459
1106.....18460

Proposed Rules:
52.....18865, 19183
319.....19158
1040.....18677
1124.....18495
1207.....19026
1423.....19026

8 CFR

238.....19322

9 CFR

51.....19162
78.....19163
92.....19323
166.....18632

Proposed Rules:
92.....18865
327.....19029

10 CFR

50.....19323
2.....18852
50.....18852

11 CFR

Proposed Rules:
110.....18678

12 CFR

7.....19324
268.....18768
535.....19325
584.....19329

Proposed Rules:
5.....19183
564.....19030, 19185
615.....19379

14 CFR

39.....18853-18857, 19332, 19333
61.....19290
71.....18857, 18858, 18989, 19334

Proposed Rules:
Ch. I.....18869
Ch. III.....19280
23.....19108
39.....18870-18875, 19033
71.....18877, 19380
75.....19380
91.....19108, 19381

15 CFR

90.....18989
376.....18461
379.....18858
399.....18461, 18858

16 CFR

13.....19334
239.....18462
444.....19335
455.....18471

Proposed Rules:
702.....18495

17 CFR

4.....18858
140.....18858
210.....18990
229.....18990
230.....18990, 19010
239.....18990, 19010
240.....18990
249.....18990
271.....19339
276.....19339

Proposed Rules:
210.....19035
231.....19035
240.....19196
241.....19035
275.....18500

20 CFR

404.....19164
416.....19164

21 CFR

5.....19341
179.....18859

182 19164
184 19164
520 ..... 19167, 19168
524 19168
556 18471
558 ..... 18471, 18859, 18860, 19169

Proposed Rules:
201 19382

22 CFR

1501 18860
1503 18634

Proposed Rules:
1502 18678
1504 18878

24 CFR

201 19341
203 19341
232 18472
234 19341
235 18472

Proposed Rules:
25 18680
200 18680
203 18680
205 18680
207 18680
213 18680
221 18680
227 18680
232 18680
234 18680
242 18680
244 18680

26 CFR

1 ..... 18473, 18861, 19343, 19344
5 18473
6a 19344
602 ..... 18473, 19344

Proposed Rules:
1 ..... 18884, 19383

27 CFR

Proposed Rules:
4 19384

28 CFR

Proposed Rules:
51 19122

29 CFR

Proposed Rules:
2620 19386

30 CFR

Proposed Rules:
701 19037
736 19037
740 19037
746 19037
750 19037
772 19037
913 18536
931 19356
935 18885
943 19212
946 19357

Proposed Rules:
901 19390

31 CFR

103 18478

32 CFR

1903 19154

Proposed Rules:
169 18886
199 18888

33 CFR

110 18635
117 ..... 18479, 18635
165 18635
181 18636
183 18636

Proposed Rules:
100 18688-18692

34 CFR

690 ..... 19296, 19302

Proposed Rules:
76 19146
581 19146

37 CFR

308 18480

40 CFR

52 18482-18484
60 ..... 18636, 19022
81 18485
180 ..... 18485, 19358
439 18486
712 18861
716 18861

Proposed Rules:
12 19136
52 ..... 18537, 18693, 18889, 19038
81 ..... 18890, 19038
261 18822
721 19039
799 19213

43 CFR

Public Land Orders:
6602 18487

Proposed Rules:
3040 18614
3100 18614
3130 18614
3200 18614

44 CFR

55 18487
56 18487
57 18487
67 ..... 19022, 19024

Proposed Rules:
67 ..... 19039, 19044

45 CFR

Proposed Rules:
30 18694
201 18704

46 CFR

276 19170

47 CFR

0 18487
1 ..... 18637, 19359
2 18662
63 18637
69 19025
73 18818
76 18637
78 18637
83 18489
97 ..... 18662, 18665, 19361

Proposed Rules:
Ch. I 18537, 19050
0 19392
1 ..... 18705, 18706
25 19413
31 19421
43 ..... 18705, 18706
73 19392
76 18538

48 CFR

232 18666
252 18666
1301 19361
1302 19361
1304 19361
1305 19361
1306 19361
1314 19361
1315 19361
1319 19361
1331 19361
1337 19361
1353 19361

Proposed Rules:
Ch. 5 18708
Ch. 44 18802

49 CFR

23 18493
173 18667
175 18667

Proposed Rules:
Ch. V 18708
1175 19424
1241 ..... 18539, 18891

50 CFR

17 19370-19374
20 19178
661 18672
663 18668

Proposed Rules:
17 ..... 18893, 18968
20 19268
216 18713
630 18717
682 18983

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 May 3, 1985

Just Released

Code of Federal Regulations

Revised as of January 1, 1985

Quantity	Volume	Price	Amount
_____	Title 14—Aeronautics and Space Parts 1-59 (Stock No. 822-004-00035-1)	$16.00	$_____
_____	Parts 60-139 (Stock No. 822-004-00036-9)	13.00	_____
_____	Title 15—Commerce and Foreign Trade (Parts 300-399) (Stock No. 822-004-00041-5)	13.00	_____
		Total Order	**$**_____

A cumulative checklist of CFR issuances appears every Monday in the Federal Register in the Reader Aids section. In addition, a checklist of current CFR volumes, comprising a complete CFR set, appears each month in the LSA (List of CFR Sections Affected).

Please do not detach

Order Form

Mail to: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402

Enclosed find $_____. Make check or money order payable to Superintendent of Documents. (Please do not send cash or stamps). Include an additional 25% for foreign mailing.

Charge to my Deposit Account No.

☐☐☐☐☐☐-☐

Order No._____

VISA*

MasterCard

Credit Card Orders Only

Total charges $_____ Fill in the boxes below.

Credit Card No. ☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐☐

Expiration Date Month/Year ☐☐☐☐

Please send me the **Code of Federal Regulations** publications I have selected above.

Name—First, Last

Street address

Company name or additional address line

City State ZIP Code

(or Country)

PLEASE PRINT OR TYPE

For Office Use Only.

	Quantity	Charges
Enclosed		
To be mailed		
Subscriptions		
Postage		
Foreign handling		
MMOB		
OPNR		
UPNS		
Discount		
Refund		