AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-22-85
Vol. 50 No. 99
Pages 21031-21228

federal register

Wednesday
May 22, 1985

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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.

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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.

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

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

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 831

Retirement; Interim Rule With Request for Comments

Correction

In FR Doc. 85–11562 beginning on page 20064 in the issue of Monday, May 13, 1985, make the following correction:

§ 831.618 [Corrected]

On page 20074, third column, § 831.681(d)(1) introductory text, insert the following after "means.": "The term "accidental" does not include a death—".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 915 and 944

Avocados Grown in South Florida and Imported Avocados; Grade, Pack, and Container Marketing Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule increases the minimum grade requirement applicable to domestic shipments of Florida avocados and imported avocados to U.S. No. 2 from U.S. No. 3, and modifies the Florida avocado containing marking requirements. Such action is designed to promote orderly marketing conditions for avocados in the interest of producers and consumers.

EFFECTIVE DATES: The Florida Avocado Grade, Pack, and Container Marking Regulation (§ 915.306) becomes effective May 22, 1985, and the Avocado Import Grade Regulation (§ 944.28) becomes effective May 28, 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.

The Florida avocado requirements are issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The grade and container marking requirements applicable to Florida avocado shipments were unanimously recommended by the Avocado Administrative Committee established under the marketing order.

The final rule requires fresh shipments of Florida avocados, except those handled within the production area, to grade at least U.S. No. 2. Last season's minimum grade requirement of U.S. No. 3 for Florida avocados specified in § 915.329 (49 FR 21697, 36359) expired April 30, 1985. Maturity requirements also effective last season specified in § 915.329 as to weight and diameter expired on April 30, 1985, and consideration as to maturity requirements for the current season are being addressed in a separate rule.

Fresh shipments of Florida avocados have remained fairly constant in recent years. During the five-year period 1979–80 through 1983–84 annual fresh shipments averaged 1,093,200 bushels. However, during this period there has been a steady decline in the season average price at the packinghouse level. Industry sources attribute this price decline to the variation in the quality of avocados offered to consumers and the general perception with the trade that Florida avocados are poor quality fruit. The U.S. No. 3 grade requirement allowed shipment of avocados which are seriously damaged, and which generally had a very poor appearance. The increase in the minimum quality requirements is designed to assure shipment of avocados which are fairly well formed, clean, fairly well colored, and well trimmed, and free from serious damage caused by bruises, cuts or other skin breaks, pulled stems, russeting or similar discoloration, scars, scab, sunburn, sunscald, sprayburn and other defects. Avocados possessing the characteristics of U.S. No. 2 or better fruit are preferred by the trade and consumers.

It is estimated that 85–90 percent of the 1985–86 Florida avocado crop will meet the grade requirement. Fruit which fails to grade U.S. No. 2 may be handled within the production area or utilized in processed products, such as guacamole. In addition, the marketing order exempts from quality and other requirements individual shipments not exceeding 55 pounds of avocados.

The final rule also modifies container marking requirements in § 915.306 by requiring the marking of the grade of the fruit in letters and numbers at least 1 inch in height on the top and on 2 sides of the container lid, during the period each fiscal year from the first Monday after July 15 until the first Monday after January 1. Exception of grade marking requirements for part of the fiscal year is designed to reduce the regulatory burden on handlers during that part of the season when avocado shipments are light. The rule also deletes a current provision authorizing the marking of containers with a registered label, brand, or trademark registered with the committee as an alternative to marking the grade of the fruit on the container. The committee reports that modification of the current container marking requirements is needed to enable the trade to more readily discern the grade of the fruit packed in the containers. The currently permitted alternative method of marking containers with a label, brand or trademark has caused confusion in the trade on the relationship between the numerous packing labels use by handlers and the quality of the fruit represented by a particular label.

Under the final rule, the changes in the Florida grade and container marking requirements are made by amending § 915.306. Current requirements in § 915.306 pertaining to standard pack and lof stamping continue in effect, but are revised for clarity.

The avocado import requirements are issued under section 8e (7 U.S.C. 608e–1) of the act. Section 8e of the act requires that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. Under the final rule a new § 944.28 is issued establishing a minimum grade of U.S. No. 2 for imported avocados. Last season's minimum grade requirement of U.S. No. 3 for imported avocados specified in § 944.27 (49 FR 21697; 36359) expired April 30, 1985.

Notice of the proposed requirements for Florida and imported avocados was contained in a proposed rule published in the **Federal Register** (50 FR 15430) on April 18, 1985. The proposed rule provided that interested persons could file comments on the proposals through May 3, 1985. The committee filed an exception based on recommendations it made at its April 24, 1985 meeting. It unanimously recommended that containers be marked with the grade of the fruit in letters and numbers at least one inch in height rather than 1¼ inch as proposed earlier and included in the notice, and that such grade marking requirement be in effect each fiscal year from the first Monday after July 15 until the first Monday after January 1, rather than the entire season as proposed earlier and included in the notice. The committee recommended such changes as it feels it would make the container marking requirements more compatable with current packing procedures, and less restrictive during the part of the season when shipments are light.

The grade, pack, and container marking regulation for Florida avocados and the grade regulation for imported avocados will continue 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. Heretofore, grade regulations issued under the marketing order and section 8e were made effective for a single marketing season. The issuance of a grade regulations which continue in effect from marketing season to marketing season reflects the fact that grade 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 grade 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 Florida avocado regulation. 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 Florida avocado crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulations on shipments of Florida and imported avocados would tend to effectuate the declared policy of the act.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to postpone the effective date of this final rule 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 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 Florida avocado regulation at an open meeting at which the committee, without opposition, recommended regulations applicable to Florida avocados to become effective in time to cover the entire 1985–86 shipping season, which is expected to begin on or about May 20, 1985. Florida avocado handlers have been apprised of these requirements which are to remain in effect indefinitely. The import requirements for avocados are mandatory under section 8e of the act, and the required 3 days notice is provided. The provisions in the final rule are the same as those in a proposed rule which was published in the **Federal Register**, except for 2 modifications made based on exceptions received during the 15-day comment period. It is found that this final rule will tend to effectuate the declared policy of the act.

List of Subjects

7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

7 CFR Part 944

Food grades and standards, Imports, Avocados.

1. The authority citation for 7 CFR Parts 915 and 944 continues to read as follows:

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

2. Section 915.306 is revised and § 944.28 is added to read as follows:

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.306 Florida Avocado Grade, Pack, and Container Marking Regulation.

(a) On and after May 22, 1985, no handler shall handle any variety of avocados grown in the production area, except for avocados handled within the production area in containers other than those authorized in § 915.305, unless:

(1) Such avocados grade at least U.S. No. 2.

(2) such avocados are packed in containers in accordance with standard pack.

(3) Such avocados are in containers marked with the grade of the fruit in letters and numbers at least 1 inch in height on the top and 2 sides of the lid of the container, effective each fiscal year from the first Monday after July 15 until the first Monday after January 1.

(4) Such avocados are in containers marked with the Federal-State Inspection Service lot stamp number.

(b) The provisions of paragraph (a)(2), (a)(3), and (a)(4) of this section shall not apply to individual packages of avocados weighing 4 pounds or less, net weight, in master containers.

(c) Terms pertaining to grades and standard pack mean the same as those defined in the United States Standards for Florida Avocados (7 CFR 51.3050–3069).

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.28 Avocado Import Grade Regulation.

(a) Pursuant to section 8e of the act and Part 944-Fruits; Import Regulations, the importation into the United States of any avocados is prohibited on and after May 28, 1985, unless such avocados grade at least U.S. No. 2, as such grade is defined in the United States Standards for Florida Avocados (7 CFR 51.3050–3069). Such grade requirement is the same as that specified in § 915.306 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915).

(b) The Federal or Federal-State Inspection Service, Fruit and Vegetable

Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the government inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the regulations designating inspection services and procedure for obtaining inspection and certification (7 CFR 944.400).

(c) The term "importation" means release from custody of the United States Customs Service.

(d) Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(e) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

Dated: May 17, 1985.

Thomas R. Clark,

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

FR Doc. 85-12376 Filed 5-21-85; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Parts 915 and 944

Avocados Grown in South Florida and Imported Avocados; Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes minimum maturity requirements for shipments of fresh avocados grown in south Florida, and for avocados imported into the United States. Such action is designed to promote orderly marketing conditions for avocados in the interest of producers and consumers.

EFFECTIVE DATES: The Florida Avocado Maturity Regulation (§ 915.330) becomes effective May 22, 1985, and the Avocado Import Maturity Regulation (§ 944.29) becomes effective May 28, 1985. Comments due by June 21, 1985.

ADDRESS: Send two copies of comments to: Docket Clerk, F&V, AMS, Room 2069-S, U.S. Department of Agriculture, Washington, D.C. 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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 interim 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.

The Florida avocado maturity regulation is issued under the marketing agreement, as amended, and Order No. 915, as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The maturity requirements applicable to Florida avocado shipments were unanimously recommended by the Avocado Administrative Committee, established under this marketing order, at its April 10, 1985 meeting.

The Florida avocado regulation is implemented under a new § 915.330 which establishes maturity requirements for shipments of fresh Florida avocados for the 1985-86 season. Such requirements prescribe minimum weights or diameters for specified periods as the maturity requirements for 67 varieties of avocados. Minimum weights and diameters for specified periods are used as indicators during harvest to determine which avocados are sufficiently mature to complete the ripening process. A requirement pertaining to the skin color of the fruit is also authorized as a method of determining maturity for certain varieties of avocados which turn red or purple when mature. These maturity requirements are designed to assure that the various varieties of avocados will be of suitable quality and maturity, so that they provide consumer satisfaction essential for the successful marketing of the crop. These requirements are also designed to provide the trade and consumers with an adequate supply of mature avocados in the interest of producers and consumers. Similar Florida avocado maturity requirements in effect last season under § 915.329 (49 FR 21697, 36359) expired April 30, 1985.

The Avocado Administrative Committee estimates 1985-86 season fresh Florida avocado shipments at 900,000 bushels (55 pounds), 22 percent less than the estimated 1,115,857 bushels shipped fresh in 1984-85, and 13 percent less than the 1,031,582 bushels shipped fresh in 1983-84. Florida avocados compete primarily with avocados produced in California, which has projected shipments of 11,240,000 bushel equivalents for the 1984-85 season ending October 31, 1985. Avocados are imported into the United States in relatively small amounts, mostly from the Dominican Republic. The 1985-86 season Florida avocado crop is expected to begin with light shipments of early varieties on or about May 20, with substantial shipments beginning in late June or early July.

The avocado import maturity regulation is issued under section 8e (7 U.S.C. 608e-1) of the act. Section 8e of the act requires that when certain domestically produced commodities, including avocados, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements. The avocado import regulation is implemented under a new § 944.29 establishing minimum maturity requirements for avocados imported into the United States based on: (1) Skin color for certain varieties which turn to red or purple when mature, or (2) minimum weights or diameters for the Pollock, Trapp, and Catalina varieties, and the West Indian and Guatemalan type seedlings. Similar avocado import maturity requirements in effect last season under § 944.27 (49 FR 21697, 36359) expired April 30, 1985.

Accordingly, the Secretary finds that upon good cause shown it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in other public procedures, and postpone the effective date of this interim final rule 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 rule is based and the effective date necessary to effectuate the declared policy of the act. Shipments of Florida avocados are expected to begin on or about May 20, 1985, and the regulation should be in effect sufficiently prior to as well as on and after such date to prevent immature fruit

from being shipped during the entire season. Interested persons were given an opportunity to submit information and views on the maturity requirements for 1985–86 season Florida avocados at an open meeting at which the committee without opposition recommended implementation of the specified requirements for Florida avocados. Florida avocado handlers have been apprised of the provisions of the Florida avocado maturity regulation designed to cover all 1985–86 season shipments. The avocado import requirements are mandatory under section 8e of the act, and the required 3 days notice is provided. The rule provides a 30-day comment period. A longer comment period would be contrary to the public interest, as any comments on the effect of the rule need to be received within 30 days, so that any necessary changes can be made promptly in the maturity requirements. All comments received will be considered prior to finalization of this rule. It is found that this rule will tend to effectuate the declared policy of the act.

List of Subjects

7 CFR Part 915

Marketing agreements and orders, Avocados, Florida.

7 CFR Part 944

Food grades and standards, Imports, Avocados.

1. The authority citation for 7 CFR Parts 915 and 944 continues to read as follows:

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

2. New §§ 915.330 and 944.29 are added to read as follows: (§§ 915.330 and 944.29 expire April 30, 1986, and will not be published in the annual Code of Federal Regulations).

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

§ 915.330 Florida Avocado Maturity Regulation.

(a) During the period, May 22, 1985, through April 30, 1986, no handler shall handle any variety of avocados grown in the production area unless:

(1) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety; or

(2) Such avocados meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following TABLE 1: *Provided*, That avocados may not be handled prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further*, That up to a total of 10 percent, by count of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further*, That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 1

Avocado variety	Effective period		Minimum size	
	From	Through	Weight	Diameter
Kosel	05-20-85	06-02-85	16	
	06-03-85	06-16-85	13	
Arue	05-20-85	06-02-85	16	
	06-03-85	07-07-85	14	3 3/16
Donnie	05-27-85	06-09-85	16	3 3/16
	06-10-85	07-07-85	14	3 3/16
Dr. Dupuis #2	06-03-85	06-16-85	16	3 3/16
	06-17-85	07-07-85	14	3 3/16
	07-08-85	07-21-85	12	3 3/16
Fuchs	06-10-85	06-23-85	14	3 3/16
	06-24-85	07-07-85	12	3
K-5	06-17-85	06-30-85	18	3 3/16
	07-01-85	07-14-85	14	3 3/16
Hardee	06-17-85	06-23-85	18	3 3/16
	06-24-85	06-30-85	16	3 3/16
	07-01-85	07-21-85	14	2 15/16
West Indian Seedling[1]	06-24-85	07-21-85	18	
	07-22-85	08-25-85	16	
	08-26-85	09-22-85	14	
Pollock	06-24-85	07-07-85	18	3 1/16
	07-08-85	07-21-85	16	3 1/16
	07-22-85	08-04-85	14	3 1/16
Simmonds	06-24-85	07-07-85	16	3 1/16
	07-08-85	07-21-85	14	3 1/16
	07-22-85	08-04-85	12	3 1/16
Nadir	06-24-85	06-30-85	14	3 1/16
	07-01-85	07-07-85	12	3 1/16
	07-08-85	07-21-85	10	2 15/16
Dawn	07-08-85	07-21-85	12	3 1/16
	07-22-85	08-04-85	10	3
Gorham	07-06-85	09-21-85	29	4 1/16
	07-22-85	08-18-85	27	4 1/16
Day	07-08-85	07-21-85	14	3 1/16
	07-22-85	08-18-85	10	2 13/16
Reuhle	07-08-85	07-14-85	18	3 1/16
	07-15-85	07-21-85	16	3 1/16
	07-22-85	08-04-85	14	3 1/16
	08-05-85	08-11-85	12	3 1/16
	08-12-85	08-18-85	10	3 1/16
Peterson	07-15-85	07-21-85	14	3 1/16
	07-22-85	07-28-85	12	3 1/16
	07-29-85	08-11-85	10	3 1/16
Biondo	07-15-85	08-18-85	13	
Bernecker	07-22-85	08-04-85	18	3 1/16
	08-05-85	08-18-85	16	3 1/16
	08-19-85	09-01-85	14	3 1/16
232	07-22-85	08-04-85	14	
	08-05-85	08-18-85	12	
Pinelli	07-22-85	08-04-85	18	3 15/16
	08-05-85	08-18-85	16	3 15/16
Trapp	07-22-85	08-04-85	14	3 15/16
	08-05-85	08-18-85	12	3 15/16
Miguel (P)	07-22-85	08-04-85	22	3 15/16
	08-05-85	08-18-85	20	3 15/16
	08-19-85	09-01-85	18	3 15/16
Nesbitt	07-22-85	08-04-85	22	3 15/16
	08-05-85	08-11-85	16	3 1/16
	08-12-85	08-25-85	14	3 1/16
Beta	08-05-85	08-11-85	18	3 1/16
	08-12-85	09-01-85	16	3 1/16
K-9	08-05-85	08-25-85	16	
Tower 2	08-05-85	08-18-85	14	3 1/16
	08-19-85	09-08-85	12	3 1/16
Christina	08-05-85	08-25-85	11	2 13/16
Tonnage	08-05-85	08-18-85	16	3 1/16
	08-19-85	09-25-85	14	3 1/16
	08-26-85	09-01-85	12	3

TABLE 1—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight	Diameter
Waldin	08-05-85	08-18-85	16	3 1/16
	08-19-85	09-01-85	14	3 1/16
	09-02-85	09-15-85	12	3 1/16
Annie Ruth	08-05-85	08-25-85	21	3 15/16
Lisa (P)	08-12-85	08-18-85	12	3 1/16
	08-19-85	08-25-85	11	3
Catalina	08-19-85	09-01-85	24	
	09-02-85	09-22-85	22	
Pinkerton (CP)	08-19-85	09-01-85	13	
	09-02-85	09-15-85	11	
	09-16-85	09-29-85	9	
Fairchild	08-19-85	09-01-85	16	3 15/16
	09-02-85	09-15-85	14	3 1/16
	09-16-85	09-22-85	12	3 1/16
Black Prince	08-19-85	09-01-85	28	4 1/16
	09-02-85	09-15-85	23	3 15/16
	09-16-85	10-06-85	16	3 1/16
Loretta	08-26-85	09-08-85	30	4 1/16
	09-09-85	10-06-85	26	3 15/16
Blair	09-02-85	09-15-85	16	3 1/16
	09-16-85	10-06-85	14	3 1/16
Booth 8	09-02-85	09-22-85	16	3 1/16
	09-23-85	10-06-85	14	3 1/16
	10-07-85	10-20-85	3	1 1/16
Booth 7	09-02-85	09-15-85	18	3 15/16
	09-16-85	09-29-85	16	3 15/16
	09-30-85	10-13-85	14	3 1/16
Booth 5	09-09-85	09-22-85	14	3 1/16
	09-23-85	10-06-85	12	3 1/16
Guatemalan Seedling[1]	09-09-85	10-06-85	15	
	10-07-85	12-08-85	13	
Marcus	09-09-85	09-22-85	32	4 15/16
	09-23-85	11-03-85	24	4 1/16
Brooks 1978	09-09-85	09-15-85	12	3 1/16
	09-16-85	09-22-85	10	3 1/16
	09-23-85	10-13-85	8	2 15/16
Collinson	09-16-85	10-13-85	16	3 15/16
Rue	09-16-85	09-22-85	30	4 1/16
	09-23-85	10-06-85	24	3 15/16
	10-07-85	10-20-85	18	3 1/16
Hickson	09-16-85	09-29-85	12	3 1/16
	09-30-85	10-13-85	10	3
Chica	09-23-85	10-06-85	12	3 1/16
	10-07-85	10-20-85	10	3 1/16
Simpson	09-23-85	10-13-85	16	3 1/16
Choquette	09-30-85	10-20-85	26	4 1/16
	10-21-85	11-03-85	24	4 1/16
	11-04-85	11-17-85	20	3 15/16
	11-18-85	12-01-85	16	3 1/16
Winslowson	09-30-85	10-20-85	18	3 15/16
Booth 11	09-30-85	10-20-85	16	3 15/16
Leona	09-30-85	10-13-85	18	3 15/16
Hall	09-30-85	10-13-85	26	3 15/16
	10-14-85	10-27-85	20	3 1/16
	10-28-85	11-10-85	18	3 1/16
Herman	10-07-85	10-20-85	16	3 1/16
	10-21-85	11-03-85	14	3 1/16
Lula	10-07-85	10-20-85	18	3 1/16
	10-21-85	11-03-85	14	3 1/16
	11-04-85	11-17-85	12	3 1/16
Ajax (B-7)	10-14-85	11-03-85	18	3 15/16
Taylor	10-14-85	10-27-85	14	3 1/16
	10-28-85	11-10-85	12	3 1/16
Booth 3	10-14-85	10-20-85	16	3 1/16
	10-21-85	11-03-85	14	3 1/16
Byars	11-04-85	11-24-85	16	3 15/16
Linda	11-04-85	11-24-85	18	3 15/16
Monroe	11-11-85	11-24-85	26	4 1/16
	11-25-85	12-08-85	24	4 1/16
	12-09-85	12-22-85	20	3 15/16
	12-23-85	01-05-86	16	3 1/16
Booth 1	11-18-85	12-01-85	16	3 15/16
	12-02-85	12-15-85	12	3 1/16
Zio (P)	11-18-85	12-01-85	12	3 1/16
	12-02-85	12-15-85	10	2 15/16
Wagner	11-25-85	12-08-85	12	3 1/16
	12-09-85	12-22-85	10	3 1/16
Brookslate	12-09-85	12-22-85	18	3 15/16
	12-23-85	01-12-86	14	3 1/16
	01-13-86	01-26-86	12	3 1/16
	01-27-86	02-09-86	10	
Meya (P)	12-16-85	12-29-85	13	3 1/16
	12-30-85	01-12-86	11	3
Reed (CP)	01-13-86	01-26-86	14	
	01-27-86	02-09-86	12	

TABLE I—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight	Diameter
	02-10-86	02-16-86	10	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings not listed elsewhere in Table 1.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings not listed elsewhere in Table 1.

(b) The term "diameter" means the greatest dimension measured at a right angle to a straight line from the stem to the blossom end of the fruit.

PART 944—FRUITS; IMPORT REGULATIONS

§ 944.29 Avocado Import Maturity Regulation.

(a) Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, the importation into the United States of any avocados is prohibited during the period May 28, 1985, through April 30, 1986, unless:

(1) Such avocados have any portion of the skin of the individual fruit changed to the color normal for that fruit when mature for those varieties which normally change color to any shade of red or purple when mature, except for the Linda variety; or

(2) Such avocados meet the minimum weight or diameter requirements for the specified effective periods for each variety listed in the following TABLE 2: *Provided*, that avocados may not be imported prior to the earliest date specified in column 2 of such table for the respective variety: *Provided further*, That up to a total of 10 percent, by count, of the individual fruit in each lot may weigh less than the minimum specified or be less than the specified diameter, except that no such avocados shall be over 2 ounces lighter than the minimum weight specified for the variety: *Provided further*, That up to double such tolerance shall be permitted for fruit in an individual container in a lot.

TABLE 2

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
West Indian Seedling [1]	06-24-85	07-21-85	18	
	07-22-85	08-25-85	16	
	08-26-85	09-22-85	14	
Pollock	06-24-85	07-07-85	18	3 1/16
	07-08-85	07-21-85	16	3 1/16
	07-22-85	08-04-85	14	3 1/16
Trapp	07-22-85	08-04-85	14	3 5/16
	08-05-85	08-18-85	12	3 5/16
Catalina	08-19-85	09-01-85	24	
	09-02-85	09-22-85	22	
Guatemalan Seedling [2]	09-09-85	10-06-85	15	

TABLE 2—Continued

Avocado variety	Effective period		Minimum size	
	From	Through	Weight (ounces)	Diameter (inches)
	10-07-85	12-08-85	13	

[1] Avocados of the West Indian type varieties and the West Indian type seedlings, except for the Pollock and Trapp varieties.
[2] Avocados of the Guatemalan type varieties, hybrid varieties, and unidentified seedlings, except for the Catalina variety.

(b) It is hereby found that avocados imported into the United States shall meet the same maturity requirements specified in § 915.330 for avocados grown in South Florida under M.O. 915 (7 CFR Part 915), except that all varieties of avocados, other than the Pollock, Catalina, and Trapp varieties, shall meet comparable weight or diameter maturity requirements, because it is not practicable to apply the same requirements due to the variations in characteristics between avocados grown in Florida and avocados imported into the United States.

(c) The Federal or Federal-State Inspection Service, Fruit and Vegetable Division, Agricultural Marketing Service, United States Department of Agriculture, is designated as the governmental inspection service for certifying the grade, size, quality, and maturity of avocados that are imported into the United States. Inspection by the Federal or Federal-State Inspection Service with evidence thereof in the form of an official inspection certificate, issued by the respective service, applicable to the particular shipment of avocados, is required on all imports. The inspection and certification services will be available upon application in accordance with the rules and regulations governing inspection and certification of fresh fruits, vegetables, and other products (7 CFR Part 51) and in accordance with the regulation designating inspection services and procedure for obtaining inspection and certification (7 CFR Part 944.400).

(d) The term "importation" means release from custody of the United States Customs Service.

(e) Any person may import up to 55 pounds of avocados exempt from the requirements specified in this section.

(f) Any lot or portion thereof which fails to meet the import requirements prior to or after reconditioning may be exported or disposed of under the supervision of the Federal or Federal-State Inspection Service with the costs of certifying the disposal of such lot borne by the importer.

Dated: May 17, 1985.

Thomas R. Clark,

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

[FR Doc. 85-12377 Filed 5-21-85; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1924

Planning and Performing Construction and Other Development

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning the acceptability of construction inspections conducted by other qualified persons in lieu of periodic inspections by FmHA personnel, as authorized by the National Office. This action is being taken to eliminate the requirement of a formal agreement. The intended effect of this action is to facilitate the elimination of duplicative efforts by FmHA and other inspection authorities.

EFFECTIVE DATE: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: Joyce M. Halasz, Loan Specialist, Single Family Housing Processing Division, Farmers Home Administration, USDA, Room 5346, South Agriculture Building, 14th and Independence Avenue, SW., Washington, D.C. 20250, telephone (202) 382-1489.

SUPPLEMENTARY INFORMATION: This final action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be exempt from those requirements because it involves only internal Agency management. At the present time and under certain conditions, FmHA accepts construction inspections conducted by persons authorized by the Federal Housing Administration (FHA) of the Department of Housing and Urban Development (HUD), the Veterans Administration (VA) and inspections conducted under the provisions of certain 10-year home warranty programs. This action will enable FmHA to accept construction inspections conducted by persons duly authorized by state or local governments or under agreements with other entities or individuals, subject to National Office determination of acceptability.

It is the policy of this Department to publish for comment rules relating to public property, loans, grants, benefits,

or contracts notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This action, however, is not published for proposed rulemaking since it involves only internal Agency management and publication for comment is unnecessary.

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

10.404 Emergency Loans
10.405 Farm Labor Housing Loans and Grants
10.407 Farm Ownership Loans
10.410 Low Income Housing Loans
10.416 Soil and Water Loans
10.417 Very Low Income Housing Repair Loans and Grants
10.420 Rural Self-Help Housing Technical Assistance
10.421 Indian Tribes and Tribal Corporation Loans

This action does not affect any FmHA programs or projects which are subject to intergovernmental consultation.

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

List of Subjects in 7 CFR Part 1924

Agriculture, Construction management, Construction and repair, Energy conservation, Housing, Loan programs—Agriculture, Loan programs—Housing and community development, Low- and moderate-income housing.

PART 1924—CONSTRUCTION AND REPAIR

1. The authority citation for Part 1924 is revised to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart A—Planning and Performing Construction and Other Development

2. Subpart A of Part 1924, Chapter XVIII, Title 7 of the Code of Federal Regulations is amended by revising the first two sentences of § 1924.9(a) to read as follows:

§ 1924.9 Inspection of development work.

* * * * *

(a) Responsibility for inspection. The County Supervisor or District Director, accompanied by the borrower when practicable, will make periodic inspections, as appropriate, and final inspection of all development work to protect the security interest of the government. Inspections other than final inspections may be accepted in place of FmHA conducted periodic inspections when conducted by other qualified persons as authorized by the National Office. * * *

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Dated: April 11, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85–12251 Filed 5–21–85; 8:45 am]

BILLING CODE 3410–07–M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 1 and 51

Update of NRC Addresses and Copying Charges for Environmental Documents; Minor Correcting Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its regulations to update the addresses of the NRC's principal offices and to conform the charges for reproduction of environmental documents at the NRC's Public Document room to those found in 10 CFR Part 9. These amendments are necessary to inform the public of these administrative changes to NRC regulations.

EFFECTIVE DATE: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone 301–492–7086.

SUPPLEMENTARY INFORMATION: On December 7, 1984, the NRC published a final rule (49 FR 47823) indicating changes in mailing addresses for several regional offices. At that time, an update of the principal offices of § 1.3, Location of principal offices and Regional Offices, was overlooked. Of the eight locations listed in § 1.3(a), two buildings have been vacated by the NRC, while three new building locations have been established.

On July 31, 1984, the NRC published a final rule (49 FR 30457) which revised the charges for copying records publicly available at the NRC Public Document Room, located at 1717 H Street, NW., Washington, D.C. At this time § 51.123 is revised to reflect current NRC copying charges.

Because these are amendments dealing with agency practice and procedures, the notice provisions of the Administrative Procedure Act do not apply pursuant to 5 U.S.C. 553(b)(A). The amendments are effective upon publication in the **Federal Register.** Good cause exists to dispense the usual 30-day delay in the effective date because the amendments are of a minor and administrative nature dealing solely with agency procedures.

Paperwork Reduction Act Statement

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

List of Subjects

10 CFR Part 1

Organization and functions (Government agencies)

10 CFR Part 51

Administrative practice and procedure, Environmental impact statements.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 553, the NRC is adopting the following amendments to 10 CFR Parts 1 and 51.

The authority citation for this document is:

Authority: Sec. 161, Pub. L. 83–703, 66 Stat. 948, as amended (42 U.S.C. 2201); sec. 201, Pub. L. 93–438, 88 Stat. 1242, as amended (42 U.S.C. 5841).

PART 1—STATEMENT OR ORGANIZATION AND GENERAL INFORMATION

1. In § 1.3, paragraph (a) is revised to read as follows:

§ 1.3 Location of principal offices and regional offices.

(a) The principal NRC offices are located in the Washington, D.C. area. Facilities for the service of process and papers are maintained within the District of Columbia at 1717 H Street, NW. The mailing address for all NRC Headquarters offices is Washington, D.C. 20555. The locations of NRC offices in the Washington area are:

(1) Air Rights III Building, 4550 Montgomery Avenue, Bethesda, Maryland.

(2) East West/South Towers Building, 4340 East West Highway, Bethesda, Maryland.

(3) East West/West Towers Building, 4350 East West Highway, Bethesda, Maryland.

(4) Maryland National Bank building, 7735 Old Georgetown Road, Bethesda, Maryland.

(5) Matomic Building, 1717 H Street, NW, Washington, D.C.

(6) Nicholson Lane Building, 5650 Nicholson Lane, Rockville, Maryland.

(7) Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland.

(8) Willste Building, 7915 Eastern Avenue, Silver Spring, Maryland.

(9) Woodmont Building, 8120 Woodmont Avenue, Bethesda, Maryland.

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PART 51—[AMENDED]

2. Section 51.123 is revised to read as follows:

§ 51.123 Charges for environmental documents; distribution to public; distribution to governmental agencies.

(a) *Distribution to Public.* Upon written request to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to the extent available, single copies of draft environmental impact statements and draft findings of no significant impact will be made available to interested persons without charge. Single copies of final environmental impact statements and final findings of no significant impact will also be provided without charge to the persons listed in § 51.93(a) and § 51.119(c), respectively. When more than one copy of an environmental impact statement or a finding of no significant impact is requested or when available NRC copies have been exhausted, the requestor will be advised that the NRC will provide copies at the charges specified in § 9.14 of this chapter.

(b) *Distribution to Governmental Agencies.* Upon written request to the Director, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the extent available, copies of draft and final environmental impact statements and draft final findings of no significant impact will be made available in the number requested to Federal, State and local agencies, Indian tribes, and State, regional and metropolitan clearinghouses. When available NRC copies have been exhausted, the requester will be advised that the NRC will provide copies at the charges specified in §9.14 of this chapter.

(c) *Charges.* Charges for the reproduction of environmental documents by the NRC at locations other than the NRC Public Document Room located in Washington, D.C. vary according to location.

Dated at Bethesda, Maryland, this 8th day of May 1985.

For the Nuclear Regulatory Commission.

William J. Dircks,

Executive Director for Operations.

[FR Doc. 85-11729 Filed 5-21-85; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-ASW-9; Amdt. 39-5055]

Airworthiness Directives; Bell Helicopter Textron, Inc., Model 206L, 206L-1, and 206L-3 Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that requires removal of the inboard main rotor trim tabs and blade inspection and repair as necessary on the Bell Helicopter Textron, Inc. (BHTI), Model 206L, 206L-1, and 206L-3 helicopters. The AD is prompted by reports of main rotor blades that developed chordwise cracks emanating from the inboard trim tab. If the cracks were allowed to propagate, they could result in separation of a portion of the blade which would result in possible loss of the helicopter.

DATES: Effective May 20, 1985.

The incorporation by reference of certain publications listed in the regulation is approved by the Director of the Federal Register as of May 20, 1985.

Compliance—As prescribed in body of AD.

ADDRESSES: The applicable technical bulletin may be obtained from Bell Helicopter Textron, Inc., P.O. Box 482, Forth Worth, Texas 76101.

A copy of the technical bulletin is contained in the Rules Docket located at the Office of the Regional Counsel, Southwest Region, Federal Aviation Adminstration, Room 158, Building 3B, 4400 Blue Mound Road, Fort Worth, Texas 76106.

FOR FURTHER INFORMATION CONTACT: Gary B. Roach, Helicopter Certification Branch, ASW-170, Aircraft Certification Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas 76101, telephone number (817) 877-2593.

SUPPLEMENTARY INFORMATION: There have been two reports of main rotor blades developing chordwise cracks through the trailing edge strip that extends into the afterbody skin of the blade. These cracks originated adjacent to the inboard trim tab. Since this condition is likely to exist or develop on other helicopters of the same type design, an airworthiness directive is being issued which requires removal of the inboard trim tab on the main rotor blades and blade inspection and repair as necessary of the BHTI Model 206L, 206L-1, and 206L-3 helicopters.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and good cause exists for making this amendment effective in less than 30 days.

The FAA has determined that this regulation only involves 146 helicopters at an approximate cost of $280 per helicopter. Therefore, I certify that this action (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); (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal; and (4) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the final evaluation prepared for this action is contained in the regulatory docket.

A copy of it may be obtained by contacting the person identified under the caption **"FOR FURTHER INFORMATION CONTACT."**

List of Subjects 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety, Incorporation by reference.

Adoption of the Amendment

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

Bell Helicopter Textron, Inc.: Applies to Model 206L, 206L-1, and 206L-3 helicopters that have main rotor blades, Part Number (P/N) 206-015-001-001 or 206-015-001-103, with inboard trim tabs, P/N 206-015-516-101, installed.

Compliance is required within the next 50 hours' time in service after the effective date of this AD, unless already accomplished.

To prevent possible loss of the main rotor blade, accomplish the following:

(a) Remove all main rotor inboard trim tabs, P/N 206-015-516-101, in accordance with Part II, paragraph A of BHTI Alert Service Bulletin 206L-85-35, dated February 26, 1985.

(b) Accomplish the inspection and repair procedures as necessary in accordance with Part II, paragraphs B & C of BHTI Alert Service Bulletin 206L-85-35, dated February 26, 1985.

(c) Any equivalent method of compliance with this AD must be approved by the Manager, Helicopter Certification Branch, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Texas 76101.

(d) In accordance with FAR §§ 21.197 and 21.199, flight is permitted to a base where the inspection and repair procedures required by this AD may be accomplished.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Bell Helicopter Textron, Inc., P.O. Box 482, Forth Worth, Texas 76101. (Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89)

This amendment becomes effective May 20, 1985.

Issued in Forth Worth, Texas, on April 29, 1985.

F.E. Whitfield,

Acting Director, Southwest Region.

[FR Doc. 85-12279 Filed 5-17-85; 4:56 pm]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AAL-15]

Alteration of Additional Control Area, Control 1485, Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revises controlled airspace north and east of Alaska to eliminate overlapping airspace designations. This amendment also expands a portion of that controlled airspace eastward along the United States/Canada flight information region boundary to facilitate a more efficient application of air traffic control procedures.

EFFECTIVE DATE: 0901 GMT, August 1, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On January 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to revise Control 1485 to: (1) Eliminate a portion of it which extends into the Alaska Positive Control Area; (2) designate the floor and ceiling as Flight Level (FL) 230 and FL 450 respectively; and (3) extend it eastward along arctic routes Papa and Quebec between Barter Island nondirectional beacon and longitude 141 degrees west (50 FR 1867). The elimination of overlapping controlled airspace and establishment of a ceiling for an additional control area are consistent with recent airspace actions designed to standardize and simplify airspace designations. The airspace extension allows controllers to apply more efficient air traffic control procedures and thereby promote aviation fuel conservation. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.163 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations revises controlled airspace north and east of Alaska to eliminate overlapping airspace designations. This expands a portion of controlled airspace eastward along the United States/Canada Flight Information Region (FIR) boundary to facilitate more efficient application of air traffic control procedures.

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

List of Subjects in 14 CFR Part 71

Additional control areas, Aviation safety.

Adoption of the Amendment

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

1. The authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

§ 71.163 [Amended]

2. § 71.163 is amended as follows:

Control 1485 [Revised]

That airspace extending upward from FL 230 to FL 450 within the area bounded by a line beginning at lat. 68°00'00"N., long. 165°30'00"W.; to lat. 68°00'00"N., long. 168°58'23"W.; to lat. 72°00'00"N., long. 158°00'00"W.; to lat. 72°00'00"N., long. 144°00'00"W.; to lat. 75°00'00"N., long. 141°00'00"W.; to lat. 69°41'45"N., long. 141°00'00"W.; thence westward by a line 3 nautical miles from and parallel to the shoreline to the point of beginning, exluding that portion that lies within the Point Barrow, AK, Control Zone and Jet Route 507 between Deadhorse, AK, and Barrow, AK.

Issued in Washington, D.C., on May 15, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-12241 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 84-AAL-3]

Designation of Transition Area, Savoonga, AK

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment designates a transition area at Savoonga, AK. A new Very High Frequency Omni-Directional Radio Range and Distance Measuring Equipment (VOR/DME) has been installed at Savoonga, AK, and two instrument approach procedures have been developed to the Savoonga, AK, Airport. The transition area

provides protected airspace for aircraft departing/arriving under instrument flight rules (IFR).

EFFECTIVE DATE: 0901 GMT, August 1, 1985.

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

SUPPLEMENTARY INFORMATION:

History

On January 14, 1985, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a transition area at Savoonga, AK, to provide controlled airspace from 700 feet above the surface for IFR arrival/departure aircraft at Savoonga, AK, Airport (50 FR 1866). A new VOR/DME has been installed at Savoonga, AK, and was commissioned in December 1984. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6A dated January 2, 1985.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations designates a transition area at Savoonga, AK. A new VOR/DME has been installed at Savoonga, AK, and two instrument approach procedures have been developed to the Savoonga Airport. This action provides protected airspace for aircraft departing/arriving under instrument flight rules.

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

List of Subjects in 14 CFR Part 71

Transition areas, Aviation safety.

Adoption of the Amendment

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

1. The Authority citation for Part 71 is revised to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), and 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); 14 CFR 11.69; and 49 CFR 1.47.

§ 71.181 [Amended]

2. § 71.181 is amended as follows:

Savoonga, AK [New]

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Savoonga Airport (lat. 63°41'30"N., long. 170°28'30"W.); and within 13 miles northwest and 4.5 miles southeast of the 046° radial from the Kukuliak VOR (lat. 63°41'34"N., long. 170°28'15"W.) extending from the VOR to 18.5 miles northeast of the VOR.

Issued in Washington, D.C., on May 15, 1985.

James Burns, Jr.,

Acting Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 85-12240 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 97

[Docket No. 24643; Amdt. No. 1295]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

EFFECTIVE DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

FOR FURTHER INFORMATION CONTACT: Donald K. Funai, Flight Procedures Standards Branch (AFO-230), Air Transportation Division, Office of Flight Operations, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone (202) 426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4, and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic

depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application or new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

List of Subjects in 14 CFR Part 97

Aviation safety, Approaches, Standard instrument.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 G.m.t. on the dates specified, as follows:

PART 97—[AMENDED]

§ 97.23 [Amended]

1. By amending § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN SIAPs identified as follows:

* * * *Effective August 1, 1985*

Kipnuk, AK—Kipnuk, VOR RWY 15, Amdt. 1
Kipnuk, AK—Kipnuk, VOR RWY 33, Amdt. 1

* * * *Effective July 4, 1985*

New Roads, LA—False River Air Park, VOR/DME-A, Amdt. 3
Mansfield, MA—Mansfield Muni, VOR-A, Amdt. 13, Cancelled
Marshfield, MA—Marshfield, VOR-A, Amdt. 4, Cancelled
Norwood, MA—Norwood Memorial, VOR RWY 35, Amdt. 5, Cancelled
Plymouth, MA—Plymouth Muni, VOR RWY 15, Amdt. 3, Cancelled
Taunton, MA—Taunton Muni, VOR-A, Amdt. 6, Cancelled
Ann Arbor, MI—Ann Arbor Muni, VOR RWY 6, Amdt. 12
Ann Arbor, MI—Ann Arbor Muni, VOR RWY 24, Amdt. 11
Manistee, MI—Manistee Co—Blacker, VOR RWY 27, Amdt. 7
Manistee, MI—Manistee Co—Blacker, VOR RWY 9, Amdt. 7
Mankato, MN—Mankato Muni, VOR/DME RWY 33, Amdt. 1
Mankato, MN—Mankato Muni, VOR RWY 33, Amdt. 5
Mankato, MN—Mankato Muni, VOR/DME RWY 15, Amdt. 1
Mankato, MN—Mankato Muni, VOR RWY 15, Amdt. 4
Bucyrus, OH—Port Bucyrus-Crawford County, VOR RWY 22, Amdt. 2.
East Liverpool, OH—Columbiana County, VOR RWY 24, Orig.
Lake Geneva, WI—Americana, VOR RWY 23, Amdt. 6

* * * *Effective May 6, 1985*

Spokane, WA—Felts Field, VOR RWY 3L, Amdt. 2
Spokane, WA—Felts Field, VOR/DME-A, Amdt. 5

§ 97.25 [Amended]

2. By amending § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, and SDF/DME SIAPs identified as follows:

* * * *Effective July 4, 1985*

Natchitoches, LA—Natchitoches Muni, LOC RWY 34, Orig.
New Roads, LA—False River Air Park, LOC RWY 36, Orig.
Mankato, MN—Mankato Muni, LOC RWY 33, Amdt. 1

* * * *Effective May 10, 1985*

Watsonville, CA—Watsonville Muni, LOC RWY 1, Amdt. 2

§ 97.27 [Amended]

3. By amending § 97.27 NDB and NDB/DME SIAPs identified as follows:

* * * *Effective July 4, 1985*

Natchitoches, LA—Natchitoches Muni, NDB RWY 34, Amdt. 1
New Roads, LA—False River Air Park, NDB RWY 36, Amdt. 1
East Liverpool, OH—Columbiana County, NDB RWY 24, Amdt. 4
Black River Falls, WI—Black River Falls Area, NDB RWY 8, Amdt. 2

* * * *Effective June 6, 1985*

Choteau, MT—Choteau, NDB RWY 23, Orig

* * * *Effective May 10, 1985*

Watsonville, CA—Watsonville Muni, NDB-B, Amdt. 1

* * * *Effective May 6, 1985*

Spokane, WA—Felts Field, NDB RWY 3L, Amdt. 1
Spokane, WA—Felts Field, NDB-A, Amdt. 1

§ 97.29 [Amended]

4. By amending § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME and MLS/RNAV SIAPs identified as follows:

* * * *Effective June 6, 1985*

Trenton, NJ—Mercer County, ILS RWY 6, Amdt. 7

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective July 4, 1985*

Gastonia, NC—Gastonia Muni, RADAR-1, Amdt. 4

§ 97.33 [Amended]

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective July 4, 1985*

Ann Arbor, MI—Ann Arbor Muni, RNAV RWY 24, Amdt. 5

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348, 1354(a), 1421, and 1510); 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983); and 14 CFR 11.49(b)(3))

Note.—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. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Note.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

Issued in Washington, D.C., on May 17, 1985.

John S. Kern,

Acting Director of Flight Operations.

[FR Doc. 85-12280 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 271

[Docket No. RM79-76-189 (Wyoming-16); Order No. 385]

High-Cost Gas Produced From Tight Formations; Wyoming; Correction

Issued May 17, 1985.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Final rule; correction.

SUMMARY: By order issued June 26, 1984, the Commission amended its regulations to include portions of the Muddy, Lakota, Morrison and Sundance Formations in Natrona County, Wyoming as designated tight formations eligible for incentive pricing under the Natural Gas Policy Act (49 FR 26048, June 26, 1984). This notice corrects the subparagraph designations which were incorrrectly added to § 271.703(d).

EFFECTIVE DATE: July 26, 1984.

FOR FURTHER INFORMATION CONTACT: Kenneth F. Plumb, Secretary, Federal Energy Regulatory Commission, (202) 357-8400.

SUPPLEMENTARY INFORMATION:

§ 271.703 [Amended]

1. At 49 FR 26049 (June 26, 1984), column two, the last paragraph should read:

"2. Section 271.703(d) is amended by adding paragraphs (d) (167) through (170) to read as follows:"

2. In column three, same page, redesignate § 271.703(d)(172) as § 271.703(d)(167); redesignate § 271.703(d)(173) as § 271.703(d)(168); redesignate § 271.703(d)(174) as § 271.703(d)(169).

3. At 49 FR 26050, column 1, redesignate § 271.703(d)(175) as § 271.703(d)(170).

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-12312 Filed 5-21-85; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 84F-0300]

Indirect Food Additives: Adjuvants, Production Aids, and Sanitizers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant/stabilizer in ethylene terephthalate polymers intended to contact food. This action responds to a petition filed by Ciba-Geigy Corp.

DATES: Effective May 22, 1985; objections by June 21, 1985.

ADDRESS: Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Vir Anand, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204.

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of September 26, 1984 (49 FR 37850), FDA announced that a petition (FAP 4B3822) had been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that the food additive regulations be amended to provide for the safe use of tetrakis [methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane as an antioxidant/stabilizer in ethylene phthalate polymers, complying with 21 CFR 177.1630, intended to contact food.

FDA has evaluated the data in the petition and other relevant material and concludes that the proposed food additive use is safe and that the regulations should be amended as set forth below.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement is not required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 178

Food additives, Food packaging, Sanitizing solutions.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director of the Center for Food Safety and Applied Nutrition, Part 178 is amended as follows:

PART 178—INDIRECT FOOD ADDITIVES: ADJUVANTS, PRODUCTION AIDS, AND SANITIZERS

1. The authority citation for Part 178 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 178.2010(b) by adding new entry 11 to the list of limitations for "Tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)]methane" to read as follows:

§ 178.2010 Antioxidants and/or stabilizers for polymers.

* * * * *

(b) * * *

Substances	Limitations
* *	* * *
Tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane (CAS Reg. No. 6683-19-8).	For use only: * * * 11. At levels not exceeding 0.5 percent by weight of ethylene phthalate polymers complying with § 177.1630 of this chapter. The finished food contact articles may be used under conditions of use A through H described in Table 2 of § 176.170(c) of this chapter.
* *	* * *

Any person who will be adversely affected by the foregoing regulations may at any time on or before June 21, 1985 submit to the Dockets Management Branch (address above) written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with

particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: May 13, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-12290 Filed 5-21-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 182 and 184

[Docket No. 79N-0162]

GRAS Status of Tannic Acid

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that the use of tannic acid as a direct human food ingredient is generally recognized as safe (GRAS) with specific limitations. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective June 21, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1097 effective on June 21, 1985.

FOR FURTHER INFORMATION CONTACT: John W. Gordon, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-5487.

SUPPLEMENTARY INFORMATION: In the Federal Register of October 1, 1982 (47 FR 43396), FDA published a proposal to affirm that tannic acid is GRAS for use as a direct human food ingredient. The proposal was published in accordance with the announced FDA review of the safety of GRAS and prior-sanctioned food ingredients.

In accordance with § 170.35 (21 CFR 170.35), copies of the scientific literature review, mutagenic evaluation, teratologic evaluation, and report of the Select Committee on GRAS Substances (the Select Committee) on tannic acid are available for public review in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. Copies of these documents also are available for public purchase from the National Technical Information Service, as announced in the proposal.

In addition to proposing to affirm the GRAS status of tannic acid, FDA gave public notice that it was unaware of any prior-sanctioned food uses for this ingredient other than the proposed conditions of use. Persons asserting additional or extended uses in accordance with approvals granted by the U.S. Department of Agriculture or FDA before September 6, 1958, were given notice to submit proof of those sanctions so that the safety of any prior-sanctioned uses could be determined. That notice was also an opportunity to have prior-sanctioned uses of tannic acid recognized by issuance of an appropriate regulation under part 181—Prior-Sanctioned Food Ingredients (21 CFR Part 181) or affirmed as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate. FDA also gave notice that failure to submit proof of an applicable prior sanction in response to the proposal would constitute a waiver of the right to assert that sanction at any future time.

No reports of prior-sanctioned uses for tannic acid were submitted in response to the proposal. Therefore, in accordance with that proposal any right to assert a prior sanction for use of tannic acid under conditions different from those set forth in this final rule has been waived.

FDA received one comment in response to the proposal. The comment asked that the sources of tannic acid listed in § 184.1097(a) be expanded to include the natural sources of the ingredient that are included in the U.S. Pharmacopoeia XX, first supplement, and the Fourteenth Report of the Joint Food and Agriculture Organization of the United Nations/World Health Organization (1971). The comment specifically requested that final rule include nutgalls of various sumac species, including *Rhus coriaria* and *R. typhia* from the Mediterranean region and America. The comment also pointed out that tara pods (*Caesalpinia spinosa*) are grown in South America and Africa, not in the eastern Mediterranean region as described in the proposal.

The agency has reviewed the references cited by this comment and finds that the comment is correct regarding the use of *Rhus coriaria* and *R. typhia* as sumac sources of tannic acid. The references cited by the comment also mention *Rhus galabra* as an additional example of a sumac plant that is used as a source of tannic acid. The references also mention *Quercus infectoria Oliver* as an example of the plants of the *Quercus* species that are used as sources of this food ingredient. FDA finds that all of these plants have traditionally been used as botanical sources of food-grade tannic acid. The agency is therefore revising § 184.1097(a) to mention specifically these sources of tannic acid.

The agency also finds that there are no safety issues that would require stipulation of the regions in which tara pods *(Caesalpinia spinosa)* or other plant sources of tannic acid are grown. Accordingly, the agency has modified § 184.1097(a) by deleting the reference to the regions in which the tara pods are grown.

The agency has previously determined pursuant to 21 CFR 25.24(b)(7) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (address above).

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients; Spices and flavorings.

21 CFR Part 184

Direct food ingredients; Food ingredients; Generally recognized as safe (GRAS) food ingredients; Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for Part 182 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

§ 182.20 [Amended]

2. Part 182 is amended in § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by removing the entry "Tannic acid."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

3. The authority citation for Part 184 is revised to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046–1047 as amended, 1055–1056 as amended, 72 Stat. 1784–1788 as amended 21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

4. Part 184 is amended by adding new § 184.1097, to read as follows:

§ 184.1097 Tannic acid.

(a) Tannic acid (CAS Reg. No. 1401–55–4), or hydrolyzable gallotannin, is a complex polyphenolic organic structure that yields gallic acid and either glucose or quinic acid as hydrolysis products. It is a yellowish-white to light brown substance in the form of an amorphous, bulky powder, glistening scales, or spongy masses. It is also ordorless, or has a faint characteristic odor, and has an astringent taste. Tannic acid is obtained by solvent extraction of nutgalls or excrescences that form on the young twigs of *Quercus infectoria Oliver* and related species of *Quercus*. Tannic acid is also obtained by solvent extraction of the seed pods of Tara (*Caesalpinia spinosa*) or the nutgalls of various sumac species, including *Rhus semialata, R. coriaria, R. galabra*, and *R. typhia*.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 319, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) (1) In accordance with § 184.1(b)(2), the ingredient is used in food only within the following specific limitations:

Category of food	Maximum level of use in food (as served) (percent)	Functional use
Baked goods and baking mixes, § 170.3(n)(1) of this chapter	0.01	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter.
Alcoholic beverages, § 170.3(n)(2) of this chapter	0.015	Flavor enhancer, § 170.3(o)(11) of this chapter; flavoring agent and adjuvant, § 170.3(o)(12) of this chapter; processing aid, § 170.3(o)(24) of this chapter.
Nonalcoholic beverages and beverage bases, § 170.3(n)(3) of this chapter and for gelatins, puddings, and fillings, § 170.3(n)(22) of this chapter.	0.005	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter; pH control agent, § 170.3(o)(23) of this chpater.
Frozen dairy desserts and mixes, § 170.3(n)(20) of this chapter and for soft candy, § 170.3(n)(36) of this chapter.	0.04	Flavoring agent and adjuvant, § 170.3(o)(12) of this chapter
Hard candy and cough drops, §170.3(n)(25) of this chapter.	0.013	Do.
Meat products, § 170.3(n)(29) of this chapter	0.001	Do.

(2) Tannic acid may be used in rendered animal fat in accordance with 9 CFR 318.7.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: May 1, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85–12286 Filed 5–21–85; 8:45 am]

BILLING CODE 4160–01–M

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21 CFR Parts 182 and 184

[Docket No. 77N–0034]

GRAS Status of Licorice, (Glycyrrhiza), Ammoniated Glycyrrhizin, and Monoammonium Glycyrrhizinate

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that licorice (glycyrrhiza), ammoniated glycyrrhizin, and monoammonium glycyrrhizinate are generally recognized as safe (GRAS), with specific limitations, as flavoring agents, flavor enhancers, and surfactants for use in human food, except when used as a component of sugar substitutes. The safety of these ingredients has been evaluated under the comprehensive safety review conducted by the agency.

DATES: Effective June 21, 1985. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1408 on June 21, 1985.

FOR FURTHER INFORMATION CONTACT: Damon Larry, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C. Street SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of August 2, 1977 (42 FR 39117), FDA published a proposal to affirm that licorice (glycyrrhiza) and ammoniated glycyrrhizin are GRAS, with specific limitations, for use as direct human food ingredients. In the **Federal Register** of May 15, 1979 (44 FR 28334), FDA proposed that ammoniated glycyrrhizin be affirmed as GRAS for use only as a licorice flavor in specific foods or as a surfactant in nonalcoholic beverages. FDA published the proposals in accordance with its announced review of GRAS and prior-sanctioned food ingredients.

FDA received eight comments on the August 2, 1977 proposal and nine comments on the May 15, 1979 amended proposal. Based upon information submitted in these comments, in the **Federal Register** of December 8, 1983 (48 FR 54983), FDA published a tentative final rule and gave interested persons an opportunity to comment on the following changes:

1. The adoption of a gas chromatographic assay for glycyrrhizin, measured as glycyrrhetic acid, in place of the previously announced spectrophotometric method.

2. The interchangeable use of licorice, licorice extract, ammoniated

glycyrrhizin, and monoammonium glycyrrhizinate in food.

3. The inclusion of additional food uses for these ingredients.

That document tentatively affirmed that licorice (glycyrrhiza), ammoniated glycyrrhizin, and monoammonium glycyrrhizinate are GRAS, with specific limitations, for use in human food as flavoring agents, flavor enhancers, and surfactants, except when used as a component of sugar substitutes.

FDA received two comments in response to the tentative final rule. Both comments requested modification of 21 CFR 184.1408(b)(1) to include a high pressure liquid chromatographic (HPLC) method of analysis for glycyrrhizic acid or glycyrrhizic acid salts in licorice (Ref. 1). The comments pointed out that this method was published in 1982 by the Association of Analytical Chemists (AOAC) as an "Official First Action."

FDA stated in the tentative final rule that it would consider adopting this HPLC method when the method was validated and published by the AOAC (48 FR 54984). The agency has now reviewed the method and agrees with the comments that it is appropriate to include the HPLC method in the regulation. However, because the gas chromatographic method listed in the tentative final rule retains its AOAC validation, FDA finds that there is no need to delete that assay method from the regulation. Accordingly, the final regulation on licorice (glycyrrhiza) and ammoniated glycyrrhizin will permit the use of either the gas chromatographic method or the HPLC method for the determination of the glycyrrhizin content of licorice.

No other comments were made on the tentative final rule. The agency is therefore issuing the tentative final rule as a final rule without any additional changes.

The agency has previously determined pursuant to 21 CFR 25.24(b)(7) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

In accordance with the Regulatory Flexibility Act, the agency previously considered the potential effects that this rule would have on small entities, including small businesses. In accordance with section 605(b) of the Regulatory Flexibility Act, the agency has determined that no significant impact on a substantial number of small entities would derive from this action. FDA has not received any new information or comments that would alter its previous determination.

In accordance with Executive Order 12291, FDA has previously analyzed the potential economic effects of this final rule. As announced in the proposal, the agency has determined that the rule is not a major rule as determined by the Order. The agency has not received any new information or comments that would alter its previous determination.

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

Reference

The following information has been placed on display in the Dockets Management Branch (address above) and may be seen by interested persons between 9 a.m. and 4 p.m. Monday through Friday.

1. "Changes in Methods," Section 19C., *Journal of the Association of Official Analytical Chemists*, 65:471-472, 1982.

List of Subjects

21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 182 and 184 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for Part 182 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

§ 182.10 [Amended]

2. Part 182 is amended in § 182.10 *Spices and other natural seasonings and flavorings* by removing the entries for "Glycyrrhiza" and "Licorice."

§ 182.20 [Amended]

3. Part 182 is amended in § 182.20 *Essential oils, oleoresins (solvent-free), and natural extractives (including distillates)* by removing the entries for "Glycyrrhiza," "Glycyrrhiza, ammoniated," and "Licorice."

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

4. The authority citation for Part 184 continues to read as follows:

Authority: Secs. 201(s), 402, 409, 701, 52 Stat. 1046-1047 as amended, 1055-1056 as amended, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371); 21 CFR 5.10.

5. Part 184 is amended by adding new § 184.1408, to read as follows:

§ 184.1408 Licorice and licorice derivatives.

(a) (1) Licorice (glycyrrhiza) root is the dried and ground rhizome and root portions of *Glycyrrhiza glabra* or other species of *Glycyrrhiza*. Licorice extract is that portion of the licorice root that is, after maceration, extracted by boiling water. The extract can be further purified by filtration and by treatment with acids and ethyl alcohol. Licorice extract is sold as a liquid, paste ("block"), or spray-dried powder.

(2) Ammoniated glycyrrhizin is prepared from the water extract of licorice root by acid precipitation followed by neutralization with dilute ammonia. Monoammonium glycyrrhizinate ($C_{42}H_{61}O_{16}NH_45H_2O$, CAS Reg. No. 1407-03-0) is prepared from ammoniated glycyrrhizin by solvent extraction and separation techniques.

(b) The ingredients shall meet the following specifications when analyzed:

(1) *Assay.* The glycyrrhizin content of each flavoring ingredient shall be determined by the method in the Official Methods of Analysis of the Association of Official Analytical Chemists, 13th Ed., §§ 19.136-19.140, which is incorporated by reference, or by methods 19.CO1 through 19.CO4 in the *Journal of the Association of Official Analytical Chemists*, 65:471-472 (1982), which are also incorporated by reference. Copies of all of these methods are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, DC 20044, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(2) *Ash.* Not more than 9.5 percent for licorice, 2.5 percent for ammoniated glycyrrhizin, and 0.5 percent for monoammonium glycyrrhizinate on an anhydrous basis as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 466, which is incorporated by reference. Copies are available from the National Academy

Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(3) *Acid unsoluble ash.* Not more than 2.5 percent for licorice on an anhydrous basis as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 466, which is incorporated by reference.

(4) *Heavy metals (as Pb).* Not more than 40 parts per million as determined by method II in the Food Chemicals Codex, 3d Ed. (1981), p. 512, which is incorporated by reference.

(5) *Arsenic (As).* Not more than 3 parts per million as determined by the method in the Food Chemicals Codex, 3d Ed. (1981), p. 464, which is incorporated by reference.

(c) In accordance with § 184.1(b)(2), these ingredients are used in food only within the following specific limitations:

Category of food	Maximum level in food (percent glycyrrhizin content of food) (as served)	Functional use
Baked foods, §170.3(n)(1) of this chapter	0.05	Flavor enhancer, §170.3(o)(11) of this chapter; flavoring agent, §170.3(o)(12) of this chapter.
Alcoholic beverages, §170.3(n)(2) of this chapter	0.1	Flavor enhancer, §170.3(o)(11) of this chapter; flavoring agent, §170.3(o)(12) of this chapter; surface-active agent, §170.3(o)(29) of this chapter.
Nonalcoholic beverages, §170.3(n)(3) of this chapter	0.15	Do.
Chewing gum, §170.3(n)(6) of this chapter	1.1	Flavor enhancer, §170.3(o)(11) of this chapter; flavoring agent, §170.3(n)(12) of this chapter.
Hard candy, §170.3(n)(25) of this chapter	16.0	Do.
Herbs and seasonings, §170.3(n)(26) of this chapter	0.15	Do.
Plant protein products, §170.3(n)(33) of this chapter	0.15	Do.
Soft candy, §170.3(n)(38) of this chapter	3.1	Do.
Vitamin or mineral dietary supplements	0.5	Do.
All other foods except sugar substitutes, §170.3(n)(42) of this chapter. The ingredient is not permitted to be used as a nonnutritive sweetener in sugar substitutes.	0.1	Do.

(d) Prior sanctions for this ingredient different from the uses established in this section do not exist or have been waived.

Dated: April 29, 1985.

Joseph P. Hile,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 85-12287 Filed 5-21-85; 8:45 am]

BILLING CODE 4160-01-M

21 CFR Parts 510 and 540

Penicillin Antibiotic Drugs for Animal Use; Change of Sponsor

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor of a new animal drug application (NADA) for penicillin G procaine-dihydrostreptomycin sulfate for dry cow intramammary infusion from West Chemical Products, Inc., to West Agro, Inc.

EFFECTIVE DATE: May 22, 1985.

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

SUPPLEMENTARY INFORMATION: West Agro, Inc., 11100 N. Congress Ave., Kansas City, MO 64153, has informed FDA of a change in sponsor for NADA 55-028 from West Chemical Products, Inc., 4216 West St., Long Island City, NY 11101. West Chemical Products, Inc., has confirmed the change of sponsor. The NADA covers use of penicillin G procaine-dihydrostreptomycin sulfate for dry cow intramammary infusion. With the sponsor change, West Chemical Products is no longer the sponsor of an approved NADA. In addition, West Agro, Inc., has not been previously added to the list of sponsors in 21 CFR 510.600(c). The regulations are amended to provide for the change of sponsor and the new sponsor listing, and to remove the outdated sponsor listing. Approval of a sponsor change is an administrative change that does not otherwise affect approval of the firm's NADA.

List of Subjects

21 CFR Part 510

Administrative practice and procedure, Animal drugs, Labeling, Reporting and recordkeeping requirements.

21 CFR Part 540

Animal drugs, Antibiotics, penicillin.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Parts 510 and 540 are amended as follows:

PART 510—NEW ANIMAL DRUGS

1. The authority citation for Part 510 is revised to read as follows:

Authority: Secs. 512, 701(a), 52 Stat. 1055, 82 Stat. 343-351 (21 U.S.C. 360b, 371(a)); 21 CFR 5.10 and 5.83.

2. In § 510.600 by removing the entry for West Chemical Products from paragraph (c) (1) and (2) and by adding a new sponsor entry alphabetically to paragraph (c)(1) and numerically to paragraph (c)(2) to read as follows:

§ 510.600 Names, addresses, and drug labeler codes of sponsors of approved applications.

* * * * *

(c) * * *

(1) * * *

Firm name and address	Drug labeler code
* * * * *	
West Argo, Inc., 11100 N. Congress Ave., Kansas City, MO 64153	033392
* * * * *	

(2) * * *

Drug labeler code	Firm name and address
* * * * *	
033392	West Argo, Inc., 11100 N. Congress Ave., Kansas City, MO 64153.
* * * * *	

PART 540—PENICILLIN ANTIBIOTIC DRUGS FOR ANIMAL USE

3. The authority citation for Part 540 is revised to read as follows:

Authority: Sec. 512, 82 Stat. 343-351 (21 U.S.C. 360b); 21 CFR 5.10 and 5.83.

§ 540.874e [Amended]

4. In § 540.874e *Penicillin G procaine-dihydrostreptomycin sulfate for intramammary infusion (dry cows)* is amended in paragraph (c)(2) by removing the sponsor number "011538" and inserting in its place "033392".

Dated: May 15, 1985.

Marvin A. Norcross,

Acting Associate Director for Scientific Evaluation.

[FR Doc. 85-12288 Filed 5-21-85; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 5

[T.D. 8022]

Qualified Discount Coupons

Correction

In FR Doc. 85-10490 beginning on page 18473 in the issue of Wednesday, May 1, 1985, make the following corrections:

1. On page 18475, in the second column, in § 1.466-1(e)(3)(i), in the sixth line, "in" should read "the".

2. On page 18475, in the second column, in § 1.466-1(e)(3)(ii)(A), in the twelfth line, "456" should read "466".

3. On page 18478, in the second column, in the amendatory instruction under Part 5, para. 2, in the second line, "§ 5.466" should read "§ 5.466-1".

BILLING CODE 1505-01-M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1956

Approval of New York State Plan Poster for Public Employees

AGENCY: Occupational Safety and Health Administration, Labor.

ACTION: Notice of approval of New York State plan poster for public employees.

SUMMARY: This notice gives approval of a developmental supplement to the New York State Occupational Safety and Health plan covering only public sector employees (employees of the State and its political subdivisions), under section 18 of the Occupational Safety and Health Act of 1970 and 29 CFR Part 1956. The State plan supplement is the poster developed by the State which is required to be displayed in all places of State and local government employment in New York to advise public employers and employees of their rights and responsibilities under the State plan.

EFFECTIVE DATE: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, Occupational Safety and Health Administration, 200 Constitution Avenue NW., Room N-3637, Washington, D.C. 20210, (202) 523-8148.

SUPPLEMENTARY INFORMATION:

Background

Part 1953 of Title 29, Code of Federal Regulations, provides procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 677) (the Act) for review of changes and progress in the development and implementation of State plans which have been approved in accordance with section 18(c) of the Act and 29 CFR Part 1956. On June 1, 1984, a notice was published in the **Federal Register** (49 FR 22994) of the initial approval of the New York State plan applicable only to Public Employees as a developmental State plan and the adoption of Subpart F of Part 1956 containing the decision of approval. The developmental schedule for the New York State plan is set forth at 29 CFR 1956.51. On October 10, 1984, the State of New York submitted its State poster in accordance with the developmental step set forth in 29 CFR 1956.51(c). Requirements for OSHA approval of State posters are set forth at 29 CFR 1952.10.

Description of the Plan Supplement

The supplement concerns the New York State poster which is to be posted at all covered public workplaces in the State. The New York State poster contains, among other things, notification of: Employer and employee rights and obligations under the New York Public Employee Safety and Health Act; employee right to request inspections, and right to remain anonymous as a result of such requests; employer and employee right to participate in inspections; protection for employees against discrimination for exercising their rights under the State law; provisions for informing employers and employees of alleged violations and orders to comply; the right to submit complaints about the administration of the State program to the Occupational Safety and Health Administration for investigation; and, pertinent Federal and State office addresses.

Location of the Plan and Its Supplement for Inspection and Copying

A copy of the poster, along with the approved plan, may be inspected and copied during normal business hours at the following locations:

Office of State Programs, Occupational Safety and Health Administration, U.S. Department of Labor, Third Street and Constitution Avenue NW., Room N-3476, Washington, D.C. 20210

Office of the Regional Administrator, Occupational Safety and Health Administration, U.S. Department of Labor, 1515 Broadway (1 Astor Plaza), Room 3445, New York, New York 10036

State of New York Department of Labor, State Office Building Campus, Building 12, Room 579, Albany, New York 12226

Division of Occupational Safety and Health, State of New York Department of Labor, 2 World Trade Center, Room 6994, New York, New York 10047.

Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable law. The Assistant Secretary finds that the New York poster described above is consistent with commitments in the approved State plan, which was previously made available for public comment. Accordingly it is determined that further public comment is unnecessary.

Decision

It has been determined that the New York State poster meets the requirements for approval of State posters set forth at 29 CFR 1952.10. After careful consideration, the New York plan supplement described above is approved under Part 1953. This decision incorporates the requirements of the Act and implements regulations applicable to State plans generally. In addition, Subpart F of 29 CFR Part 1956 is amended to reflect the completion of a developmental step upon the approval of the State poster.

List of Subjects in 29 CFR Part 1956

Administrative practice and procedure, government employees, law enforcement, intergovernmental relations, occupational health and safety and health.

PART 1956—[AMENDED]

Accordingly, 29 CFR Part 1956 is amended as follows:

1. The authority citation for Part 1956 continues to read:

Authority: Secs. 8(g)(2), 18, Pub. L. 91-596, 84 Stat. 1600, 1608 (29 U.S.C. 657(g), 667).

2. New 1956.52 is added to read as follows:

§ 1956.52 Completed developmental steps.

(a) In accordance with 29 CFR 1956.51(c), the New York Safety and Health poster for public employees only was approved by the Assistant Secretary on May 16, 1985.

Signed at Washington, D.C., this 16th day of May 1985.

Robert A. Rowland,

Assistant Secretary of Labor.

[FR Doc. 85-12373 Filed 5-21-85; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 270

Nondiscrimination in Outer Continental Shelf Contracting

AGENCY: Minerals Management Service, Interior.

ACTION: Final rule.

SUMMARY: This Final Rule implements section 604 of the Outer Continental Shelf Lands Act Amendments (OCSLAA) of 1978 by prohibiting unlawful discrimination in contracting and subcontracting related to OCS activities and by providing for the enforcement of such prohibition.

EFFECTIVE DATE: This rule shall be effective June 21, 1985.

FOR FURTHER INFORMATION CONTACT: David A. Schuenke; Chief, Branch of Rules, Orders, and Standards; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Reston, Virginia 22091; Telephone: (703) 860-7916 or (FTS) 928-7916.

SUPPLEMENTARY INFORMATION: On October 19, 1984, the Minerals Management Service (MMS) published a Proposed Rule to prohibit unlawful discrimination in the award of contracts or subcontracts related to OCS activities and to provide for the enforcement of this prohibition (49 FR 41077). The proposed rule was designated as subpart O of Part 250 of Title 30. The final rule is designated as Part 270. This action was taken in order to implement section 604 of the OCSLAA. That section imposes a duty on the Secretary of the Interior (Secretary) to promulgate such rules as the Secretary deems necessary to assure that no unlawful discrimination is practiced with respect to ". . . any activity, sale or employment conducted pursuant to the provisions of . . . the Outer Continental Shelf Lands Act."

Because contracting and subcontracting activities were not included within the scope of other legal instruments which prohibit unlawful discrimination in the OCS, it was determined that new regulations are appropriate to enable the Secretary to fulfill his obligations under the OCSLAA. We also proposed the rgulations to make clear that it is our policy to prohibit and to prevent discrimination based on creed, color, national origin, or sex in OCS-related contracts and subcontracts and to provide for the enforcement of this policy. This is also MMS policy with respect to employment practices in the OCS which a separate, future rulemaking will address. The MMS received recommendations and comments from the Equal Employment Opportunity Commission in this regard. The MMS intends to propose new rules to prohibit unlawful discrimination in employment practices in the OCS.

Section 604 of the OCSLAA requires that rules promulgated under that section ". . . be similar to those established and in effect under Title VI and Title VII of the Civil Rights Act of 1964." The present rule conforms to this requirement in several respects. It prohibits unlawful discrimination, provides for redress in instances of unlawful discrimination, specifies procedures to effect compliance, and provides an opportunity and a process for resolution of conflicts.

We received nine comments on the Proposed Rule, all from oil and gas production companies or organizations representing companies operating in the OCS. Three commenters explicitly favored the Proposed Rule. Three more were generally supportive of our approach and noted that the rule is compatible with their companies' existing voluntary program.

Three commenters opposed promulgation of the rule. All did so on the basis that the rule is unnecessary in the absence of evidence that unlawful discrimination is a problem in the OCS. We previously recognized this fact when we published the Proposed Rule. We noted that MMS was not aware of any unlawful discrimination in OCS-related contracts and subcontracts. We also stated our belief that the need to clarify our policy on this matter and to provide for its enforcement warranted promulgation of regulations notwithstanding lack of evidence that any unlawful discrimination had occurred. The commenters opposing promulgation of the proposed regulations did not forward any reasons for their opposition which had not been already considered, and we continue to believe that promulgation of the proposed regulations is appropriate and desirable.

The comments also contained a number of suggestions for amending the rule. We believe several of these have merit and are adopting changes in the Final Rule to reflect comments received. Three revisions pertain to the procedural aspects of the rule and improve the filing and enforcement process.

At the suggestion of two commenters, we are requiring that complaints be filed in writing no later than 180 days after the time that a violation is alleged to have occurred. We believe this will promote the expeditious handling of potential violations and protect against the loss of pertinent evidence.

Another suggestion we are adopting is the requirement for the Regional Director to notify the person(s) alleged in the complaint to have violated the nondiscrimination-in-contracting rule. We received three comments recommending this and believe it is an improvement over the proposed rule which did not specifically address this point. Under the added provision at § 270.5(c), the Regional Director is required to provide such notice within 10 days from receipt of a complaint.

The third revision we are making to the Proposed Rule was suggested by four commenters. This is a provision requiring that an opportunity be provided for the informal resolution of complaints prior to the initiation of the more formal procedures set out in the regulations at §§ 250.70, 250.72, and 250.80 of this title. This added provision requires the Regional Director to take action to facilitate communication and negotiations among the parties involved in a complaint to attempt to settle the complaint without resorting to an administrative hearing before a reviewing officer. Any agreement reached in this manner would need to be verified in writting by all parties concerned and submitted to the Regional Director. In the event the parties fail to reach an agreement, the Regional Director would proceed according to the provisions cited above toward an administrative hearing. We believe this added provision introduces a desirable flexibility into the process.

One commenter requested changes in the rule to clarify that a lessee is not subject to penalties by MMS for violations committed by contractors in relations with subcontractors or by operators other than lessees. We do not agree with that suggestion. Our privity through the OCS lease is with the lessee. It is the lessee who is responsible for

compliance with applicable provisions of the law and of regulations. That responsibility extends through the lessee to operators, contractors, subcontractors, and agents, all of whom share responsibility for compliance with applicable provisions of the law and regulations.

One commenter expressed the opinion that the rule grants too much discretion to the Regional Director. This commenter proposed that criteria be specified for determining if a violation has occurred and that procedures be established that Regional Directors must follow in making such determinations. We disagree that the addition of such criteria and procedures are necessary or desirable. The regulations themselves specify the elements and circumstances which comprise the basis for determining that a violation of the regulations probably occurred. There must be a denial or withholding of a contract or subcontract by an OCS lessee, contractor, or subcontractor, together with evidence that the denial was based on a factor prohibited by the regulations, i.e., race, creed, color, national origin, or sex. The Regional Director's role in making this determination is the same role Regional Directors now have with respect to any other violation of rules. In evaluating the probable occurrence of any prohibited activity, there must be a finding by an appropriate official based on available evidence to determine if a more thorough examination should be pursued. The present rule conforms to this usual procedure.

Another commenter suggested that the threshold level of monetary value required to trigger applicability of the regulations be increased from $10,000 to $25,000. This was premised on the belief that a higher figure is more practicable given the fact that costs of OSC-related activities are high. We have determined not to adopt this suggestion. We agree that costs of OSC-related activities are such that contracts and subcontracts of less than $25,000 are likely to occur infrequently. That being the case, the retention of $10,000 as the threshold level for applicability of regulations will have a minimum impact in any event, but increasing the threshold level to $25,000 might eliminate those portions of the industry most in need of the benefits offered by the rule.

One commenter suggested the need for a regulatory provision to protect lessees and operators from charges and penalties when the conduct complained of has been required by or is the result of programs designed under and in compliance with these requirements. This suggestion appears to contemplate a circumstance in which possible unlawful discrimination in contracting or subcontracting occurs as a result of a lessee's or operator's compliance with other MMS regulatory requirements. Such protection is not needed. None of our program requirements call for discrimination based on race, creed, color, national origin, or sex. We know of no situation in which compliance with MMS requirements, in and of itself, requires any unlawful discrimination.

Information Collection

The information collection requirements in this Rule do not require approval by the Office of Management and Budget under 44 U.S.C. 3504(h) because there are less than 10 respondents per year.

Regulatory Analysis and Small Entity Flexibility Analysis

The Department of the Interior (DOI) has determined that this document does not constitute a major rule under Executive Order 12291 as the total cost is not expected to exceed $5,000 per year. The DOI has also determined that this rule would not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), because hydrocarbon and other mineral or material activities in the OCS are technically complex and require extensive capital. Such conditions are generally beyond the capability of a small entity.

List of Subjects in 30 CFR Part 270

Civil rights, Continental shelf, Government contracts, Investigations, Oil and gas reserves, Penalties, Pipelines, Public lands/mineral resources.

Dated: April 19, 1985.

William D. Bettenberg,

Director, Minerals Management Service.

For reasons set forth above, Title 30 of the Code of Federal Regulations is amended by adding Part 270 as follows:

PART 270—NONDISCRIMINATION IN THE OUTER CONTINENTAL SHELF

Sec.

270.1 Purpose.
270.2 Application of this part.
270.3 Definitions.
270.4 Discrimination prohibited.
270.5 Complaint.
270.6 Process.
270.7 Remedies.

Authority: Sec. 604, Pub. L. 95-372, 92 Stat. 695 (43 U.S.C. 1863).

§ 270.1 Purpose.

The purpose of this part is to implement the provisions of section 604 of the OSCLAA of 1978 which provides that "no person shall, on the grounds of race, creed, color, national origin, or sex, be excluded from receiving or participating in any activity, sale, or employment, conducted pursuant to the provisions of . . . the Outer Continental Shelf Lands Act."

§ 270.2 Application of this part.

This part applies to any contract or subcontract entered into by a lessee or by a contractor or subcontractor of a lessee after the effective date of these regulations to provide goods, services, facilities, or property in an amount of $10,000 or more in connection with any activity related to the exploration for or development and production of oil, gas, or other minerals or materials in the OCS under the Act.

§ 270.3 Definitions.

As used in this part, the following terms shall have the meanings given below:

"Contract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee and any person which creates an obligation to provide goods, services, facilities, or property.

"Lessee" means the party authorized by a lease, grant of right-of-way, or an approved assignment thereof to explore, develop, produce, or transport oil, gas, or other minerals or materials in the OCS pursuant to the Act and this part.

"Person" means a person or company, including but not limited to, a corporation, partnership, association, joint stock venture, trust, mutual fund, or any receiver, trustee in bankruptcy, or other official acting in a similar capacity for such company.

"Subcontract" means any business agreement or arrangement (in which the parties do not stand in the relationship of employer and employee) between a lessee's contractor and any person other than a lessee that is in any way related to the performance of any one or more contracts.

§ 270.4 Discrimination prohibited.

No contract or subcontract to which this part applies shall be denied to or withheld from any person on the grounds of race, creed, color, national origin, or sex.

§ 270.5 Complaint.

(a) Whenever any person believes that he or she has been denied a

contract or subcontract to which this part applies on the grounds of race, creed, color, national origin, or sex, such person may complain of such denial or withholding to the Regional Director of the OCS Region in which such action is alleged to have occurred. Any complaint filed under this part must be submitted in writing to the appropriate Regional Director not later than 180 days after the date of the alleged unlawful denial of a contract or subcontract which is the basis of the complaint.

(b) The complaint referred to in paragraph (a) of this section shall be accompanied by such evidence as may be available to a person and which is relevant to the complaint including affidavits and other documents.

(c) Whenever any person files a complaint under this part, the Regional Director with whom such complaint is filed shall give written notice of such filing to all persons cited in the complaint no later than 10 days after receipt of such complaint. Such notice shall include a statement describing the alleged incident of discrimination, including the date and the names of persons involved in it.

§ 270.6 Process.

Whenever a Regional Director determines on the basis of any information, including that which may be obtained under § 270.5 of this title, that a violation of or failure to comply with any provision of this subpart probably occurred, the Regional director shall undertake to afford the complainant and the person(s) alleged to have violated the provisions of this part an opportunity to engage in informal consultations, meetings, or any other form of communications for the purpose of resolving the complaint. In the event such communications or consultations result in a mutually satisfactory resolution of the complaint, the complainant and all persons cited in the complaint shall notify the Regional Director in writing of their agreement to such resolution. If either the complainant or the person(s) alleged to have wrongfully discriminated fail to provide such written notice within a reasonable period of time, the Regional Director shall proceed in accordance with the provisions of §§ 250.70, 250.71, 250.72, and 250.80 of this title.

§ 270.7 Remedies.

In addition to the penalties available under §§ 250.81–1 and 250.80–2 of this title, the Director may invoke any other remedies available to him or her under the Act or regulations for the lessee's failure to comply with provisions of the Act, regulations, or lease.

[FR Doc. 85–12244 Filed 5–21–85; 8:45 am]

BILLING CODE 4310–MR–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–5–FRL–2838–4]

Approval and Promulgation of Implementation Plans; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Final rulemaking.

SUMMARY: On February 7, 1983, the State of Indiana submitted revised opacity limits for existing boilers at the Olin Corporation Plant in Covington, Indiana as a revision of the Indiana State Implementation Plan (SIP) for Total Suspended Particulates (TSP). The State submitted additional technical information on September 1, 1983, and April 5, 1984. USEPA is today approving these "equivalent visible emission limits" (EVELs).

EFFECTIVE DATE: The final rulemaking becomes effective on June 21, 1985.

ADDRESSES: Copies of this revision to the Indiana SIP are available for inspection at: The Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, D.C. 20408.

Copies of the SIP revision, public comments on the notice of proposed rulemaking and other materials relating to this rulemaking are available for inspection at the following addresses: U.S. Environmental Protection Agency, Region V, Air and Radiation Branch (5 AR–26), 230 South Dearborn Street, Chicago, Illinois 60604.

It is recommended that you telephone Anne E. Tenner, at (312) 886–6036, before visiting the Region V Office.

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

Indiana Air Pollution Control Division, Indiana State Board of Health, 1330 West Michigan Street, Indianapolis, Indiana 46206.

FOR FURTHER INFORMATION CONTACT: Anne E. Tenner, (312) 886–6036.

SUPPLEMENTARY INFORMATION: On February 7, 1983, the State of Indiana submitted as a revision to the Indiana SIP revised opacity limits for existing boilers at Olin Corporation, located in Warren County, Indiana (an attainment area for TSP). These new limits, which are embodied in State issued operating permits, constitute variances from the existing SIP APC–3 limit of 40 percent opacity (40 FR 50033, October 28, 1975).

USEPA reviewed this submittal initially and found it was deficient because it did not include data which simultaneously measured mass and visible emissions by federally approvable methods. Such data are required in order to approve an "equivalent visible emission limit" (EVEL) for a source. USEPA informed the State of this.

The State submitted additional technical information to USEPA on September 1, 1983, and April 5, 1984. These data included opacity readings taken while the source was operating within its SIP mass emission limit of 0.80 lb/MMBTU (325–IAC 6–2), as determined by concurrent stack tests run in 1980. Based on these data, the requested six-minute average opacity limits are as follows:

Permit	Source	Opacity
86–09–85–0025	Boiler 1	78.7% during boiler cleaning,[1] 65% when in balanced load condition with Boiler 2, 40% at other times.
86–09–85–0024	Boiler 2	78.7% during boiler cleaning,[1] 65% when in balanced load condition with Boiler 1, 40% at other times.
86–09–85–0026	Boiler 3	78.7% during boiler cleaning,[1] 40% at other times.

[1] Limited to not more than three six-minute periods per day.

During the concurrent tests of 1980, which were conducted at greater than rated capacity for the boilers, the above levels of opacity were observed. The mass emission tests indicated an average of 0.51 lbs of particulate/MMBTU from Stack A at 71,300 lbs of steam/hr and 0.76 lbs of particulate/MMBTU from Stack B at 73,100 lbs of steam/hr. (Stack A exhausts emissions from Boiler 1 and/or Boiler 2. Stack B exhausts emissions from Boiler 3.)

Because these opacity limits reflect compliance with 325 IAC 6–2, the requested opacity limits should not jeopardize the attainment status of Warren County. Additionally, based on the above data, USEPA has determined that the requested opacity limits meet the requirements of an approvable EVEL and is approving these limits. (See Technical Support Document of May 25, 1984.)

On October 24, 1984 (49 FR 42748), USEPA proposed approval of the opacity limitations. There were no public comments received by the Agency on this action. As a result,

USEPA approves these opacity limitations.

In accordance with USEPA's continuity policy, as announced in the General Preamble for Part D Rulemakings (44 FR 20372, April 4, 1979) and as also referenced in USEPA's Rulemaking on the Indiana SO_2 Part D SIP (47 FR 10816, March 12, 1982), if the opacity limitations which have been approved in today's **Federal Register** become unenforceable by USEPA in the future, the applicable opacity emission limitations will revert to those contained in the then current general SIP opacity rule. The SIP opacity rule for these sources is currently SIP APC 3.

Additionally, the opacity limits that Indiana submitted as an EVEL for the Olin Corporation are correlated to mass emission levels of 0.51 lbs/MMBTU from Stack A and 0.76 lbs/MMBTU from Stack B. Because these levels are lower than the level reflected in the current underlying SIP mass emission limit, EPA approves the EVEL for so long as the current SIP mass limit applies. In the event USEPA ultimately approves a revised mass limit for this source different from the current mass limit, the EVEL opacity limits might not be equivalent to the new mass limit and thus should no longer be used to determine compliance with the mass limit. Therefore, should USEPA at any time give final approval to a new mass limit, the EVEL EPA approves today will automatically cease to be part of the SIP. Then, unless the State submits and USEPA approves a new EVEL for these stacks at the same time, the opacity limit for the stacks will revert to the then applicable general Indiana opacity SIP requirements.

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

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by 60 days from today. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

List of Subjects in 40 CFR Part 52

Air pollution control, Incorporation by Reference, Particulate matter, Intergovernmental relations.

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

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

Dated: May 14, 1985.

Lee M. Thomas,

Administrator.

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

1. The authority citation for Part 52 continues to read as follows:

Authority: 42 U.S.C. 7410.

2. Section 52.770 is amended by adding new paragraph (c)(51).

§ 52.770 Indentification of plan.

* * * * *

(c) * * *

(51) On February 7, 1983, Indiana submitted revised opacity limits for existing boilers at Olin Corporation, located in Covington, Indiana. These "equivalent visible emission limits" (EVEL) are approved for as long as the SIP mass emission limit determined from 325 IAC 6-2 (October 6, 1980 submittal) for this source remains in the SIP. See § 52.770(c) (6) and (35) and § 52.776(h)(2).

(i) Incorporation by reference.

(A) EVELs for Olin Corporation contained in Operating Permits issued by IAPCB, dated October 6, 1981.

(ii) Additional material.

(A) September 1, 1983, transmittal by IAPCD's A. Sunderland of Olin's Mass Emission Tests, dated August 26, 1983.

(B) April 5, 1984, letter from IAPCD's E. Stresino transmitting original petition, including Method 9 opacity data.

* * * * *

3. Section 52.776 is amended by adding new paragraph (h)(2).

§ 52.776 Control strategy: Particulate matter.

* * * * *

(h) * * *

(2) Revised opacity limits for the boilers at Olin Corporation in Warren County are approved at § 52.770(c)(51) as an EVEL to determine compliance with the 325 IAC 6-2 SIP limit of 0.80 lbs/MMBTU. This EVEL is approved for as long as the SIP mass emission limit for this source remains the same as determined by 325 IAC 6-2 (October 6, 1980 submittal). See § 52.770(c)(6) and (35).

* * * * *

[FR Doc. 85-12073 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 4F3110/R746; PH-FRL 2837-9]

Pesticide Tolerance on an Agricultural Commodity; Flucythrinate

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for residues of the insecticide flucythrinate in or on the raw agricultural commodities corn grain, forage, and fodder. This regulation to establish a maximum permissible level for residues of the insecticide in or on the commodities was requested pursuant to a petition by the American Cyanamid Co.

EFFECTIVE DATE: Effective on May 22, 1985.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Timothy Gardner, Product Manager (PM) 17, Registration Division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 207, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703-557-2690).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of August 1, 1984 (49 FR 30789), which announced that the American Cyanamid Co., PO Box 400, Princeton, NJ 08540, had submitted a pesticide petition (PP 4F3110) to EPA proposing to amend 40 CFR 180.400 by establishing tolerances for the residues of the insecticide flucythrinate ((±)cyano(3-phenoxyphenyl)methyl(±)-4-difluoromethoxy)-alpha-(1-methylethyl)benzeneacetate)) in or on the raw agricultural commodities field corn and sweet corn at 0.05 part per million (ppm).

The petition was subsequently amended by deleting the proposed tolerance for sweet corn and increasing the tolerance levels for corn fodder (stover) and corn forage to 3.0 ppm (50 FR 4266; January 30, 1985 and 50 FR 12869; April 1, 1985).

There were no comments received in response to the notices of filing.

The data submitted in the petition and other relevant material have been evaluated. The toxicology data considered in support of the tolerance include an acute oral rat toxicity study

with a median lethal dose (LD_{50}) of 81 milligrams (mg)/kilogram (kg) for male rats and 67 mg/kg for female rats; a 21-day delayed neurotoxicity hen study with a no-observed-effect level (NOEL) of 5,000 mg/kg, the highest dose tested (HDT); teratology studies (in rats and rabbits), with a NOEL of 8.0 mg/kg/day (HDT) for rats and a NOEL of 60 mg/kg/day (HDT) for rabbits; a 3-generation rat reproduction study with a NOEL of 30 ppm; 90-day subchronic rat and dog feeding studies with a NOEL of 60 ppm for rats and 150 ppm (HDT) for dogs (HDT); a 24-month rat chronic-feeding/oncogenicity study that resulted in a systemic NOEL of 60 ppm in which no oncogenic effects were noted at dosage levels of 30, 60, and 120 ppm (120 ppm being the highest dosage level tested) under the conditions of the study; an 18-month mouse oncogenic study in which no oncogenic effects were noted at dosage levels of 30, 60, and 120 ppm (120 ppm being the highest dosage level tested) under the conditions of the study; and the following mutagenicity studies: an Ames test at 1,000 micrograms (ug)/Plate (HDT) and a rat dominant-lethal test at 10.0 mg/kg (HDT), both negative.

A 1-year dog feeding study previously identified as desirable has been submitted and is being reviewed by the Agency.

The acceptable daily intake (ADI) is calculated to be 0.015 mg/kg/day based on the 3-generation rat reproduction study and its NOEL of 30 ppm (1.50 mg/kg/day) using a 100-fold safety factor. The maximum permissible intake (MPI) is calculated to be 0.900 mg/day for a 60-kg person. Published and pending tolerances result in a theoretical maximum residue contribution (TMRC) of 0.1468 mg/day based on a 1.5-kg diet and utilize 16.31 percent of the ADI. The establishment of these tolerances will not increase the TMRC, resulting in no increase in the total utilization of the percentage of the ADI.

The nature of the residues is adequately understood for this tolerance. An adequate analytical method, gas chromatography, is available for enforcement purposes. There are currently no regulatory actions pending against continued registration of this pesticide, and there are no other relevant considerations in establishing this tolerance.

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 insecticide flucythrinate 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 notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. 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: May 7, 1985.

Steven Schatzow,

Director, Office of Pesticide Programs.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.400 is amended by adding, and alphabetically inserting, the raw agricultural commodities, to read as follows:

§ 180.400 Flucythrinate; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Corn fodder	3.00
Corn forage	3.00
Corn grain	0.05
* * * * *	

[FR Doc. 85-12023 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 173

[Docket No. HM-149D, Amdt. No. 173-187]

Exceptions for Specified Quantities of Radioactive Materials; Correction

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

ACTION: Emergency final rule; correction.

SUMMARY: This document corrects an emergency final rule published in the **Federal Register** on May 2, 1985, under Docket No. HM-149D (50 FR 18667). The emergency final rule published under HM-149D renewed for two years the exceptions (statutory exemptions) for specified quantities of radioactive materials found in 49 CFR 173.4, 173.421-1 and 173.421-2. The effective dates of the exceptions found in these sections were extended until May 2, 1987. The emergency final rule also revised the language contained in §§ 173.448(f) and 175.700(c). This action is necessary to correct an inadvertent editorial change that was made to § 173.448(f) of that document because the change as published would have prohibited the transportation by passenger-carrying aircraft of radioactive materials which the rule change was intended to authorize.

FOR FURTHER INFORMATION CONTACT: Lee Jackson, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, (202) 426-2075.

PART 173—[AMENDED]

Section 173.448(f) appearing on page (50 FR 18668) is correctly revised to read as follows:

§ 173.448 General transportation requirements.

* * * * *

(f) No person shall offer for transportation aboard a passenger-carrying aircraft any radioactive material unless that material is intended for use in, or incident to, research, medical diagnosis or treatment.

* * * * *

Authority: 49 U.S.C. 1803, 1804, 1805, 1807, 1808; 49 CFR 1.53(e).

Issued in Washington, D.C., on May 15, 1985.

L.D. Santman,

Director, Materials Transportation Bureau.

[FR Doc. 85-12239 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-60-M

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 13]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice amends Safety Standard No. 108 to allow motor vehicles to be equipped with replaceable bulb headlamp systems consisting of either four lamps with single standardized replaceable light sources, or two lamps each with two such light sources. Currently Standard No. 108 permits replaceable bulk systems only if they are comprised of two lamps with single standardized light sources. The amendment relieves the current replaceable bulb headlamp design restriction that allows only two-lamp single-light source systems.

Notice of the proposed amendment was published on December 7, 1984, and an opportunity afforded for comment (49 FR 47880). The proposal implemented the agency's grant of a petition for rulemaking by General Motors Corporation. It also responded to a petition by Volkswagen of America previously denied.

EFFECTIVE DATE: May 22, 1985.

ADDRESS: Petitions for reconsideration of the amendment should refer to the docket number and notice number of this notice and be submitted to: Administrator, National Highway Traffic Safety Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Jere Medlin, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, D.C. 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION:

Background

On June 2, 1983, NHTSA amended Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, to allow the use of a replaceable bulb headlamp system (48 FR 24690). This system is comprised of two headlamps, each with a standardized replaceable light source containing both an upper and lower beam filament.

Among the petitions for reconsideration of the rule was one from Volkswagen of America, asking that a four-lamp system be allowed, each with its own light source, which would be the standard dual-filament light source which the agency has adopted. NHTSA denied this petition (48 FR 44815), commenting that rulemaking which would allow dual-filament light sources in a four-lamp configuration, or two dual-filament light sources in a single cavity, could not be entertained until certain issues could be considered further. As the notice stated, these issues involved whether only two lamps should be illuminated on upper beam (in four-lamp systems all four are presently required) and if so whether it is important that the front corners of the vehicle be otherwise indicated. Other issues concerned simultaneous actuation of light filaments in a headlamp system (this could produce excessive illumination) and uncertainties in the ability to insure correct simultaneous upper beam or lower beam aim if the bulb reflector systems were not separate upper and lower beam units. Subsequently, General Motors Corporation petitioned the agency for rulemaking to allow a two-lamp system with two standard dual-filament light sources in a single cavity. The agency granted that petition and published a notice of proposed rulemaking (NPRM) on December 7, 1984 (49 FR 47880). As there was a similarity between the system that VW wished the agency to consider, and the one for which a petition was granted, the two systems proposed by the NPRM were simply those incorporating quadruple light sources. The agency reviewed the issues on which the previous denial was based, and presented them for discussion and comment in the NPRM.

GM argued that the two-source system it has requested will allow it greater freedom in designing aerodynamic front ends than the present standard for replaceable bulb headlamps. Under the present standard, considering the possible out-of-focus relationship of the filament to the focal point of the reflector in a current replaceable bulb headlamp, the headlamp's vertical dimensions may be greater than desirable for aerodynamic purposes. By installing two light sources in the same headlamp, a smaller height is possible if the lower and upper beam filament are placed exactly on the focal point of their respective parabolas. Benefits attributable by GM to this intended system of headlamps of lesser height include possible improvements in photometric performance and improved fuel economy through aerodynamic efficiency by lowering the edge of the hood.

As the NPRM noted, another benefit could occur because only one filament would be in use in each dual filament standardized replaceable light source in four-lamp systems and two-bulb systems. For example, should a lower beam filament burn out, the light source could be immediately interchanged with the adjacent upper beam light source, whose lower beam filament would not have been utilized. After the exchange, the burned-out lower filament would become irrelevant as the upper beam filament in that bulb would now be available for use.

Both existing replaceable bulb photometrics and photometrics similar to those proposed for Type F sealed beam headlamps were proposed. Comments were solicited on each photometric option.

GM would aim both bulbs in a single housing by a single adjustment, such as is currently used in the two-lamp round and larger rectangular systems. The GM system can utilize the same aimer adapters that are available for single replaceable bulb headlamps.

Four-headlamp systems such as VW contemplates offer distinctive design possibilities which are similar but not identical to those offered by systems with two bulbs per lamp. NHTSA proposed that four-lamp replaceable bulb headlamp systems consist of two lamps providing upper beam photometrics, and two lamps providing lower beam photometrics. The reflectors of these lamps would be designed to optimize the lower beam filament at the focal point of the lower beam lamp reflector and optimize the lens prescriptions for dedicated lower beam use. The upper beam lamp would be optimized in a similar manner. This type of system has been adopted for the new smaller four-lamp Type F sealed beam system (49 FR 50176). The dedicated lens prescription of each lamp would be marked "U" for upper beam, or "L" for lower beam, as appropriate. In conjunction with the option proposing Type F lamp photometrics, simultaneous use of the upper and lower beam would have been permitted as a manufacturer's option, and new glare limits would be added to the photometric requirements to help minimize potential problems from excessive foreground light during simultaneous use.

Because of the shorter life of filaments producing the upper beam, the agency also proposed that the lower beam photometrics be met by lower beam filaments alone. For the same reason, it was proposed that simultaneous activation of both filaments in a single bulb be prohibited, since the bulb is not designed to be used in this manner, and bulb life would be shortened. As this proposed amendment affects the standardized replaceable bulb, it would be applicable to all lamp configurations using that bulb, including the two-lamp/one bulb per lamp system previously adopted.

The agency also proposed revisions in the wording describing the aiming pad prescription requirements, clarifying them and relieving design restrictions. In effect, the agency would allow headlamps which may utilize mechanical aimer adapters with three adjustable legs. Accordingly, it was proposed that Figures 9–1 and 9–2 be deleted and appropriate changes made in the text.

In addition to comments on the merits of the system proposed by the NPRM, the agency was also interested in comments relating to the relationship between headlamp replacement costs and safety. Although GM has told NHTSA that the replacement cost of the glass lens/plastic reflector assembly for its new lamps would be in the neighborhood of $35, the actual cost could be several times higher for low volume designs. If that cost were not subsidized by the manufacturer, it could well be over $100 per lamp. Current retail cost for a replacement light source at Ford dealers is $16.75. Therefore, since the same light source (bulb) would be used in the GM system, the total replacement cost for the GM system, including lens/reflector assembly, two light sources, and labor, was estimated at about $80. It is estimated that about one complete headlamp will need to be replaced over the lifetime of the vehicle due to accident or stone damage. Therefore, the agency solicited specific comments on the following issues: The relationship between cost and the probability of replacement of headlamp or bulb, the time lag that may exist between outage and replacement because of costs, and the extent to which cost considerations of nonmandated headlamps should enter into the agency's rulemaking considerations.

Ford Motor Company, whose petition was implemented by the amendment (48 FR 24690), had emphasized to the agency that one of the primary safety benefits of the new type of headlamp was that the light source could be replaced without removal of the headlamp, replacement of the lens-reflector portion of the headlamp, or the necessity to reaim. With respect to the vehicle on which the system has been first installed, the Mark VII, bulb replacement is a simple matter of opening the hood, finding the rear of the headlamp, disengaging the old bulb by a twist of it in its mounting, and replacing it in a similar manner. The agency had been informed by General Motors that it intends to use replaceable bulb headlamps on a number of its 1986 model car lines, but that on two of these lines, the light source cannot be replaced without removing the headlamp itself. Since this situation was not envisioned with replaceable bulb headlamps, the agency sought comments on this issue; that is, is there a relationship between vehicle safety and the ability to replace the bulb without tools. The agency desired a quantitative assessment, to the extent practicable.

NHTSA also sought comment on the possibility of problems with aligning optical aiming equipment with lamps which have more than one bulb.

In implementation of the considerations discussed above, NHTSA proposed that the definition in paragraph S3 of "replaceable bulb headlamp" be amended to include headlamps with two standardized replaceable light sources. It was noted that this light source is the only allowable light source for use in achieving the required upper or lower headlamp beam pattern. Under NHTSA interpretations, however, the standardized replaceable light source is not the only light source which may be included in a replaceable bulb headlamp unit. Other light sources, such as parking lamps, turn signal lamps, and fog lamps are not prohibited, as long as they do not interfere with the required headlighting function.

The agency also sought to clarify the language in the standard regarding several of the testing requirements. The agency intended that headlamps utilizing the standardized replaceable bulb shall be able to meet the applicable performance requirements of Standard 108 with any standardized replaceable bulb intended for use in that lamp. Thus, for example, lamps must be able to pass the tests referenced in paragraph S4.1.1.36(b) not only with the bulb used as original equipment in that lamp but also with bulbs from other manufacturers intended for use in that lamp. Since most replaceable bulbs will be sold in the aftermarket and not as original equipment (assuming the same distribution of sales as for sealed beams), this requirement is necessary to ensure the proper functioning of the headlamp so that it meets the need for motor vehicle safety. Specifications on the bulb itself, already promulgated by the agency, ensure that manufacturers have a reasonable design envelope within which to produce their lenses and reflectors. This clarification would result in an amendment to paragraph S4.1.1.36(b).

NHTSA proposed that a headlamp with two light sources or a lamp in the system of four replaceable light sources meet the upper and lower beam photometric requirements of Table I of SAE J579c or new photometric requirements in proposed Figures 17 and 18, stating that a final decision would be made between these two choices. The agency proposed also that the aim of the upper beam of dual light source headlamps cannot be adjusted separately from that of the lower beam light source. This proposal applies only to headlamp systems which are comprised of two headlamps and contain two bulbs in each headlamp. In these instances, there is only one set of aiming pads on each lamp, yet there are two bulb reflector sets in that lamp. If both upper and lower beam lamps are not aimed simultaneously—that is, with a single aiming adjustment—then consumers, or repair facilities, would not be able to aim the lamp using the aiming pads but would be required to disassemble the lamp to adjust each reflector separately. This proposal, which was applicable only to the two-lamp, four-bulb system ensures that proper headlamp aiming, which the agency has traditionally considered necessary for motor vehicle safety, is achievable with current aiming equipment. It was further proposed that the lower beam be produced by a filament with an average life of 320 hours, the equivalent of the current lower beam light source filament. Paragraph S4.1.1.36(d) would be modified under the proposal to check for lens deflection in front of each bulb following the internal heat test.

In adopting replaceable bulb headlamp systems, the agency, in S4.1.1.39 required, for the period July 1, 1983, to July 1, 1984, that each vehicle be equipped with a spare bulb as part of its original equipment. The agency noted that it anticipated that replaceable bulbs should be readily available through normal distribution channels at the end of the one year period. The agency is satisfied that such bulbs are available and therefore proposed the deletion of S4.1.1.39, which has expired.

Similarly, the agency adopted paragraph S8 to require, until July 1, 1984, that each vehicle also be furnished with adapters for mechanical aiming devices. The agency was convinced that sufficient adapters are available and that there should be no problems in inspection and aiming of motor vehicles with replaceable bulb headlamps which are not provided with these adapters. Therefore, NHTSA also proposed, *pro forma*, deletion of paragraph S8, which is no longer in effect.

New paragraphs would be added to S4.5 to guarantee that only appropriate filaments will be energized. For systems which use four standardized replaceable light sources, it was proposed that Tables II and IV be amended to state that the outermost light source (in a two-lamp system) or outermost lamp (in a four-lamp system) be used to produce the lower beam. This serves to mark the width of the vehicle during low beam use, as a cue to oncoming drivers.

Paragraph S6.7, relating to temperature and internal heat tests, would be modified for multiple bulb headlamps. Both upper and lower beam photometrics would have to be met after each test. During the hot cycle, the highest combination of filament wattages capable of being used would be energized simultaneously (e.g., fog lamps, parking lamps, turn signal lamps).

Paragraph S6.8, relating to the humidity test, would be amended to add temperature tolerances to the final phase of the test which have heretofore been inadvertently omitted. Currently the specification is 73 °F (23 ° C). The agency proposed adding a tolerance of +7−0 °F (+4−0° C). In addition, the agency proposed reducing the excessively large tolerances on the humidity tolerance from ±10% to +5%−0% and the temperature from ±9 °F to +9−0 °C (+4−0 °C). This is being done to increase test result repeatability and make the test requirement more definitive.

On Figure 4–1, one aiming pad was misidentified as a Class II pad; that would be corrected. In addition, this Figure would be amended to illustrate the proposed definition of aiming reference plane. The title of Figure 4–2 would be modified to reflect its use as an example. Figure 7 would be changed to permit a wider test box since some headlamps would not fit into one of 16 inches width; 24 inches is proposed.

Issues

Comments were received on the notice from six motor vehicle manufacturers, one vehicle manufacturers trade organization, one test laboratory and the Department of California Highway Patrol; seven comments were also received from manufacturers of lighting equipment.

The major issue presented by the proposal was whether the presently applicable photometrics of SAE J579c met by the two standardized replaceable light sources in current two-lamp systems should also apply if four such sources were permitted, or whether the photometrics recently adopted for the Type F four-lamp smaller sealed beam system would be preferred. Commenters almost unanimously opposed Type F photometrics for the proposed type of headlighting system. The reason for the opposition is that the standardized replaceable light source uses transverse filaments while the filament in Type F lamps is axial. NHTSA concurs with the concerns expressed by commenters, and is adopting the existing photometrics of SAE J579c for the two headlighting systems incorporating four standardized replaceable light sources.

A second issue of concern to commenters was the proposed prohibition against simultaneous use of upper and lower beams in a four-lamp system, if the J579c photometrics were allowed, as contrasted with the lack of such a prohibition for systems with Type F photometrics. The principal reason for the difference is that Type F photometrics contemplate such use, and compensate for it, while SAE J579c does not. Therefore, on four-headlamp systems, simultaneous use of both upper and lower beam, or use of all four lamps for either upper or lower beam, is prohibited. Commenters interpreted the prohibition as forbidding use of the "optical horn" or flash-to-pass feature found on many cars. NHTSA did not intend to prohibit this feature and the final rule specifies the exception allowing momentary signaling use. On two-lamp systems, simultaneous use of both light sources in a headlamp is permitted in either the upper or lower beam mode. However, the requirement for both lamps of a two-lamp system to produce light which satisfies either the upper beam specifications of J579c or the lower beam specifications of J579c effectively prohibits other beam patterns, such as a mixture of upper and lower beam photometrics, except for momentary signaling.

Commenters were also concerned with proposed S4.1.1.36(b) which would have required compliance of each replaceable bulb headlamp "with any standardized replaceable light source intended for use in such headlamp." NHTSA's intent was that each headlamp should be designed to conform with any randomly selected bulb meeting the specifications of Figure 3 and produced by any manufacturer. General Motors and others suggested that such headlamps be "designed to conform" with any bulb, rather than "conform", and the final rule adopts this suggestion.

The proposed environmental test requirements were the source of many comments. In order to insure a humidity environment of not less than 90%, the agency proposed a relative humidity of 90–0+5%. Commenters instead interpreted this as a tolerance and suggested plus or minus 2 or 3 percent as more appropriate. NHTSA wishes to clarify that it intends a test environment "of not less than 90%" relative humidity and has therefore adopted the words as quoted. Other comments received advised NHTSA that the Notice failed to specify that the flasher, if tested simultaneously with the headlamp, should be flashing at its normal rate, and that a continuous flashing for one hour (the test period) was inappropriate. In recognition of these comments, the procedure adopted specifies that the flasher shall operate at 90 flashes a minute with a 75±2% "on time" (the rate intended to produce maximum "on time"). NHTSA believes that the one-hour duration of flashing, for the turn signal, is appropriate due to the use of these lamps as hazard warning signals. This value is based upon Figure 1, SAE Recommended Practice J590b *Automotive Turn Signal Flashers*, October 1965, already incorporated by reference in Standard No. 108 as the standard for turn signals.

With respect to lens markings, comments were received that the agency should not restrict markings to the outside of the lens, but to allow them to be placed inside for facilitation, under some circumstances, of the marking of the adjustable mechanical aimer setting. NHTSA concurs with this request, and the final rule so permits. Comments were also submitted as to the size of the lens lettering, NHTSA having proposed a minimum size of .25 inch. This size could interfere with the lens prescription on smaller headlamps. Motor Vehicle Manufacturers Association suggested .157 inch (4 mm), the minimum height specified for Vehicle Identification Numbers, and NHTSA has acceded to this request. A concurring amendment also deletes dimension G in Figure 4–4.

There were a number of comments as well which raised other technical issues. Ford Motor Co. recommended deleting the language in proposed S4.1.1.36(a)(2) regarding the secondary aiming plane, saying that it was unnecessary and

created confusion. However, NHTSA has adopted the language as proposed, in order to cover such theoretically possible headlamps as those with split slope, or reverse slope lens. Ford also requested that the agency not adopt a requirement that the outermost lamp or bulb produce the lower beam, arguing that it would be applicable only to replaceable bulb headlamps. The agency disagrees; Standard No. 108 already in essence requires this for sealed beam headlamps by specifying that Type 2 headlamps, those providing the lower beam, be as far apart as practicable.

Stanley Electric Co. Ltd. of Japan requested that there be no aim adjustment allowable, by consumers, between the high and low beam reflectors on headlamps with two light sources. NHTSA agrees, and this was the intent of the addition of paragraph (e)(1) to S.4.1.1.36. Stanley also requested language be added to the standard to permit adjustments during the manufacturing process. Such adjustments are already permitted and the agency believes that additional regulatory language is unnecessary. Thus, the reflector and requirements of S.4.1.1.36.(e)(1) are adopted as proposed.

Ford and Volkswagen objected to the wiring harness requirements proposed in paragraph S4.5.9. VW argued that strict adherence might be precluded by assembly considerations. Ford believed it unduly design restrictive. NHTSA has concluded that this paragraph should prevent situations such as a four-lamp system from being used when only two lamps were intended to be used, and that in the absence of such a requirement there might be excessive glare and candela beyond the maximum allowed by the standard. Therefore the paragraph is being adopted as proposed.

General Electric requested a clarification of paragraph S4.1.1.36(b)(2) on how the aiming reference plane should be located in a photometer when measuring an inseparable two-lamp/two-bulb per lamp system, specifically whether the upper beam is measured on or off the photometric axis, assuming that the lower beam is measured on axis. NHTSA expects the aiming pads to be located on the optical axis of the lower beam portion of the headlamp when only one light source is used for the lower beam.

With respect to paragraph S6.7.2, Hella commented that the internal heat test for two-bulb headlamps was unnecessarily severe and costly because the test is repeated on both upper and lower beams in the same headlamp. The agency does not agree, because the power level is different for each beam, as is the location of thermal input. Thus, a warp in the headlamp housing could develop from heat in either location.

ETL Testing Laboratories raised the question as to compliance of a turn signal in a replaceable headlamp assembly. For example, if moisture is evidenced after the humidity test, does the turn signal fail to conform, even though it is required as a turn signal to meet only the water spray test in SAE J575, June 1970. NHTSA wishes to clarify that in this example, it is the headlamp assembly that is being tested for compliance, not the turn signal which, nevertheless, must conform to SAE J575 and other turn signal tests.

ETL also commented that warpage after thermal testing might be more severe about the line of the headlamp's mechanical axis. Without judging the merits of that comment, NHTSA believes that there could be a problem if the mechanical axis is not in front of a bulb; this could occur if two bulbs are used in a headlamp and the axis is midway between the bulbs. The agency is therefore revising some of the language in Subsections (A) and (B) of paragraph S4.1.1.36(d)(6). The phrase "when measured perpendicular to the aiming plane at the point of intersection of the mechanical axis with the exterior surface of the lens" is revised by deleting the word "mechanical" and substituting "replaceable light source."

The agency also asked for comments on several general issues related to replacable bulb headlighting for which no specific requirements were proposed. NHTSA asked if there were a relationship between vehicle safety and the ability to replace a bulb without tools. As noted, NHTSA was under the impression that replaceable bulb headlamp *per se* would be designed with easily replaceable light sources, which would encourage timely replacement in the event of burn-out. Those who commented agreed with NHTSA's intuitive conclusions that safety would be benefitted but provided no quantitative assessment. GM believed that such a feature was preferable and stated that it planned to eliminate the need for tools in future designs. Comments generally supported the need for ease of replacement, and NHTSA will defer any further action on this issue for the present time.

NHTSA also expressed concern about replacement costs; the relationship between cost and the probability of replacement of the lamp or light source, the time lag that may exist between outage and replacement because of costs, and the extent to which cost considerations of non-mandated headlamps should enter into the agency's rulemaking considerations. Comments were varied and inconclusive, and the following are illustrative: a vehicle equipped with headlamps with a glass lens may have a higher lifetime cost than one equipped with headlamps with a polycarbonate lens because of the greater susceptibility to stone damage of glass lenses; the cost of light sources will probably fall when additional manufacturers enter the market; the time lag for any repair may be longer on an older car than on a new one; no quantifiable relationship exists. If there were a common view it was that NHTSA's primary concern should be the performance of the headlamp itself, and the assurance that new types of system should perform, at a minimum, as well as those currently allowed. Having received no clear-cut answers to its questions, NHTSA, will continue to monitor these issues and defers further action.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291, "Federal Regulation," or significant under Department of Transportation regulatory policies and procedures. A regulatory evaluation has been prepared and placed in the public docket. Since use of the proposed headlamps is optional, the rule will not impose additional requirements or costs but will permit manufacturers greater flexibility in use of headlighting systems.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule may have a small positive effect on the human environment since the weight and quantity of material used in the manufacture of headlamps would be reduced.

The agency has also considered the impacts of this rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no initial regulatory flexibility analysis has been prepared. Manufacturers of motor vehicle headlamps, those affected by this rule, are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions would not be significantly affected since the price of new vehicles, headlamps, and aimer adjusters will be minimally impacted.

Because of the necessity of vehicle, headlamp, and bulb manufacturers to plan production and distribution on an orderly basis, it is found that an effective date earlier than 180 days after

issuance of the final rule is in the public interest.

The engineer and lawyer primarily responsible for this rule are Jere Medlin, and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and Rubber products, Tires.

PART 571—[AMENDED]

§ 571.108 [Amended]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment*, is amended as follows:

The authority citation for Part 571 is revised to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

1. A new definition "Aiming Reference Plane" is added to Section S3 *Definitions* to read as follows:

"Aiming Reference Plane" means a plane which is perpendicular to the longitudinal axis of the vehicle and tangent to the forwardmost aiming pad on the headlamp.

2. The definition of "Replaceable Bulb Headlamp" in Section S3 *Definitions* is revised to read:

"Replaceable bulb headlamp" means a headlamp comprising of bonded lens and reflector assembly and one or two standardized replaceable light sources.

3. In paragraph S4.1.1.36 the word "two" is deleted.

4. In paragraph S4.1.1.36, the last sentence of paragraph (a)(2) is removed and the following four sentences added:

The lens of each replaceable bulb headlamp shall have three pads which meet the requirements of Figure 4. Except as provided in subparagraph (a)(3), a whole number, which represents the distance in tenths of an inch (i.e., 0.3 inch=3) from the aiming reference plane to the respective aiming pads which are not in contact with that plane, shall be inscribed adjacent to each respective aiming pad on the lens. The height of these numbers shall be not less than .157 inch (4 mm). If there is interference between the plane and the area of the lens between the aiming pads, the whole number will represent the distance to a secondary plane. The secondary plane shall be located parallel to the aiming reference plane and as close to the lens as possible without causing interference.

5. A new paragraph (a)(3) is added to paragraph S4.1.1.36 to read:

(a) * * *

S4.1.36 * * *

(3) If the most forward aiming pad is the lower inboard aiming pad, then the dimensions may be placed anywhere on the lens. The dimension for the outboard aiming pad (Dimension F in Figure 4) shall be followed by the letter "H" and the dimension for the center aiming pad shall be followed by the letter "V". The dimensions shall be expressed in tenths of an inch.

6. Paragraph (b) of paragraph S4.1.1.36 is revised to read:

* * * * *

(b) Each replaceable bulb headlamp shall be designed to conform to the following sections of the specified SAE Standards and Recommended Practices with any standardized replaceable light source intended for use in such headlamp.

7. Paragraph (b)(2) of paragraph S4.1.1.36 is revised to read:

(b) * * *

(2) Section 3.1—Test Voltage, and Section 3.5—Photometric Design Requirements, excluding Table 2, of SAE J579c "Sealed Beam Headlamp Units for Motor Vehicles" December 1978. The term "aiming plane" in paragraph 3.5 of SAE J579c shall mean "aiming reference plane."

8. Paragraphs (A) and (B) of paragraph S4.1.1.36(d)(6) are amended by removing the words "mechanical axis" and replacing them with "axis of each replaceable light source."

9. A new paragraph (e) is added to S4.1.1.36 to read:

(e) (1) There shall be no mechanism that allows adjustment of an individual standardized replaceable light source or adjustment of reflector aim on a headlamp with two standardized replaceable light sources.

(2) Lower beam photometrics shall be provided by a filament designed with an average life of 320 hours.

(3) The lower and upper beams of a headlamp system consisting of two lamps, each containing two standardized replaceable light sources, shall be provided as follows:

(i) The lower beam shall be produced in one of the following ways:

(A) By the outboard light source (or the upper one if arranged vertically) designed to conform to the lower beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978; or

(B) By both light sources, designed to conform to the lower beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978.

(ii) The upper beam shall be provided in one of the following ways:

(A) By the inboard light source (or the lower one if arranged vertically) designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978; or

(B) By both light sources, designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978.

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (e)(3)(i) and (e)(3)(ii) of this section.

(4) The lower and upper beams of a headlamp system consisting of four lamps, each containing a single standardized replaceable light source, shall be provided as follows:

(i) The lower beam shall be produced by the outboard lamp (or upper one if arranged vertically), designed to conform to the lower beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978. The lens of each such headlamp shall be permanently marked with the letter "L".

(ii) The upper beam shall be produced by the inboard lamp (or lower one if arranged vertically), designed to conform to the upper beam requirements of Table I of SAE Standard J579c *Sealed Beam Headlamp Units for Motor Vehicles*, Dec. 1978. The lens of each such such headlamp shall be permanently marked with the letter "U".

(iii) Each such headlamp manufactured as replacement motor vehicle equipment shall be designed to meet the requirements of paragraphs (e)(4)(i) and (e)(4)(ii) of this section.

10. New paragraphs S4.5.8, S4.5.9, and S4.5.10 are added to read:

S4.5.8 The lower and upper beams of a headlamp system consisting of four lamps, each containing a single standardized replaceable light source, shall not be activated simultaneously, except momentarily for temporary signaling use.

S4.5.9 The wiring harness or connector assembly of a replaceable bulb headlamp with two standardized bulbs or a four-lamp replaceable bulb headlamp system shall be designed so that the filaments not intended to be used with the lens prescription in front of such filament shall not be illuminated.

S4.5.10 The filaments in a dual filament standardized replaceable light source shall not be activated simultaneously except momentarily when switching between beams, or for temporary signaling use.

11. Paragraph S4.1.1.37 is revised to read:

S4.1.1.137 Each lens-reflector unit manufactured as replacement equipment

for a replaceable bulb headlamp system shall be designed to conform to the requirements of S4.1.1.36 when any standardized replaceable light source is inserted in it.

12. Paragraph S4.1.1.39 and paragraph S8 are removed.

13. Paragraphs S6.7 and S6.8 are revised to read:

S6.7 *Temperature and internal heat tests*—A headlamp with one replaceable standardized light source shall be tested according to S6.7.1(a) and S6.7.2(a). A headlamp with two standardized replaceable light sources shall be tested according to S6.7.1(b), S6.7.1(c), S6.7.2(b) and S6.7.2(c).

S6.7.1 *Temperature cycle.*

(a) *Test for a headlamp with on standardized replaceable light source.* A headlamp, mounted on a headlamp test fixture, shall be exposed to 10 complete consecutive thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the highest combination of filament wattages such as upper beam, fog lamp, parking lamp, and turn signal lamp, that are intended to be used simultaneously in the headlamp, shall be energized at design voltage commencing at point "A" of Figure 6 and deenergized at point "B". If a turn signal is provided, for test purposes it shall flash at 90 flashes per minute with a 75±2% current "on time." Separate or single test chambers may be used to separate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

(b) *Test for the lower beam of a headlamp with two standardized replaceable light sources.* A headlamp mounted on a headlamp test fixture, shall be exposed to 10 complete consecutive thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the highest combination of filament wattages such as fog lamp, parking lamp, and turn signal lamp, that are intended to be used simultaneously in the headlamp when operating on lower beam shall be energized at design voltage commencing at point "A" of Figure 6 and deenergized at point "B". If a turn signal is provided, for test purposes it shall flash at 90 flashes per minute with a 75±2% current "on time." Separate or single test chambers may be used to separate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating position.

(c) *Test for the upper beam of a headlamp with two standardized replaceable light sources.* A headlamp mounted on a headlamp test fixture shall be exposed to 10 complete consecutive thermal cycles having the thermal cycle profile shown in Figure 6. During the hot cycle, the highest combination of filament wattages such as fog lamps, parking lamps, and turn signal lamps, that are intended to be used simultaneously when the headlamp is operating on upper beam shall at design voltage be energized simultaneously commencing at point "A" of Figure 6 and deenergized at point "B". If a turn signal is provided, for test purposes it shall flash at 90 flashes per minute with a 75±2% current "on time." Separate or single test chambers may be used to generate the temperature environment described by the thermal cycle profile. All drain holes, breathing devices or other designed openings of the headlamp shall be in their normal operating positions.

S6.7.2 *Internal Heat Test.*

(a) *Test for a headlamp with one standardized replaceable light source.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point H–V of the upper beam (or at the ½°D–1½°R test point for low beam if the headlamp is an "L" headlamp in a four-lamp system) to 25±2% of the output originally measured in the upper beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(a)(1), the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7−0 °F (35+4−0 °C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on upper beam (or lower beam for an "L" lamp headlamp) shall be energized for one hour in a still air condition, allowing the temperature to rise from 95 °F (35 °C).

(3) The lamp shall be returned to a room ambient temperature of 73+7−0 °F (23+4−0 °C) and relative humidity of 30±10%. The lens shall then be cleaned. Photometric output of the lamp shall be determined according to S6.1.

(b) *Test of the lower beam of a headlamp with two standardized replacement light sources.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point ½ °D–1½ °R or the lamp to 25±2% of the output originally measured in the lower beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(b)(1), the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7−0 °F (35+4−0 °C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on lower beam shall be energized simultaneously for one hour in a still air condition, allowing the temperature to rise from 95 °F (35 °C).

(3) The lamp shall be returned to a room ambient temperature 73+7−0 °F (23+0 °C) and relative humidity of 30±10%. The lens shall then be cleaned. The photometric output of the lamp on lower beam shall be determined according to S6.1

(c) *Test of the upper beam of a headlamp with two standardized replaceable light sources.*

(1) The lens surface of the headlamp that would normally be exposed to road dirt shall be sprayed uniformly with any appropriate mixture of dust and water or other material to reduce the photometric output at the test point H–V of the lamp to 25±2% of the output originally measured in the upper beam photometric test under S4.1.1.36(b). Such reduction shall be determined under the same conditions under which the original measurement was made.

(2) After the determination has been made that the photometric output of the lamp has been reduced as specified in S6.7.2(c)(1), the lamp and its mounting hardware shall be mounted in an environmental test chamber in the manner similar to that indicated in Figure 7 "Dirt-Ambient Test Setup." The headlamp shall be soaked for one hour at a temperature of 95+7−0 °F (33+4−0 °C) and then the highest combination of filament wattages that are intended to be used simultaneously when operating on upper beam shall be energized simultaneously for one hour in a still air condition, allowing the temperature to rise from 95 °F (35 °C).

(3) The lamp shall be returned to a room ambient temperature of 73+7−0 °F (23+4−0 °C) and relative humidity of 30+10%. The lens shall then be cleaned. The photometric output of the lamp on the upper beam shall be determined according to S6.1.

S6.8 *Humidity.* The headlamp mounted on a test fixture shall be placed in a controlled environment consisting of a temperature of 100+7−0 °F (38+4−0 °C) with a relative humidity of not less than 90%. All drain holes, breathing devices, and other designed openings shall be in their normal operating positions. The headlamp shall be subjected to 20 consecutive 6-hours test cycles. In each cycle, it shall be energized for 1 hour at design voltage with the highest combination of filament wattages that are intended to be used and then deenergized for 5 hours. If the turn signal is provided, for test purposes it shall flash at 90 flashes per minute with a 75±2% current "on time." After completion of the last cycle, the lamp shall be soaked for 1 hour at 73±7−0 °F (20±4−0 °C) and relative humidity of 30±10% before it is removed for photometric testing. The headlamp shall be tested for photometrics at 10±1 minutes following completion of the humidity test.

14. In Table II, under the column heading, "Multipurpose passenger vehicles, trucks, and buses", the entry for the item "headlamps" is revised to read as follows:

Headlamps providing the upper beam at the same height, 1 on each side of the vertical centerline; headlamps providing the lower beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. If a single lower beam light source is used in a headlamp with two standardized replaceable light sources, it shall be the farthest light source from the vertical centerline.

15. In Table IV, under the column heading, "Passenger cars, multipurpose passenger vehicles, trucks, and buses", the entry for the item "headlamps" is revised to read as follows:

Headlamps providing the upper beam at the same height, 1 on each side of the vertical centerline; headlamps providing the lower beam, at the same height, 1 on each side of the vertical centerline, as far apart as practicable. If a single lower beam light source is used in a headlamp with two standardized replaceable light sources, it shall be the farthest light source from the vertical centerline.

16. Figure 4–1 is revised as follows:

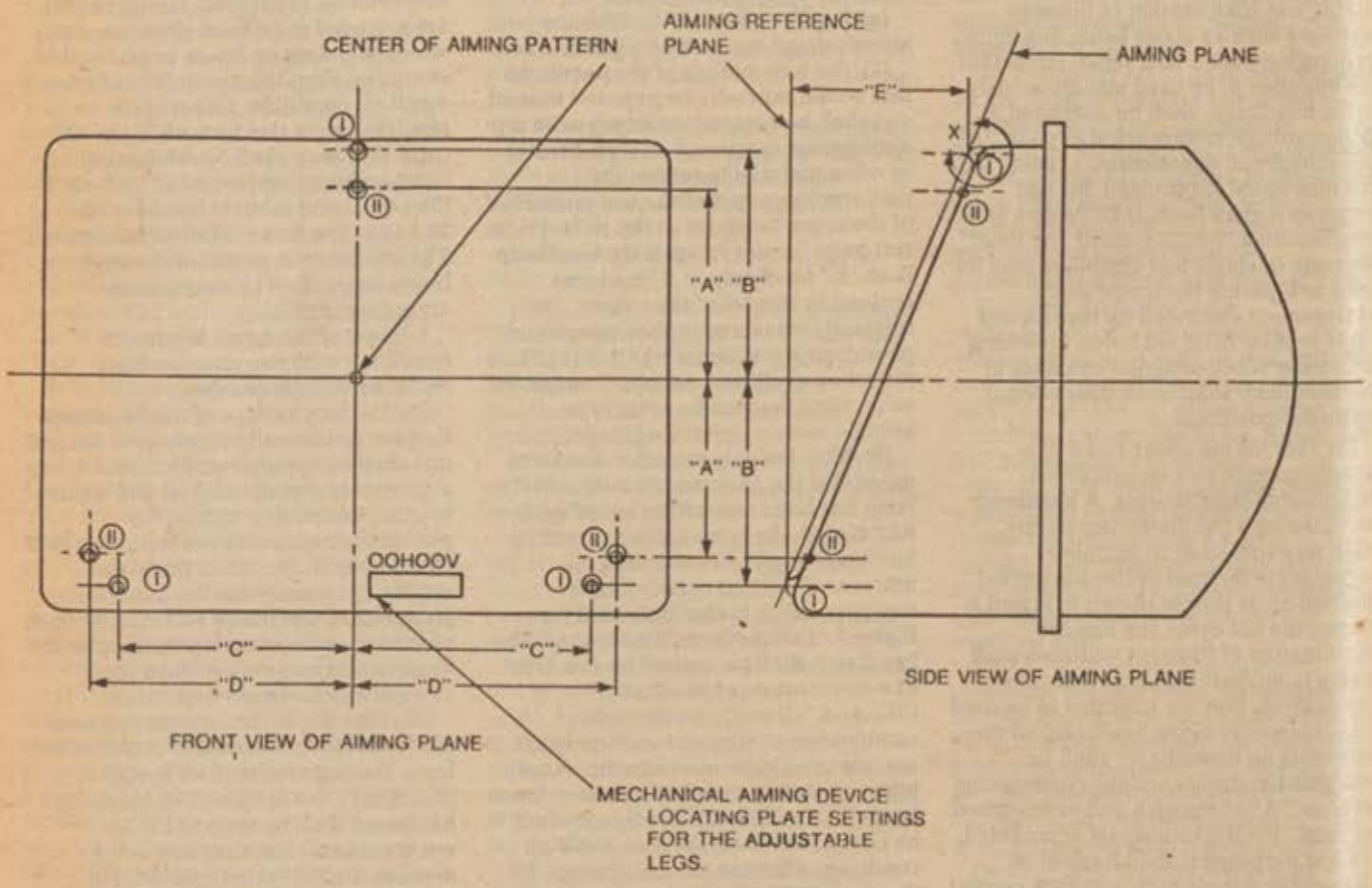

Figure 4–1. Dimensional Specifications for Location of Aiming Pads on Replaceable Bulb Headlamp Units

17. The title of Figure 4–2 is amended by removing the words "Dimensional * * * Units" from the heading.

18. In Figure 4–4 Dimension G and its dimensions in inches and millimeters are deleted.

19. In Figure 7 the width of the Block Box is changed from "16W" to "24W".

20. Figures 9–1 and 9–2 are removed.

(Secs. 103, 119, Pub. L. 89–563, 80 Stat. 718 (15 U.S.C. 1392, 1407); delegation of authority at 49 CFR 1.50)

Issued on May 17, 1985.

Diane K. Steed,

Administrator.

[FR Doc. 85–12357 Filed 5–20–85; 10:05 am]

BILLING CODE 4910–59–M

Proposed Rules

Federal Register
Vol. 50, No. 99
Wednesday, May 22, 1985

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Ch. IV

[Docket No. 2344S]

General Amendment; Various Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The proposed rule would amend all regulations relating to the insurance of specific crops or groups of crops issued by the Federal Crop Insurance Corporation (FCIC) and codified in Chapter IV of Title 7 of the Code of Federal regulations (7 CFR Part 400 *et seq.*) to provide that commercial insurance companies reinsured by FCIC would be used as the main means of delivering the crop insurance program. As amended, the regulations would also provide for crop insurance to be made available through such other means as the Manager determines is necessary to insure the adequate delivery of crop insurance. The authority for the promulgation of this rule is contained in the Federal Crop Insurance Act, as amended. The action is being considered on the basis of the following two-fold purpose and objective: (a) to maintain a high level of service to crop insurance policyholders, and (b) to utilize Federal tax dollars more efficiently and effectively.

COMMENT DATE: Written comments, data, and opinions on this proposed rule must be submitted not later than June 21, 1985 to be sure of consideration.

ADDRESS: Written comments on this proposed rule should be sent to the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

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

SUPPLEMENTARY INFORMATION: This action has been reviewed under USDA procedures established by Departmental Regulation No. 1512–1. This action does not constitute a review as to the need, currency, clarity, and effectiveness of the regulations cited herein under those procedures. The sunset review dates established for all regulations affected by this action remain unchanged and are made part of each regulation affected by this amendment.

Merritt W. Sprague, Manager, FCIC, has determined that the proposed rule (1) is not a major rule as defined by Executive Order 12291 because it will not result in: (a) an annual effect on the economy of $100 million or more; (b) major increases in costs or prices for consumers, individual industries, federal, State, or local governments, or a geographical region; or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets; and (2) will not increase the federal paperwork burden for individuals, small businesses, and other persons.

Although this proposed rule is not a major rule as defined by Executive Order No. 12291, it is a significant action under Executive Order No. 12498 and has been included as such in FCIC's draft regulatory program.

FCIC has prepared a Regulatory Impact Analysis in accordance with section 3(a) of Executive Order No. 12291. This analysis is combined with the draft Regulatory Flexibility Analysis discussed below.

This program is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115, June 24, 1983.

This action is not expected to have any significant impact on the quality of the human environment, health, and safety. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

The title and number of the Federal Assistance Program to which this proposed rule applies are: Title—Crop Insurance; Number 10.450.

Merritt W. Sprague, Manager, FCIC, hereby certifies that this proposed rule is not subject to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 601 *et seq.* since a general notice of this proposed rule is not required to be published by 5 U.S.C. 553, or any other law. However, since this proposed procedure for the provision of crop insurance is a substantial departure from the long established method of delivery of FCIC program benefits, an initial Regulatory Flexibility Analysis has been prepared in accordance with 5 U.S.C. 603.

Combined Regulatory Impact Analysis and Regulatory Flexibility Analysis

Date: May 15, 1985.

Agency: Federal Crop Insurance Corporation, USDA.

Contact: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, Phone: (202) 447–3325.

I. Title

Administration of Federal Crop Insurance Corporation's (FCIC's) Program Responsibilities.

II. Action Proposed

Conversion of FCIC's insurance operations from a combination of direct insurance policy writing and reinsurance of private commercial insurance company policies to a system predominantly relying on reinsured companies while retaining extended control over all aspects of the program.

III. Need for Action

The action is being considered on the basis of the following two-fold purpose and objective:

A. To maintain a high level of service to crop insurance policyholders.

B. To utilize Federal tax dollars more efficiently and effectively.

IV. Legislative Basis for Action

The Federal Crop Insurance Act of 1938, as amended, Pub.L. 75–430, (7 U.S.C. 1501 *et seq.*) provides the legislative basis for the options considered.

V. Options Considered

Option 1. Continue providing Federal crop insurance through a dual-channel delivery system of Master Marketers

and reinsured commercial insurance companies.[1]

Option 2. Provide the major portion of Federal crop insurance through reinsured commercial insurance companies.[2]

VI. Background

The Federal Crop Insurance Corporation, an agency of the United States Department of Agriculture, is authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), to offer actuarially sound programs of crop insurance protection to American farmers.

The Federal Crop Insurance Act (52 Stat. 72, February 16, 1938) (the Act), as amended, authorizes the Federal Crop Insurance Corporation to insure or reinsure insurers of agricultural commodities under any plan or plans of insurance determined by the Board of Directors to be adapted to such commodities, the regulations for which are found in Title 7 of the Code of Federal Regulations (7 CFR Part 400 *et seq.*).

Section 508(a) of the Federal Crop Insurance Act, as amended by Pub. L. 80–320, August 1, 1947, provided, commencing with crops planted for harvest in 1948, for reinsurance of insurers of producers of agricultural commodities and that such reinsurance be limited to contracts covering farms in not more than 20 counties. (7 U.S.C. 1508(a)).

On July 23, 1957, Pub. L. 85–111 added a new subsection 508(f) to the Act providing for reinsurance of crop insurance in Puerto Rico written by an agency of the Puerto Rican Government on any crop or plantation should private reinsurance become unavailable. (7 U.S.C. 1508(f)).

The most recent amendments to the Act (Pub. L. 96–365, September 26, 1980) made several changes including perhaps the most notable; that of providing for the sale of insurance through the private insurance sector by providing that FCIC shall, to the maximum extent possible, encourage the sale of Federal Crop Insurance through licensed private agents and brokers. (7 U.S.C. 1507(c)(3)).

Subsection 508(e) directed that, to the maximum extent practicable, consistent with subsections (a) and (b) of section 508 and with sound reinsurance principles, reinsurance be offered to insurers including private insurance companies or pools of such companies, and reinsurers of such companies that insure producers of any agricultural commodity under any plan acceptable to the Corporation. (7 U.S.C. 1508(e)).

Section 508(f) of the Act amended in 1980, directed FCIC to provide reinsurance for production of agricultural commodities in the Commonwealth of Puerto Rico, Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, in the same manner as provided for agricultural products in the United States. (7 U.S.C. 1508(f)).

Under the authority of the Federal Crop Insurance Act, the Federal Crop Insurance program provides crop insurance coverage for major commercially grown crops and select speciality crops in the United States. Currently, insurance coverage is offered in 3,012 counties on 38 crop programs plus combined crop insurance and prevented planting programs in designated counties. Crop insurance is presently provided through a dual-channel delivery system. One channel is composed of Agency Sales and Service contractors (Master Marketers) consisting of approximately 60 agencies. Each Master Marketer enters into a contract with FCIC to write FCIC policies in a direct insurance operation. Master Marketers provide management and supervision relating to sales and contract servicing, agent training and quality control.

A large number of the agents are licensed under applicable State law and all are certified by FCIC in the crops for which they sell insurance. The Federal Government compensates the Master Marketers on a commission basis.

FCIC provides marketing assistance, quality control, loss adjustment, claims payment, document processing and premium collection functions.

The second channel is composed of 48 reinsured commercial insurance companies under a Reinsurance Agreement. Reinsured commercial insurance companies write crop insurance policies under their own names, but under the same terms and conditions as provided on FCIC policies. The companies provide marketing, sales and contract servicing, quality control, document processing, premium collection, loss adjustment, claims payment and agent training. All agents are required to be licensed by applicable State law. FCIC reinsures these commercial insurance companies against a portion of the losses and compensates them for administrative costs.

FCIC premium, through its direct writing operations with Master Marketers, declined from $366.4 million in 1981 to an estimated $162.0 million for crop year 1985; a 56 percent decrease. Simultaneously, crop insurance premium on policies written by reinsured commercial companies increased from $12.8 million to an estimated $378.0 million, approximately a 2,900 percent increase.

The mix of business has firmly shifted from primarily FCIC policies to primarily reinsured commercial insurance company policies.

The shift in market shares between the Master Marketers and reinsured commercial insurance companies has a marked impact on the current FCIC infrastructure. For example, the current organizational structure of FCIC is to a major extent based upon an analysis of needs to support direct insurance and reinsurance operations at levels projected in the Fiscal Year 84 budget request and the actual $340 million of Federal policy premium for crop year 1982, the first full year of reinsured commercial company activities. Current estimated Federal policy premium through direct writing operations, is $162 million for crop year 1985; 48 percent of the projected business for which the current organizational structure was designed with full staffing. The reduction in the level of direct writing operation responsibilities on the part of FCIC has not been accompanied by a concurrent comparable reduction in support staffing levels.

VII. Section 603(b) Requirements

In accordance with section 603(b) of the Regulatory Flexibility Act (RFA)(Pub. L. 96–354, 5 U.S.C. 601 *et seq.*), FCIC, hereby provides the following:

603(b)(1): A description of the reasons why action taken by the agency is being considered.

The action under consideration is proposed to:

A. Improve service to crop insurance policyholders; and

B. Utilize Federal tax dollars more efficiently and effectively.

603(b)(2): A succinct statement of the objectives of, and legal basis for, the proposed rule.

The objective of the proposed rule is to convert the delivery system of Federal crop insurance from a combination direct insurance/

[1] In a small number of counties with marginal agricultural activity, the Agricultural Stabilization and Conservation Service (ASCS) provides the necessary crop insurance sales and service. It is anticipated that this practice would continue under either option.

[2] Should the Manager determine that a county cannot be serviced, or is not being adequately serviced through reinsurance, the Manager will make insurance available in that county on policies issued by FCIC.

reinsurance operation to one under which the Corporation is restructured along more commercial reinsurance lines, while maintaining established oversight responsibilities. The legal basis for the proposed rule is the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*).

603(b)(3): A description of and, where feasible, an estimate of the number of small entities to which the proposed rule will apply.

Small entities to which the proposed rule will apply include approximately 60 Agency Sales and Service Contractors writing FCIC policies for crop insurance in a direct writing operation, approximately 1,750 loss adjustment contractors performing loss adjustment of FCIC policies, and 48 companies presently reinsured by FCIC. All agents are certified by FCIC to sell insurance. All Agency Sales and Service contractors are compensated on a commission basis.

603(b)(4): A description of the projected reporting, recordkeeping and other compliance requirements of the proposed rule, including an estimate of the classes of small entities which will be subject to the requirement and the type of professional skills necessary for the preparation of the report or record.

For the purpose of the proposed action, FCIC classes all agencies currently under an Agency Sales and Service Contract and loss adjustment contractors to be "small business" in accordance with Section 3 of the Small Business Act (15 U.S.C. 632). All reporting requirements now affecting Agency Sales and Service Contractors and Loss Adjustment Contractors will be eliminated. The proposed rule contains no additional reporting or recordkeeping requirements applicable to reinsured companies. The companies will, of course, need to accumulate, process, and report sales of crop insurance policies and details of those contracts reinsured by FCIC as is presently required under the reinsurance contract.

603(b)(5): An identification, to the extent practicable, of all relevant Federal rules which may duplicate, overlap, or conflict with the proposed rule.

No known Federal rules duplicate, overlap, or conflict with the proposed rule.

VIII. Economic Impact

Under the basic applicability tests for the RFA, no boundaries are specified as to what constitutes "significant economic impact", or what constitutes a "significant number of small entities". FCIC, in consideration of these issues as they relate to the proposed action, has determined that, consistent with the principles of RFA, the approximately 63 agency sales and service contractors with a reported sales field force of 5,483; the 48 reinsured companies; and approximately 1,750 loss adjustment contractors constitutes a "significant number of small entities", and that the economic impact on the affected small entities falls into three basic categories, as follows:

1. The effect of the rule on the competitive position of small entities in relation to large entities.
2. Effect of the rule on the small entity's cash flow and liquidity.
3. Effect of the proposed action on the ability of the affected entity to remain in the market at all.

The proposed action to terminate the Agency Sales and Service Contracts affects the competitive status of the small entity by removing that entity from the field of competition for prospective insureds, thus providing opportunities for private commercial insurance companies of any size under a reinsurance agreement with FCIC to gain additional business. A more concise impact analysis is provided below.

In the case of Loss Adjustment Contractors, the proposed action would terminate such contracts affecting the small entity by removing that entity from the field of competition.

FCIC made an assessment of the impact upon the entities under Loss Adjustment Contract with FCIC and determined that there are approximately 1,750 Loss Adjustment Contractors (LACs) that have signed a Loss Adjustment and Contract Service Agreement to do loss adjustment related functions for FCIC in 1985. The amount of work to be performed varies from year-to-year and is primarily determined by farmer participation and crop conditions. For this reason, no assurance of a certain level of income can be made.

Of the approximately 1,750 LACs that have signed agreements with FCIC for the 1985 crop year, a recent survey of FCIC Field Operations Offices reveals that 99 contractors have indicated that loss adjustment work for FCIC is their only source of income. The survey results do not indicate how many of that number are persons whose spouses income is the prime source of income for the household while they consider payment under the loss adjustment contract to be separate for the purpose of income reconciliation.

The survey also revealed that 319 LACs have signed an agreement to do loss adjustment related work for both FCIC and a reinsured company.

No clear effect on the remaining 1,340 LACS signed up for 1985 work was indicated by the survey. These individuals, at their option, may affiliate with a private commercial insurance company reinsured by FCIC. This is a particularly viable option since the volume of business by reinsured companies is on the rise.

The effect of the proposed action on a particular small entity's cash flow and liquidity is measurable only to the degree that the portion of its business directly attributable to income derived from the Agency Sales and Service Contract would cease; therefore, both cash flow and liquidity would be jeopardized. Under the option open to the small entity qualifying as an insurance company under applicable State law and applying for a reinsurance agreement with FCIC, it is assumed that affected small entities would need to invest in additional equipment and personnel thus having an effect on liquidity and cash flow under such a conversion. However, the effect on cash flow and liquidity may not be a factor, indeed, cash flow and liquidity may substantially improve depending upon the volume of business written by such company.

An additional option is to negotiate with a reinsured commercial insurance company regarding the absorbtion of personnel and book of business. Under this option, it may be assumed that cash considerations may accrue to the owner of the affected small entity similar to liquidation.

Many of the agencies under Agency Sales and Service Contracts carry Federal crop insurance as an additional line of insurance in concert with many other lines, therefore, no serious effect on the ability to remain in the market would be felt by such small entity other than an effort to concentrate its business into the other lines. Other small entities who only carry Federal crop insurance would be affected by the loss of the only line of insurance carried.

In this case, and in addition to possible losses to the owner of the small entity in the event absorbtion into a reinsured company is not possible, agents of the small entity and the loss adjustment contractors settling the small entities losses would be affected by loss of association with the agency. It may be assumed that such small entities would seek to replace the Federal crop insurance with other lines of insurance in order to remain in the marketplace, or as an alternative, to qualify for a reinsurance agreement with FCIC, or

become associated with a commercial insurance company which is reinsured by FCIC.

A. Direct Impacts

The expected impacts of the considered options on crop insurance coverage are summarized in Table 1.

The expected impacts on premiums, indemnities, and loss ratios are summarized in Table 2.

Under Option 1, business would continue largely as usual. However, in keeping with the Administration's cost containment provisions, it would become necessary to reduce the staffing level of support services of FCIC.

Under this option, there will be changes in the infrastructure of FCIC to reflect the shift in business from federal paper (Master Marketers) to private paper (reinsured companies). FCIC staffing levels are currently sufficient to service approximately $300 million in premium on Federal paper. Fiscal 1986 budget estimates project approximately $160 million in Federal premium for crop year 1985.

If option 1 is selected, there will be minimal organizational changes within FCIC since all servicing functions related to Federal paper will continue to be required. However, the overall resource requirements can be expected to decline as the share of Federal paper diminishes compared with the total book of business.

This will be somewhat mitigated by the need for a strengthened compliance function under the proposed Reinsurance Agreement, which will be required regardless of the form of the Reinsurance Agreement.

However, in order to streamline the Federal operation and better reconcile staffing levels with business being serviced, FCIC staffing reductions can be expected to coincide with continued shifts in business from Federal paper to reinsured paper.

Direct impacts upon employees of Master Marketers would be felt in the event the Master Marketer decides not to permit affiliation with a reinsured company to absorb the agencies accounts and employees. The impact may be somewhat lessened as Master Marketer employees are able to find employment with reinsured companies. The same may be said of those under a Loss Adjustment contract with FCIC.

Little or not effect would be felt by employees of a private commercial insurance company reinsured by FCIC. There is not indication that the present trend of business swing to the reinsured companies will change, if anything, this trend may accelerate.

Under Option 2, the reinsured commercial insurance companies would continue to operate under a Reinsurance Agreement. The current Agency Sales and Service Agreement would be terminated. All Federal crop insurance policies written by Master Marketers would be rewritten by reinsured commercial insurance companies or serviced by FCIC. Under this option, the need for support services for direct writing operations would be greatly reduced and it would be even more essential to reduce the staffing level for support services in FCIC.

Phasing out the Master Marketer delivery system would eliminate the need for certain functions now being performed by FCIC that are directly related to the servicing of Federal paper. Included among such functions would be Marketing (in the sales promotion sense), Claims, Loss Adjustment, and certain Field Operations activities.

FCIC's Data Automation function would be modified to reflect it's new role as a reinsurer only. Under the proposal, the private sector would be relied upon to furnish the data necessary to monitor the operations of the reinsured companies. FCIC's data automation role would shift from primary data base development to information management and retrieval.

Additionally, under the proposal, certain functions now performed by FCIC would continue, including actuarial and underwriting (rates and coverages), program operations, policy and planning, technical support, program development, administrative and management support, and budget and financial.

At the same time, the expanded reinsurer's role of the Corporation would necessitate new or enlarged functions in certain areas directly related to reinsurance, such as reviewing and analyzing Plans of Operations under the proposed Reinsurance Agreement and compliance with the terms and conditions of that agreement.

Therefore, there will be functional tradeoffs that make any specific analysis of the impact on employees difficult at best. The impact will also be influenced by the timing of the conversion (a protracted phase-in would reduce the impact), normal attrition, outplacement efforts, as well as early migration of some employees to other positions.

It is clear, however, that final implementation of the proposal will result in substantial workforce reductions. Our best estimates indicate the Full Time Employees staff-year requirements will be reduced from the current approximately 1,250 to approximately 550.

The Corpration currently has approximately 670 permanent full-time employees and approximately 685 in all other categories (temporary, part-time, intermittant). The numbers and kinds of employees that will be affected by any reduction cannot be determined at this time.

The Manager of FCIC will make crop insurance available in any county under such other delivery service as deemed adequate when such county cannot be serviced, or is not adequately being serviced by private commercial insurance companies.

In order to assess the impact of termination of the Agency Sales and Service Contract an analysis [3] was conducted using the following assumptions:

(1) Contractors currently affiliated with a reinsured company would be minimally affected by termination. They could, if they desired, continue operations under the sponsorship of the company with which they are affiliated.

(2) Subconstractors (agents) licensed by state authorities, could continue selling and servicing crop insurance through; (1) a reinsured company, or (2) prior to implementation of the proposed rule, with a sales and service contractor affiliated with a reinsured company.

(3) Subcontractors earning less than $5,000 per year in commissions from crop insurance sales are employed on a part time basis to supplement their main source of income.

Thirty-nine of the 58 Contractors responding to the survey are affiliated with a company reinsured by FCIC.[4] These Contractors accounted for $159.4 million, or 91%, of the total 1984 FCIC premium, and 4,244, or 77% of the total reported field sales force of 5,483.[5] Ninety one percent (91%) of the affiliated sales force were reported as licensed under state insurance regulations.

Nineteen Contractors, representing 1,242 or 23% of the total sales force,

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[3] Data upon which the analysis has been based was derived from FCIC records and a telephonic survey of Agency Sales and Service Contractors conducted during the week of April 30, 1985. Survey questions and the responses are presented in Table 3.

[4] Sixty-four (64) Contractors signed the 1985 Sales and Service Contract. Of these, 6 are new Contractors for which no data for analysis is available. One contractor did not respond to the survey.

[5] Based on FCIC Agent Certification records there were 6,125 subcontractors in 1984 and 6,344 subcontractors in 1985. However, only 3,948, or 63%, of the subcontractors received commission payments in 1984. The remaining subcontractors are presumed to be inactive.

were not affiliated with a reinsured company as of May 3, 1985. However, 766 or 62% of the non-affiliated sales force were licensed. Twelve of the nineteen received commission payments in 1984. Eighty-two percent (82%) of the service points of these twelve non-affiliated companies received $5,000 per year or less in commission payments.[6] Seven of these Contractors indicated that they would attempt to affiliate with a reinsured company, two were uncertain of a course of action, nine indicated they would cease selling crop insurance and one fell outside the categories.[7]

The thirty-nine contractors currently affiliated with reinsured companies and their state-licensed subcontractors can continue operations, virtually uninterrupted, under sponsorship of the *commercial* reinsured company with which they currently have contractual agreements. These Contractors accounted for 91% of the 1984 premium income for FCIC direct writings.

Non-affiliated contractors, if they so elect, can affiliate with a reinsured company or, if qualified under state law, enter into a reinsurance agreement with FCIC. Seven of the nineteen in this category accounted for an additinal 5.3% of 1984 premium and have indicated they plan to attempt to affiliate.

Subcontractors lacking state licensing can, at their option, secure the necessary credentials to continue the sale of crop insurance for a reinsured company. Many companies will reimburse agents for training and licensing fees if sales quotas are met.

Thus, the apparent obstacles for continuing to sell and service crop insurance, under the proposed rule, are all within the control, and at the direction, of the contractor.

In summary, the economic impact on the Sales and Service Contractors and their subcontractors would be minimal.

Table 4 provides a presentation of the impact of FCIC's proposed rule.

Under Option 2. FCIC responsibilities would include the following:

a. Continue to set and/or approve rates and coverages of crop insurance policies.

b. Provide program direction.

c. Provide oversight and review functions.

d. Continue to assure financial integrity.

e. Maintain operations of sufficient capacity to service carryover FCIC direct business until such time as the business could be rewritten on reinsured policies and to provide the means whereby the Manager, FCIC, may offer insurance in a county not adequately serviced.

B. Indirect Impacts

Federal Crop Insurance would continue to be available to all eligible producers under either option.

C. USDA and Other Federal Outlays

Compared with Option 1, Option 2 would result in even more substantial Government cost savings due to reduced need for a support system for the direct insurance operation.

Table 5 provides a detailed summary of the impacts of the options considered in Government outlays.

D. Summary of Impact Analysis

Adoption of Option 2 involving the use of reinsured companies as the primary system for delivery of the crop insurance program to the producer and reduction of the Corporation's direct writing involvement to the point necessary to service only those areas where service under the reinsured program is determined to be insufficient, would result in savings to the Corporation of $18.3 million for Fiscal Year 1986 and $13.3 million in Fiscal Year 1987. These savings should continue through subsequent fiscal years. These estimates consider the same level of service to the producer in the delivery of program benefits and would result in little or no impact on present contractors because of the ability of Master Marketers to switch to the reinsured delivery system.

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[6] Based on an assumed average commission of 11% of 1984 net premium. A service point includes one or more subcontractors. There were 400 service points for the 682 subconstractors in this group. One hundred sixteen (116) of the service points received commissions on five contracts or less, thirty four (34) received commissions for only one contract, and thirty three (33) service points received no commissions.

[7] Of the nine which stated they would cease selling crop insurance, five are established multi-line insurance companies or agencies, and one is a cooperative. It may be assumed they are not dependent upon crop insurance as a main source of income. However, these insurance companies could enter into a reinsurance treaty with FCIC if they desired to continue the sale of crop insurance. The remaining three contractors have a combined field sales force of 48.

Table 1 - Federal Crop Insurance Coverage for the Farm Sector
Under Options Considered -- Crop Years 1981-87

		1981	1982	1983	1984	1985	1986 Option 1	1986 Option 2	1987 Option 1	1987 Option 2
Coverage										
States		49	49	49	49	49	50	50	50	50
Counties		1,928	2,999	3,000	3,010	3,012	3,012	3,012	3,012	3,012
County Crop Programs		5,969	14,999	15,415	17,874	18,881	19,100	19,100	19,600	19,600
Acres Insured										
Potential	(Mil. Ac.)	239.1	273.6	205.0	277.0	274.0	274.0	274.0	274.0	274.0
Actual	(Mil. Ac.)	44.8	42.8	27.9	44.9	54.0	63.1	63.1	77.7	77.7
Actual - Potential	(%)	19%	16%	14%	16%	20%	23%	23%	28%	28%
Total Acres Insured										
Master Marketers	(Mil. Ac.)	42.8	33.4	18.1	17.9	16.2	12.6	0.0	7.8	0.0
% of Total		96%	78%	65%	40%	30%	20%	0%	10%	0%
Reins. Commercial Companies	(Mil. Ac.)	2.0	9.4	9.8	27.0	37.8	50.5	63.1	69.9	77.7
% of Total		4%	22%	35%	60%	70%	80%	100%	90%	100%

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Source: Coverage
1981-1983 Actual.
1984-1987 Estimated.

Source: Insured Acres
1981-1982 Actual.
1983-1984 Summary of Business as of 4/5/85
1985-1987 Estimated.

Table 2 - Federal Crop Insurance Premiums, Indemnities, Net Gains (Losses), and Loss Ratios under the Options Considered -- Crop Years 1981-87

		1981	1982	1983	1984	1985	1986 Option 1 (a)	1986 Option 1 (b)	1986 Option 2	1987 Option 1 (a)	1987 Option 1 (b)	1987 Option 2
Premiums Paid by Farmers												
Master Marketers	($ Mil.	320.3	247.4	143.8	132.1	121.5	90.0	90.0	0.0	52.5	52.5	0.0
% of Total		96%	81%	64%	40%	30%	20%	20%	0%	10%	10%	0%
Reins. Commercial Companies	($ Mil.	11.8	59.7	82.5	198.9	283.5	360.0	360.0	450.0	472.5	472.5	525.0
% of Total		4%	19%	36%	60%	70%	80%	80%	100%	90%	90%	100%
Premium Subsidies												
Master Marketers	($ Mil.	46.1	73.2	40.3	43.9	40.5	30.0	30.0	0.0	17.5	17.5	0.0
% of Total		98%	80%	62%	40%	30%	20%	20%	0%	10%	10%	0%
Reins. Commercial Companies	($ Mil.	1.0	18.3	24.3	66.1	94.5	120.0	120.0	150.0	157.5	157.5	175.0
% of Total		2%	20%	38%	60%	70%	80%	80%	100%	90%	90%	100%
Total Premiums Paid												
Master Marketers	($ Mil.	366.4	320.7	184.2	176.0	162.0	120.0	120.0	0.0	70.0	70.0	0.0
% of Total		97%	80%	63%	40%	30%	20%	20%	0%	10%	10%	0%
Reins. Commercial Companies	($ Mil.	12.8	78.0	106.7	265.0	378.0	480.0	480.0	600.0	630.0	630.0	700.0
% of Total		3%	20%	37%	60%	70%	80%	80%	100%	90%	90%	100%
Total Indemnities												
Master Marketers	($ Mil.	398.7	467.5	404.3	264.0	194.4	108.0	112.8	0.0	63.0	66.2	0.0
% of Total		98%	87%	69%	41%	30%	20%	21%	0%	10%	10.5%	0%
Reins. Commercial Companies	($ Mil.	8.7	69.6	182.3	378.0	453.6	432.0	427.2	540.0	567.0	563.9	630.0
% of Total		2%	13%	31%	59%	70%	80%	79%	100%	90%	89.5%	100.0%
Net Gains/Losses (-) on Business Written By:												
Master Marketers		-32.4	-146.9	-220.1	-88.0	-32.4	12.0	7.2	0.0	7.0	3.9	0.0
Reins. Commercial Companies		4.1	8.4	-75.5	-113.0	-75.6	48.0	52.8	60.0	63.0	66.2	70.0
Less: Company Share of Gain/Loss		0.3	3.3	-2.3	-2.4	1.2	28.3	28.3	35.4	37.1	37.1	41.3
Amount Deferred		0.5	1.5	0.1	0.3	0.7	0.0	0.0	0.0	0.0	0.0	0.0
Loss Ratios												
Master Marketers		1.09	1.46	2.20	1.50	1.20	0.90	0.94	0.00	0.90	0.95	0.00
Reins. Commercial Companies		0.68	0.89	1.71	1.43	1.20	0.90	0.89	0.90	0.90	0.90	0.90

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1986 and 1987 -- Option (a) = Current Program .90 loss ratio.
Option (b) = Current Program 5-Point variance in loss ratios.

TABLE 3

Summary of Responses

Telephone Survey to 58 Agency Sales and Service Contractors (MMA) during the week of April 30, 1985.

1. How many certified agents are authorized to sell Federal Crop Insurance for your agency? 5,483

2. How many of those agents are licensed by state authority? 4,646

3. Does your agency also hold a reinsurance agreement? 39 yes/19 no

4. How many of your certified agents are also authorized to sell crop insurance on reinsured company contracts? 3,801

5. If a decision is reached to not renew the current Agency Sales and Service Agreement, my agency will:

A. Try to affiliate with a reinsured company.	]	
	]	7
B. Try to convert to a reinsured company.	]	
C. Will cease to sell crop insurance.		9
D. Uncertain.		2
E. Other		1
		19

6. If the response to question 5 is c., ask:
How many of your agents would you expect to try to affiliate with a reinsured company and continue to service crop insurance? * 67

*For most of the Contractors in this category, crop insurance is a secondary source of income.

TABLE 4

	Contractors	Subcontractors (Agents)2/	Licensed	Unlicensed	1984 Premium (millions)
1. Currently Affiliated 1/	39	4,244	3,881	363	159.4
2. Plan to Affiliate	7	451	397	54	9.2
3. Undecided	2	91	89	2	.8
4. Plan to cease sales	9	303	230	73	5.4
5. Other	1	394	50	344	.0
Total	58	5,483	4,647	836	174.8

1/ Affiliation with a company reinsured by FCIC.
2/ In 1984, 37% of the FCIC certified agents earned no commission and are presumed to be inactive. It may be assumed that a similar percentage of the agents reported herein are also inactive.

Table 5 - FCIC Administrative and Operating Expenses -- Fiscal Years 1983-87

		1983	1984	1985	1986 Option 1	1986 Option 2	1987 Option 1	1987 Option 2
ADMINISTRATIVE & OPERATING EXPENSES	($ Mil.)							
Loss Adjustment	($ Mil.)							
Master Marketers (a)		22.3	26.2	17.5	14.7	0.0	9.4	0.0
Reinsured Commercial Companies		9.4	17.2	24.5	0.0 (b)	0.0 (b)	0.0 (b)	0.0 (b)
Total		31.7	43.3	42.0	14.7	0.0	9.4	0.0
Administrative & Other Payments	($ Mil.)							
Master Marketers		26.0	25.2	24.3	18.0	0.0	10.5	0.0
Reinsured Commercial Companies		26.2	61.7	90.7	153.6	192.0	201.6	224.0
Total		52.1	87.0	115.0	171.6	192.0	212.1	224.0
Overhead	($ Mil.)							
FCIC								
Washington, D.C. (Incl KC Hdqtrs)		11.1	10.7	10.7	9.4	6.6	8.6	6.6
Field Offices		31.2	29.4	39.1	39.6	18.3	32.2	18.4
ASCS		5.2	7.2	12.8	12.8	12.8	12.8	12.8
Total		47.5	47.3	62.6	61.8	37.8	53.6	37.8
TOTAL ADMINISTRATIVE & OPERATING EXPENSES	($ Mil.)	131.3	177.6	219.6	248.1	229.8	275.1	261.8
PROGRAM LEVEL for Crop Year (Combined Total Premium)	($ Mil.)	290.9	441.0	540.0	600.0	600.0	700.0	700.0
A&O Cost as % of Program Level		45.14%	40.27%	40.67%	41.34%	38.30%	39.30%	37.40%

(a) Includes field loss adjustment supervision.
(b) Estimated loss adjustment costs of $36.0, $45.0, $47.3, and $52.5 million, for 1986 Option 1, 1986 Option 2, 1987 Option 1, and 1987 Option 2, respectively, are included below under "Administrative and Other Payments."

FCIC/Budget 5/16/85

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Advance Notice of Proposed Rulemaking

On Tuesday, March 12, 1985, FCIC published an Advance Notice of Proposed Rulemaking and Request for Public Comment in the **Federal Register** at 50 FR 9806, to provide advance notice to all interested parties that FCIC was considering the feasibility and advisability of converting from a direct writer of insurance to strictly a reinsurer of crop insurance policies sold through private commerical insurance companies. This determination was precipitated both by the growing number of crop insurance policies sold since 1981 by companies under a Reinsurance Agreement with FCIC and by FCIC's concern with the wisdom of maintaining a full government operation to handle a dwindling number of FCIC policies.

The actions being considered are intended to assure the highest possible return on every federal dollar spent, while providing the highest level of service to America's agricultural producers.

Comments were solicited from all interested parties and all comments received were carefully reviewed and considered.

Conclusion

It may be both feasible and advisable to restructure operations of the Corporation to more closely resemble a cost efficient and effective commercial reinsurance company operation. In accordance with the requirement of the Federal Crop Insurance Act (Act), FCIC must continue to perform certain functions, including the setting or approving of rates and coverages of crop insurance policies, providing program direction, and maintaining quality assurance.

The proposed rule would amend regulations relating to insurance of specific crops or groups of crops and is designed to allow for the transition of the method of delivery of Federal Crop Insurance to the American Producer from direct sales to Reinsurance Companies.

The Reinsurance Agreement is adequate to accommodate the additional responsibilities that will be assumed by reinsured commercial insurance companies under this proposal for conversion to an all reinsurance operation. The Reinsurance Agreement sets forth the terms and conditions under which the Corporation will reinsure all eligible crop insurance policies sold or reinsured by private commercial insurance companies.

Interested parties may obtain a copy of the Reinsurance Agreement by contacting the Office of Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FCIC is soliciting public comment on this proposed rule for 30 days after publication in the **Federal Register**. Written comments will be available for public inspection in the Office of the Manager, Federal Crop Insurance Corporation, Room 4096, South Building, U.S. Department of Agriculture, Washington, D.C., 20250, during regular business hours, Monday through Friday.

List of Subjects in 7 CFR Parts 402, 403, 404, 408, 409, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, and 449

Crop Insurance, Raisins, Peaches, Western U.S. Apples, Eastern U.S. Apples, Arizona-California Citrus, Florida Citrus, Grape, Texas Citrus, Forage Seeding, Forage Production, Pea, Sugarcane, Wheat, Barley, Grain Sorghum, Cotton, Potato, Flax, Rice, Peanut, Combined crop, Oat, Sunflower, Rye, Sugar beet, Soybean, Corn, Dry bean, Tobacco-dollar, Tobacco-quota, Tobacco-guaranteed, Canning and freezing sweet corn, Canning and processing tomato, Almond, Texas Citrus Tree, Table grape, Prevented planting, Hybrid seed, Fresh tomato, Pepper, Walnut, Popcorn, ELS Cotton, and Fresh market sweet corn, respectively.

Proposed Rule

Accordingly, pursuant to the authority contained in the Federal Crop Insurance Act, as amended (7 U.S.C. 1501 *et seq.*), the Federal Crop Insurance Corporation hereby proposes to amend all crop insurance regulations covering specific crops or groups of crops issued by FCIC and currently in effect (7 CFR Part 402 *et seq.*), in the following instances:

1. The authority citations for 7 CFR Parts 402, 403, 404, 408, 409, 410, 411, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 443, 444, 445, 446, 447, 448, and 449 continue to read as follows:

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

2. 7 CFR § 402.1, 403.1, 404.1, 408.1, 409.1, 410.1, 411.1, 413.1, 414.1, 415.1, 416.1, 417.1, 418.1, 419.1, 420.1, 421.1, 422.1, 423.1, 424.1, 425.1, 426.1, 427.1, 428.1, 429.1, 430.1, 431.1, 432.1, 433.1, 434.1, 435.1, 436.1, 437.1, 438.1, 439.1, 440.1, 441.1, 442.1, 443.1, 444.1, 445.1, 446.1, 447.1, 448.1, and 449.1 are revised to read as follows:

§ ——.—— Availability of (crop name) Insurance.

Insurance shall be offered under the provisions of this subpart in counties designated by the Manager from those approved by the Board of Directors of the Corporation. The crop insurance may be offered : (a) through private commercial insurance companies on policies (1) reinsured by the Corporation under a Reinsurance Agreement between the Corporation and the private company, and (2) containing terms and conditions approved by the Corporation and substantially in accord with the insurance policy set as out in this subpart; or (b) through other delivery systems approved by the Corporation on the Corporation's policy as set out in this subpart.

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

Peter F. Cole,

Secretary, Federal Crop Insurance Corporation.

Dated: May 16, 1985.

Approved by:

Merritt W. Sprague,

Manager.

[FR Doc. 85–12356 Filed 5–20–85; 10:34 am]

BILLING CODE 3410–08–M

Farmers Home Administration

7 CFR Part 1942

Community Facility Grants

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its regulations regarding grants for Community Facility projects. This proposed action is taken to prohibit FmHA Water and Waste Disposal (WWD) grant funds from being used to satisfy the local share requirements of another Federal grant-in-aid program. This action will bring FmHA regulations into compliance with congressional intent and authorizing legislation as outlined in Comptroller General's decision, file number B–1214278.

DATES: Comments must be received within 30 days from date of publication in the **Federal Register**.

ADDRESSES: Submit written comments in duplicate to the Officer of the Chief, Directives Management Branch, Farmers Home Administration, USDA, South Building, Room 6348, 14th and Independence Avenue, SW.,

Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Jerry W. Cooper, Loan Specialist, Water and Waste Disposal Division, Farmers Home Administration, USDA, South Agriculture Building, Room 6328, Washington, D.C. 20250, telephone: (202) 382-9589.

SUPPLEMENTARY INFORMATION: This proposed action has been reviewed under USDA procedures established in Secretary's Memorandum 1512 which implements Executive Order 12291, and has been determined to be "nonmajor" since the annual effect on the economy is less that $100 million and there will be no significant increase in cost or prices for consumers, individual industries; Federal, State, or Local government agencies; or geographic regions. Furthermore, there will be no 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. This proposed action is not expected to substantially affect budget outlay or to affect more than one agency or to be controversial. Additional efforts to administer the changes are expected to be minimal. Increased program costs are, therefore, not anticipated. The net result is expected to provide better service to rural communities.

The FmHA programs and projects which are affected by this instruction are subject to State and Local review under section 401 of the Intergovernmental Cooperation Act and section 204 of the Demonstration Cities and Metropolitan Development Act.

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

FmHA has determined that the proposed action will not have a significant economic impact on a substantial number of small entities because the proposed action will only affect a small number of rural communities.

The Catalog of Federal Domestic Assistance program affected is No. 10.418, Water and Waste Disposal Systems for Rural Communities.

This action amends FmHA's policies for making development grants. These grants assist in financing the development costs of domestic water and waste disposal systems to rural communities and other associations of farmers, ranchers, rural residents, and other rural users.

The Comptroller General of the United States has issued a decision that a local share of project costs is required under the FmHA-WWD development grant program. The decision also stated that FmHA has no statutory authority to use grant funds to satisfy the local share requirements of another Federal grant-in-aid program.

Current FmHA regulations do not specifically address the issue. Therefore, this proposed action addresses this problem by amending Subpart H of Part 1942. This will bring FmHA regulations in compliance with statutory authority and Congressional intent. However, two or more Federal Agencies may contribute to the same project provided that the total Federal grant payment does not exceed the statutory limit.

FmHA proposes to amend Subpart H of Part 1942 as follows:

Amend paragraph (e) of § 1942.358 and add paragraph (15) to § 1942.360(a) to clarify that FmHA grant funds cannot be used to satisfy the local share requirements of another Federal grant-in-aid program.

List of Subjects in 7 CFR Part 1942

Community development, Grant programs—housing and community development, Rural areas, Waste treatment and disposal—Domestic, water supply—domestic.

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

PART 1942—ASSOCIATIONS

* * * * *

Subpart H—Development Grants for Community Domestic Water and Waste Disposal Systems

1. Section 1942.358 is amended by revising paragraph (e) to read as follows:

§ 1942.358 Use of grant funds.

* * * * *

(e) To use FmHA grant funds on projects where other types of financial assistance are available on all or part of the projects, provided the other assistance is on reasonable rates and terms. In such cases the maximum percentages allowed under other agencies' authorities will apply to their participation in the project. Some Federal grant-in-aid programs have a maximum grant limitation which requires a local share contribution by the applicant. When grant assistance from another Federal grant-in-aid program requires a local share, FmHA grant funds cannot be used to fund any part of that local share. The need for FmHA grant funds must meet the requirements of § 1942.363 of this subpart after considering all project financing. The FmHA grant may not exceed seventy-five percent (75%) of the FmHA eligible project development cost.

* * * * *

2. Section 1942.360 is amended by adding paragraph (a)(15) to read as follows:

§ 1942.360 Grant Limitations.

(a) * * *

(15) Pay the local share requirement of the eligible project cost of another Federal grant-in-aid program.

* * * * *

Authorities: (7 U.S.C. 1989; 7 CFR 2.23; 7 CFR 2.70).

Dated: March 29, 1985.

Dwight O. Calhoun,

Acting Associate Administrator Farmers Home Administration.

[FR Doc. 85-12250 Filed 5-21-85; 8:45 am]

BILLING CODE 3410-07-M

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 83-142]

Importation of Horses; Testing for Contagious Equine Metritis

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the regulations concerning the testing requirements for the importation into the United States of certain Thoroughbred horses from the Federal Republic of Germany, the United Kingdom, Ireland, and France, countries in which contagious equine metritis (CEM) exists, and for the importation of stallions over 731 days from any country in which CEM exists, for permanent entry into the United States. It is proposed to amend the requirement that the last of three negative cultures for CEM be conducted within 30 days of the date of exportation and to require, instead, that the last of the sets of specimens be collected within 30 days of the date of exportation. It appears that this action is necessary in order to

reduce the likelihood of a horse becoming infected with CEM after the last collection and prior to exportation. The effect of this action would be to add an additional precaution against the introduction of CEM into the United States.

With respect to female Thoroughbred horses from the Federal Republic of Germany, the United Kingdom, Ireland, and France, it is proposed to amend the requirement for three negative cultures from test specimens collected from the mucosal surface of the uterus, one of which must be collected at the time of estrus, and to require only one such negative culture at the time of estrus. It appears that one such negative culture at the time of estrus, in combination with certain other requirements, would be adequate to determine the animal's freedom from CEM. The effect of this action would be to delete unnecessary restrictions on the importation into the United States of certain horses.

DATE: Comments must be received on or before July 22, 1985.

ADDRESS: Written comments concerning this proposed rule should be submitted to Thomas O. Gessel, Director, Regulatory Coordination Staff, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments may be inspected in Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Allan A. Furr, VS, APHIS, USDA, Room 846, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-8170.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR 92 (referred to below as the regulations), among other things, impose prohibitions and restrictions on the importation of horses into the United States in order to prevent the introduction of exotic diseases, such as contagious equine metritis (CEM). CEM is a venereal disease of horses that affects fertility and breeding. The regulations in § 92.2(i)(2)(iii) allow the importation into the United States for permanent entry of Thoroughbred horses from the Federal Republic of Germany, the United Kingdom, Ireland, and France, countries in which CEM exists, when specific requirements adequate to prevent the introduction into the United States of CEM are met. The regulations in § 92.2(i)(2)(iv) allow the importation of any stallions over 731 days of age from countries in which CEM exists when specific requirements adequate to prevent the introduction into the United States of CEM are met.

Testing for Certain Female Horses

With respect to Thoroughbred horses imported for permanent entry from the Federal Republic of Germany, the United Kingdom, Ireland, and France, the regulations in § 92.2(i)(2)(iii) provide, among other things, that such horses must be accompanied by a certificate stating that since reaching 731 days of age the horses have not been on any premises where breeding is carried out and stating that certain negative cultures have been conducted. Section 92.2(i)(2)(iii)(B) provides that the certificate for female horses must state:

> That three negative cultures for CEM were conducted from specimens collected from each of the mucosal surfaces of the urethral and clitoral fossa, cervix, and uterus for each culture, at intervals of no less than 7 days, that one culture specimen was collected at the time of estrus, and that the last of these tests was conducted within 30 days of the date of exportation.

It appears, based on Departmental experience, that instead of three collections of specimens from the mucosal surface of the uterus, the number of specimens collected from the mucosal surface of the uterus may be reduced to one specimen collected at the time of estrus without increasing the risk of a female horse infected with CEM escaping detection. It appears that one negative culture collected from the mucosal surface of the uterus at the time of estrus, in combination with the other requirements set forth in § 92.2(i)(2)(iii), would be adequate to determine an animal's freedom from CEM. Therefore, it is proposed to reduce the number of specimens collected from the mucosal surface of the uterus of such horses by requiring only one negative culture collected from the mucosal surface of the uterus at the time of estrus. It is not proposed to change the requirements for test specimens from the other collection sites. Further, the mucosal surface of the uterus is most commonly referred to as the endometrium. Therefore, it is proposed to use the term "endometrium" in the regulations instead of "mucosal surface of the uterus."

Also, it should be noted that in order to collect a specimen from the mucosal surface of the uterus when a mare is not in estrus, it is necessary to force dilation of the cervix. This forced dilation may increase the probability of subsequent fertility problems. Reducing the number of specimens could help decrease the probability of subsequent fertility problems for the female horses.

Timing of Collections of Specimens and Tests

With respect to Thoroughbred horses imported for permanent entry from the Federal Republic of Germany, the United Kingdom, Ireland, and France, as noted above, § 92.2(i)(2)(iii)(B) of the regulations currently requires that the last of the tests for female horses for CEM be conducted within 30 days of the date of exportation. Section 92.2(i)(2)(iii)(C) sets forth similar testing requirements for stallions over 731 days of age from the listed countries, including the requirement that the last of the tests be conducted within 30 days of the date of exportation. Section 92.2(i)(2)(iv) sets forth testing requirements for any stallions over 731 days of age imported for permanent entry from any country in which CEM exists, including a requirement that the last of the tests be conducted within 30 days of the date of exportation.

It is proposed that the 30 day testing requirement be changed to require that the last of the sets of specimens be collected within 30 days of the date of exportation. Under the current regulations the last set of specimens would not necessarily be collected within 30 days of the date of exportation. Allowing less time between the collection of specimens and the date of exportation would reduce the likelihood of a horse becoming infected with CEM after the last collection and prior to exportation while still providing a reasonable period of time for the specimens to be cultured and for the importer to arrange for the importation.

Also, nonsubstantive changes would be made for purposes of clarity.

Executive Order 12291 and Regulatory Flexibility Act

This action has been reviewed in conformance with Executive Order 12291 and has been determined to be not a major rule. The Department has determined that this action would not have a significant effect on the economy; would not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and should have no significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It is not anticipated that the adoption of the proposal would have any significant effect on the cost of testing horses imported into the United States from countries in which CEM exists or on the number of such horses imported into the United States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action would not have a significant economic impact on a substantial number of small entities.

List of Subjects in 9 CFR Part 92

Animal diseases, Canada, Imports, Mexico, Poultry & poultry products, Quarantine, Transportation, Wildlife.

PART 92—IMPORTATION OF CERTAIN ANIMALS AND POULTRY AND CERTAIN ANIMALS AND POULTRY PRODUCTS; INSPECTION AND OTHER REQUIREMENTS FOR CERTAIN MEANS OF CONVEYANCE AND SHIPPING CONTAINERS THEREON

Accordingly, 9 CFR Part 92 would be amended as follows:

1. The authority citation for § 92.2 would be revised to read:

Authority: 21 U.S.C. 102–105, 111, 134a, 134b, 134c, and 134f; 7 CFR 2.17, 2.51, and 371.2(d).

2. In § 92.2, paragraphs (i)(2)(iii)(B), (i)(2)(iii)(C), and (i)(2)(iv)(C) would be revised as follows:

§ 92.2 General prohibitions; exceptions.

* * * * *

(i) * * *

(2) * * *

(iii) * * *

(B) For female horses over 731 days of age, that negative cultures for CEM were conducted from one set of specimens collected during estrus consisting of one specimen from the endometrium, one specimen from the mucosal surface of the urethra, one specimen from the mucosal surface of the clitoral fossa, and one specimen from the mucosal surface of the cervix, and that negative cultures for CEM were conducted from two additional sets of specimens consisting of one specimen from the mucosal surface of the urethra, one specimen from the mucosal surface of the clitoral fossa, and one specien from the mucosal surface of the cervix; that the sets of specimens were collected at intervals of no less than 7 days; and that the last of these sets of specimens was collected within 30 days of exportation.

(C) For stallions over 731 days of age, that three negative cultures were conducted from specimens collected from each of the surfaces of the urethral fossa, the urethra, and the penile sheath for each culture at intervals of no less than 7 days, and that the last of the sets of specimens was collected within 30 days of the date of exportation; and

* * * * *

(iv) * * *

(C) The last of the three sets of specimens collected in paragraph (i)(2)(iv)(B) was collected and cultured negative within 30 days of the date of export of the stallion described on the certificate; and

* * * * *

Done at Washington, D.C., this 17th day of May 1985.

G.J. Fichtner,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 85–12324 Filed 5–21–85; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

Adjudications; Special Procedures for Resolving Conflicts Concerning the Disclosure of Nondisclosure of Information

AGENCY: Nuclear Regulatory Commission.

ACTION: Proposed rule.

SUMMARY: The Nuclear Regulatory Commission is considering amending its rules of practice to provide special procedures for resolving conflicts concerning the disclosure or nondisclosure of information relating to an NRC investigation or inspection not yet concluded or which would reveal the identity of a confidential informant and deemed relevant and material to an adjudication. Prepared at the express direction of the Commission and intended for the sole use of NRC offices and staff, the proposed amendments apply to all NRC offices that have information relevant and material to an adjudication. The proposed amendments provide for *ex parte in camera* presentations and implement the Commission's directions in its recent statement of policy on investigations, inspections and adjudicatory proceedings.

DATES: Comments must be received on or before July 22, 1985. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given except as to comments received on or before this date.

ADDRESSES: Interested persons are invited to send written comments or suggestions to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch. Comments may also be delivered to Room 1121, 1717 H Street, NW., Washington, D.C. between 8:15 a.m. and 5:00 p.m. Copies of any comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION CONTACT: Jane R. Mapes, Senior Regulations Attorney, Regulations Division, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555; Telephone: (301) 492–8695.

SUPPLEMENTARY INFORMATION: On September 13, 1984, the Commission published a Statement of Policy on Investigations, Inspections and Adjudicatory Proceedings (49 FR 36032–36034, September 13, 1984.) In that Statement of Policy, the Commission re-emphasized the importance and need for full disclosure of information in an adjudication so that all issues may be fully resolved and stated that:

> [A]ll parties, in NRC adjudicatory proceedings, including the NRC staff, have a duty to disclose to the boards and other parties all new information they acquire which is considered material and relevant to any issue in controversy in the proceeding. (49 FR 36032, September 13, 1984.)

At the same time, the Commission recognized the need in certain circumstances to limit disclosure to avoid compromising an NRC inspection or investigation or to protect a confidential informant. In some instances, these conflicting concerns can be reconciled by placing restrictions on the manner in which the information is disclosed, such as, for example, rescheduling consideration of certain issues during the course of a hearing or specifying the manner, time, place, or persons to whom the information may be disclosed. There are, however, certain situations in which any disclosure of information, however restricted, could affect the conduct of an inspection or investigation. In its Statement of Policy, the Commission expressed the view that in these situations the NRC staff should be required to:

> Provide the board with an explanation of the basis of its concern about disclosure and present the information to the board, *in camera*, without other parties present. (49 FR 36032 at 36034, September 13, 1984.)

The Commission also noted that:

> Because this procedure represents a departure from normal Commission

procedure, it is the Commission's view that the decision should be implemented by rulemaking. (49 FR 36032 at 36033, September 13, 1984.)

The proposed rule establishes procedures, not currently included in the Commission's Rules of Practice, which may be used by all NRC offices to request the withholding of information from disclosure or the imposition of conditions under which information may be disclosed. The procedures may not be used by applicants, licensees, intervenors and others to protect or withhold their information from disclosure. These special procedures are applicable in those limited circumstances in which an NRC office is under a duty to disclose relevant and material information to a board and/or parties in an ongoing adjudication, for example, under established board notification procedures, in response to a discovery request, or as otherwise directed by the presiding officer, and it is determined that disclosure of the information without a protective order would prejudice an inspection or investigation or reveal the identity or otherwise compromise a confidential informant. Once these findings have been made, the proposed special procedures would be used by the NRC office having the information to request the imposition of conditions on disclosure or to withhold disclosure of the information.

The factors to be considered in determining whether information is eligible for a protective order imposing conditions upon or withholding disclosure of the information are set out in § 2.795e of the proposed rule and track the standards enunciated in the Statement of Policy. A protective order may either impose conditions on the manner in which the information may be disclosed or withhold disclosure of the information. In general, a protective order will be appropriate if it can be shown that the information relates to an inspection or investigation and that disclosure of the information without a protective order would be detrimental to the effective conduct of the inspection or investigation, or if it can be shown that the information would reveal the identity or otherwise compromise a confidential informant. The information need not relate solely to an ongoing inspection or investigation but may also include information on the basis of which the NRC may determine whether to initiate an inspection or investigation. After the conflict between the obligation to disclose a particular item of information and the need to impose conditions upon or withhold disclosure of that information has become apparent, the NRC office having posssession of or access to the information would use the proposed special procedures as necessary to resolve the conflict.

Under the special procedures, the appropriate NRC office may move the presiding officer of the pending adjudication to grant relief from the disclosure requirement either by ordering information disclosed subject to conditions or by ordering information withheld from disclosure. For the purposes of these procedures, the term "presiding officer" includes an administrative judge, an administrative law judge, an Atomic Safety and Licensing Board, and an Atomic Safety and Licensing Appeal Board. The motion, which may be made orally or in writing, must contain a brief description of the nature of the information subject to the request and explain the relevance of the information to the pending adjudication. The motion must also state why and to what extent disclosure of the information without a protective order will compromise or impede the conduct of an NRC investigation or inspection, or reveal the identity or otherwise compromise a confidential information. At the time the motion is made, the NRC office must notify all parties to the pending adjudication that the imposition of conditions on or the withholding of disclosure of the information has been requested. However, the information subject to the motion shall not be revealed. The NRC office must also notify the Director, Division of Rules and Records, NRC Office of Administration, who is the agency official responsible for processing Freedom of Information Act (FOIA) requests.

Upon receipt of a motion from an NRC office to impose conditions upon or to withhold disclosure of information, the presiding officer, without parties other than NRC staff present, may either rule on the motion on the basis of the information provided, conduct an *ex parte in camera* oral presentation, or request further information. Under the proposed amendments, the presiding officer is authorized to conduct an *ex parte in camera* oral presentation at any time on his or her own initiative. The presiding officer must notify all parties to the pending adjudication whenever an *ex parte in camera* oral presentation is to be held. The notice shall state the purpose, time, and place of the *ex parte in camera* oral presentation and the approximate date a ruling concerning the disclosure or nondisclosure of the information subject to the presentation may be expected. The substantive content of the information shall not be disclosed. To provide a record, a verbatim transcript will be made of each *ex parte in camera* oral presentation.

After consideration of a motion to impose conditions upon or to withhold disclosure of information, including any *ex parte in camera* oral presentation, and after finding that the information subject to the motion is both relevant and material to the pending adjudication, the presiding officer will decide, in light of the Commission policy favoring full disclosure, whether disclosure of the information without a protective order could adversely affect the NRC's ability to conduct an investigation or inspection fully and adequately or to protect identity or otherwise preserve the anonymity of a confidential informant and whether and to what extent all or part of the information should be withheld from disclosure or only disclosed subject to conditions.

If the presiding officer grants the motion, the presiding officer shall issue a protective order as requested. If the presiding officer determines that the motion should be denied in whole or in part, the presiding officer shall notify the NRC office submitting the request of the intent to order disclosure. The notice of intent to order disclosure shall specify the nature of the information to be dislcosed, the terms and conditions of any proposed order and the basis for the conclusion that prompt disclosure is required. The notice of intent shall state a reasonable time by which the NRC office must submit a statement of objection or concurrence. If the NRC office concurs in the disclosure specified in the notice of intent and if the disclosure does nor reveal the identify of a confidential informant, the presiding officer shall issue the order proposed. If the NRC office objects to the disclosure specified in the notice of intent and any such objection is disallowed, the presiding officer shall promptly certify the objection, the ruling disallowing the objection and the accompanying record to the Commission for *ex parte in camera* review. Every ruling requiring disclosure of the identify of a confidential informant must be certified to the Commission for review. Concurrence in such a ruling by an NRC office does not change this latter requirement.

The presiding officer shall promptly notify all parties to the pending adjudication and the Director, Division of Rules and Records, NRC Office of Administration whenever a ruling relating to the disclosure or

nondisclosure of information has been issued or has been certified to the Commission for *ex parte in camera* review. A notice of certification shall state the reason for the certification, the certification date, and that, in accordance with § 2.795f, the NRC office or any other party to the adjudication may file a timely brief with the Commission. The NRC office must notify all parties to the adjudication whenever an NRC brief is filed. However, the NRC brief need not be served on the parties if to do so would reveal any of the withheld information. Within seven days after service of the notice of filing of the NRC brief, any other party to the adjudication may file a brief with the Commission. The order of the presiding officer shall be stayed pending Commission review.

The Commission shall consider any matter certified to it for review under these procedures *in camera* without parties other than the NRC staff present. The record for Commisson review shall consist of the information provided to the presiding officer *ex parte* and *in camera*, all documents filed with the presiding officer by the NRC office requesting a protective order, including any statements of concurrence or objection, the transcript of any *ex parte in camera* oral presentation, the presiding officer's notice of intent to require disclosure and the presiding officer's order. Upon its own initiative or upon request by the NRC office requesting the imposition of conditions upon the disclosure of information or the withholding of information from disclosure, the Commission may conduct an *ex parte in camera* oral presentation on any matter certified to it for review under § 2.795e. After completing its review, the Commission will decide whether to affirm, reverse, or amend the ruling.

Whenever the presiding officer or the Commission issues an order imposing conditions upon or withholding disclosure of information, the *ex parte in camera* record on which the order is based shall be deemed sealed pending further order.

The Commission does not intend these special procedures to be used to shield information properly subject to disclosure under the Freedom of Information Act (FOIA). Upon receipt of an FOIA request for release of information deemed sealed by reason of a protective order, the presiding officer or the Commission, as appropriate, will again review the nature and status of the information to determine whether all or part of the information should continue to be protected or whether all or part of the information should be released.

The NRC office at whose request the presiding officer or the Commission has issued a protective order respecting the disclosure of information shall notify the presiding officer or the Commission, as appropriate, and the Director, Division of Rules and Records, NRC Office of Administration when its objection to disclosure to the parties to the pending adjudication of all or any portion of the information subject to the order is withdrawn, when the inspection or investigation to which all or any portion of the information subject to the order relates is completed, or when it learns of any other change in the status of the protected information. Unless the information relates to the identity of a confidential informant or unless the Commission orders otherwise, information which an NRC office has consented to release may be disclosed to the parties and placed in the public record of the pending adjudication without further order. The identity of a confidential informant may only be released by order of the Commission.

Under the proposed procedures, after notice by the appropriate NRC office that an inspection or investigation has been completed or that objection to the disclosure of information has been withdrawn, whichever is earlier, and subject to certain specific limitations, the presiding officer or the Commission, as appropriate, is required to order the *ex parte in camera* record, including the verbatim transcript of any *ex parte in camera* oral presentation, included in the public record of the pending adjudication. This requirement is subject to the prohibition against inclusion in the public record of the adjudication of any part of the *ex parte in camera* record containing information pertaining to the identity of a confidential informant except pursuant to Commission order. This requirement is also subject to any other exemptions from mandatory public disclosure that may validly be claimed under the Commission's regulations, including any exemptions that may be available under 10 CFR 2.790, 9.5, 9.61 or 9.95.

Under the proposed procedures, a presiding officer may not use information subject to a protective order in making any decision in the pending adjudication unless all parties to the pending adjudication have been accorded acess to the information and given an appropriate opportunity to address that information. Once all parties to the pending adjudication have been given such an opportunity, either with or without conditions, the presiding officer may use the information in reaching a decision. When information is made available only under specified conditions, a party may be unwilling to examine the information because the party does not wish to accept the conditions under which it is proffered. The fact that a party does not choose to avail itself of information to which access is permitted but only under specified conditions cannot be used to bar the presiding officer from relying on that information in reaching a decision. A presiding officer is under no obligation by reason of these special procedures to accord parties to a pending adjudication unconditional access to all information. Once the opportunity for conditional access has been provided and notwithstanding the fact that it may have been declined, the presiding officer may use the information in making a decision in the pending adjudicatory proceeding.

Minor conforming amendments to 10 CFR 2.730, 2.740 and 2.780 are also proposed.

Environmental Impact—Categorical Exclusion

The proposed amendments would amend the Commission's Rules of Practice codified in 10 CFR Part 2 and therefore meet the eligibility criteria for the categorical exclusion set forth in 10 CFR 51.22(c)(1). Accordingly, pursuant 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared in connection with the issuance of the proposed amendments.

Paperwork Reduction Act Statement

The proposed rule is not subject to the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.) because it does not contain any information collection requirements within the meaning of section 3502(4) of that Act.

Regulatory Flexibility Act Certification

As required by the Regulatory Flexibility Act of 1980, 5 U.S.C. 605(b), the Commission certifies that this rule, if adopted, will not have a significant economic impact upon a substantial number of small entities and that therefore a regulatory flexibility analysis need not be prepared. Procedural in nature, the proposed amendments provide a mechanism for the orderly resolution of conflicts respecting the obligation of NRC offices to disclose information deemed relevant and material to a pending adjudication and the need by those same offices to protect information relating to an NRC

investigation or inspection or which would reveal the identity of a confidential informant. The proposed rule does not impose any obligations on entities regulated by the NRC, including any regulated entities that may fall within the definition of "small entities," as set forth in section 601(3) of the Regulatory Flexibility Act, or within the definition of "small business" as found in section 3 of the Small Business Act, 15 U.S.C. 632, or within the Small Business Size Standards in regulations issued by the Small Business Administration and codified in 13 CFR Part 121. Since the impact of the proposed rule is confined to the NRC, the proposed rule does fall within the purview of the Regulatory Flexibility Act.

List of Subjects in 10 CFR Part 2

Administrative practice and procedure, Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear material, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended and 5 U.S.C. 553, the Nuclear Regulatory Commission is proposing to adopt the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

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

Authority: Secs. 161, 181, 68 Stat. 948, 953,as amended (42 U.S.C. 2201, 2231); sec. 191, amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Sec. 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Secs. 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Sec. 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Secs. 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Secs. 2.300–2.309 also issued under Pub. L. 97–415, 96 Stat. 2071 (42 U.S.C. 2133). Secs. 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853 as amended (42 U.S.C. 4332). Secs. 2.700a, 2.719, and 2.795k also issued under 5 U.S.C. 554. Secs. 2.754, 2.760, 2.770 also issued under 5 U.S.C. 557. Secs. 2.790 and 2.795j also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Secs. 2.800 and 2.808 also issued under 5 U.S.C. 553. Sec. 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Appendix A also issued under sec. 6, Pub. L. 91–580, 84 Stat. 1473 (42 U.S.C. 2135).

2. In § 2.730, a new paragraph (i) is added to read as follows:

§ 2.730 Motions.

* * * * *

(i) The provisions of § 2.730 (a) through (h) are not applicable to motions filed pursuant to §§ 2.795a through 2.795k.

3. In § 2.740, paragraph (b)(1) is revised to read as follows:

§ 2.740 General provisions governing discovery.

* * * * *

(b) *Scope of discovery.* * * *

(1) *General.* Parties may obtain discovery regarding any matter, not privileged, which is relevant to the subject matter involved in the proceeding, whether it relates to the claim or defense of the party seeking discovery or to the claim or defense of any other party, including the existence, description, nature, custody, condition, and location of any books, documents, or other tangible things and the identity and location of persons having knowledge of any discoverable matter. For the purposes of this section, privileged matter includes information subject to a protective order issued under the special procedures in §§ 2.795a through 2.795k. In a proceeding on an application for a construction permit or an operating license for a production or utilization facility, discovery shall begin only after the prehearing conference provided for in § 2.751a and shall relate only to those matters in controversy which have been identified by the Commission or the presiding officer in the prehearing order entered at the conclusion of that prehearing conference. In such a proceeding, no discovery shall be had after the beginning of the prehearing conference held pursuant to § 2.752 except upon leave of the presiding officer upon good cause shown. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

* * * * *

4. In § 2.780, paragraph (a) is revised to read as follows:

§ 2.780 Ex parte communications.

(a) Except as provided under the special procedures in §§ 2.795a through 2.795k or in paragraph (e) of this section, neither (1) Commissioners, members of their immediate staffs, or other NRC officials and employees who advise the Commissioners in the exercise of their quasi-judicial functions will request or entertain off the record except from each other, nor (2) any party to a proceeding for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit, or any officer, employee, representative, or any other person directly or indirectly acting in behalf thereof, shall submit off the record to Commissioners or such staff members, officials, and employees, any evidence, explanation, analysis, or advice, whether written or oral, regarding any substantive matter at issue in a proceeding on the record then pending before the NRC for the issuance, denial, amendment, transfer, renewal, modification, suspension, or revocation of a license or permit. For the purposes of this section, the term "proceeding on the record then pending before the NRC" shall include any application or matter which has been noticed for hearing or concerning which a hearing has been requested pursuant to this part.

* * * * *

5. In Subpart G, immediately following § 2.790, a new center heading and new sections 2.795a through 2.795k are added to read as follows:

Special Procedures for Resolving Conflicts Concerning the Disclosure or Nondisclosure of Information Relating to an NRC Investigation or Inspection or to the Identity of a Confidential Informant and Deemed Relevant and Material to a Pending Adjudication

§ 2.795a Applicability of special procedures; official file.

(a) Sections 2.795a through 2.795k specify procedures for resolving conflicts concerning the disclosure or nondisclosure of information relating to an investigation or inspection or to the identity of a confidential informant and deemed relevant and material to a pending adjudication. These procedures apply to all NRC offices. The procedures are to be used whenever an NRC office may be required to produce information in a pending adjudication and the NRC office having the information believes that disclosure of the information without a protective order would prejudice an investigation or inspection or reveal the identity of a confidential informant.

(b) As used in §§ 2.795a through 2.795k, the term "presiding officer"

includes an administrative judge, an administrative law judge, an Atomic Safety and Licensing Board, and an Atomic Safety and Licensing Appeals Board.

(c) Unless and until publicly released, all documents required by or relating to the special procedures in §§ 2.795a through 2.795k shall bear the docket number and title of the preceeding, be marked "Not For Public Disclosure—Protected Under 10 CFR §§ 2.795a–2.795k," and transmitted to the Secretary in sealed double envelopes for deposit in the protected section of the official docket file.

§ 2.795b Requirement to disclose relevant and material information.

Information relating to an investigation or inspection or to the identity of a confidential informant and deemed relevant and material to a pending adjudication shall be disclosed to the parties to the adjudication by the NRC office having the information unless that NRC office requests the presiding officer by motion to issue a protective order imposing conditions upon the manner in which the information is disclosed or withholding the information from disclosure because disclosure without a protective order would prejudice an inspection or investigation or reveal the identity of a confidential informant.

§ 2.795c Motion for protective order; notice of motion.

(a) A motion for a protective order to impose conditions on or to withhold disclosure of information shall be addressed to the presiding officer by the NRC office having the information. At the time a motion is made and without revealing the substance of the information subject to the motion, the NRC office shall notify the parties to the adjudication and the Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, that a protective order to impose conditions on or to withhold disclosure of information has been requested.

(b) A motion for a protective order may be made orally or in writing, may include a request for an *ex parte in camera* oral presentation, and shall include the following information, as appropriate:

(1) A brief description of the nature of the information subject to the motion;

(2) A brief explanation why the information is relevant and material to the pending adjudication;

(3) A brief statement indicating how the information relates to an inspection or investigation and the status of the inspection or investigation, including the estimated time of completion;

(4) A statement that the information reveals the identity of a confidential informant;

(5) An explanation of the basis of the motion for a protective order to impose conditions on or to withhold disclosure of the information, including a brief explanation why and to what extent disclosure of the information without a protective order will compromise or impede the conduct of an investigation or inspection, or reveal the identity or otherwise compromise a confidential informant;

(6) The proposed relief requested.

§ 2.795d Consideration of motion by presiding officer; procedure.

(a) A motion from an NRC office for a protective order to impose conditions on or to withhold disclosure of information shall be considered by the presiding officer *in camera* without parties other than the NRC staff present.

(b) The presiding officer may require or permit the NRC office making the motion to make an *ex parte in camera* oral presentation. Attendance at an *ex parte in camera* oral presentation shall be limited exclusively to the presiding officer, to appropriate NRC personnel and to any witness appearing at the request of the NRC office or the presiding officer. The presiding officer shall promptly notify all parties to a pending adjudication when any *ex parte in camera* oral presentation will be held. The notice shall state the purpose, time, and place of the *ex parte in camera* oral presentation and the approximate date a ruling concerning the disclosure or nondisclosure of the information subject to the presentation may be expected. The substantive content of the information shall not be disclosed. If an *ex parte in camera* oral presentation is conducted, a verbatim transcript shall be made.

§ 2.795e Determination to grant or deny motion for protective order; requirement for Commission review.

(a) After consideration of a motion from an NRC office for a protective order to impose conditions on or to withhold disclosure of information, including any *ex parte in camera* oral presentation, and after finding that the information subject to the motion is both relevant and material to the pending adjudication, the presiding officer shall determine, in light of the Commission policy favoring full disclosure, whether disclosure of the information without a protective order could adversely affect the ability of the NRC to conduct an investigation or inspection fully and adequately or to protect the identity of a confidential informant and whether and to what extent all or part of the information should be withheld from disclosure or only disclosed subject to conditions.

(b) Every ruling requiring disclosure of the identity of a confidential informant shall be certified to the Commission for review. Pending Commission review, the order of the presiding officer shall be stayed.

(c)(1) If the presiding officer grants the motion, the presiding officer shall issue a protective order withholding disclosure of the information or conditioning its release, as requested.

(2) If the presiding officer determines that the motion should be denied in whole or in part, the presiding officer shall notify the NRC office submitting the motion of the intent to order disclosure. The notice of intent to order disclosure shall specify the nature of the information to be disclosed, the terms and conditions of any proposed order and the basis for the conclusion that prompt disclosure is required. The notice of intent shall state a reasonable time by which the NRC office must submit a statement of objection or concurrence.

(3) If the NRC office concurs in the disclosure specified in the notice of intent and if the disclosure does not reveal the identity of a confidential informant, the presiding officer shall issue the order proposed.

(4) If the NRC office objects to the disclosure specified in the notice of intent and any such objection is disallowed, the presiding officer shall promptly certify the objection, the ruling disallowing the objection and the accompanying record required by § 2.795f to the Commission for *ex parte in camera* review. The order of the presiding officer shall be stayed pending Commission review.

(d) The presiding officer shall promptly notify all parties to the pending adjudication and the Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission that a ruling relating the disclosure or nondisclosure of information has been issued or has been certificaiton to the Commission for *ex parte in camera* review. A notice of certificaiton shall state the reason for the certification, the certification date, and that, in accordance with § 2.795f, any party to the adjudication may file a timely brief with the Commission.

§ 2.795f Record for Commission review; briefs.

(a) Every information disclosure ruling certified to the Commission for *ex parte in camera* review pursuant to § 2.795e will be accompanied by a record which shall consist of the information provided to the presiding officer *ex parte in camera*, all documents filed with the presiding officer by the NRC office making the motion for a protective order, including an statements of concurrence or objection, the transcript of any *ex parte in camera* oral presentation, the presiding officer's notice of intent to require disclosure and the presiding officer's order.

(b) Within ten days after the presiding officer issues an order certifying an information disclosure ruling to the Commission for *ex parte in camera* review, the NRC office may file a brief with the Commission in support of its objections to disclosure. The NRC office shall notify all parties to the adjudication that an NRC brief has been filed, but need not serve a copy of the NRC brief on the parties to the pending adjudication. Within seven days after service of the NRC notice, any party to the pending adjudication may file a brief with the Commission.

§ 2.795g Commission review.

(a) Every information disclosure ruling certified to the Commission for review under § 2.795e, together with the accompanying record and any briefs, shall be considered by the Commission *in camera* without parties other than the NRC staff present. Upon its own initiative or upon request by the NRC office making the motion for a protective order, the Commission may conduct an *ex parte in camera* oral presentation on any matter certified to it for review under § 2.795e.

(b) After review of the certified information disclosure ruling, the accompanying record and any briefs, the Commission shall decide whether to affirm, reverse, or amend the ruling. The Commission order may include any terms or conditions deemed necessary or appropriate.

§ 2.795h Consent to disclose information; notice.

(a) The NRC office upon whose motion the presiding officer or the Commission has issued a protective order imposing conditions on or withholding the disclosure of information shall notify the presiding officer or the Commission, as appropriate, and the Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission when its objection to disclosure to the parties to the pending adjudication of all or any portion of the information subject to the order is withdrawn, when the inspection or investigation to which all or any portion of the information subject to the order relates is completed, or when it learns of any other change in the status of the protected information.

(b) Information which an NRC office has consented to release may be disclosed to the parties and placed in the public record of the pending adjudication without further order unless the information relates to the identity of a confidential informant or unless the Commission has ordered otherwise. The identity of a confidential informant may only be released by order of the Commission.

§ 2.795i Ex parte in camera record deemed sealed pending further order.

(a) Whenever the presiding officer under § 2.795e, or the Commission under § 2.795g, issues a protective order to impose conditions on or to withhold disclosure of information, the *ex parte in camera* record on which the order is based shall be deemed sealed pending further order.

(b) No part of any *ex parte in camera* record containing information pertaining to the identity of a confidential informant may be included in the public record of a pending adjudication or be made publicly available in any other way except pursuant to Commission order.

(c) After notice by the appropriate NRC office that an inspection or investigation has been completed or that objection to the disclosure of information has been withdrawn, whichever is earlier, and subject to the requirement in paragraph (b) of this section and to any other exemption from mandatory public disclosure that may validly be claimed under the Commission's regulations, including any exemption that may be available under § 2.790 or §§ 9.5, 9.61 or 9.95 of this chapter, the presiding officer or the Commission, as appropriate, shall order the *ex parte in camera* record included in the public record of the pending adjudication.

§ 2.795j FOIA request for release of protected information; release determination review.

(a) The Director, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, upon notice by an NRC office that information subject to an FOIA request is also subject to a protective order issued under § 2.795e or § 2.795g, shall promptly notify the presiding officer or the Commission, as appropriate.

(b) Upon notification of an FOIA request for release of protected information, the presiding officer or the Commission, as appropriate, shall review the bases for issuance of the protective order and determine, in the light of any exemptions that may validly be claimed under the provisions of the Freedom of Information Act and the Commission's regulations, whether the information in whole or in part continue to be protected or whether and under what conditions it may be released.

§ 2.795k Prohibition against use of information subject to protective order.

Information subject to a protective order to withhold disclosure may not be used by the presiding officer in making any decision in the pending adjudication unless all parties to the pending adjudication have been accorded access to the information either with or without conditions.

Dated at Washington, D.C., this 17th day of May 1985.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 85-12337 Filed 5-21-85; 8:45 am]

BILLING CODE 7590-01-M

FEDERAL ELECTION COMMISSION

11 CFR Part 111

[Notice 1985-5]

Compliance Procedures

AGENCY: Federal Election Commission.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Election Commission is reviewing its regulations governing its compliance procedures under the Federal Election Campaign Act of 1971, 2 U.S.C. 431 *et seq.* (the "Act" or "FECA"). *See* 11 CFR Part 111. As part of its efforts, the Commission requests comments and specific suggestions on possible revisions of Part 111. In addition, the Commission seeks comments on several areas in which it is considering revising the regulations. Further information is provided in the supplementary information that follows.

DATES: Comments must be received on or before June 21, 1985.

ADDRESSES: Please address comments to Susan E. Propper, Assistant General Counsel, 1325 K Street, NW., Washington, D.C. 20463.

FOR FURTHER INFORMATION CONTACT: Susan E. Propper, Assistant General Counsel, (202) 523–4143 or (800) 424–9530.

SUPPLEMENTARY INFORMATION: The enforcement sections of the Act and regulations are the sections, aside from the reporting and recordkeeping provisions, with which the public is most familiar. The Commission is seeking ways to cut elapsed time in its processing of enforcement matters. As part of this effort, the Commission is considering a revision of its regulations which govern the compliance process at 11 CFR Part 111.

The Commission is reviewing its regulations at this time for a number of reasons. First, the last time the Commission revised its regulations at Part 111 was in 1980, in response to the 1979 amendments to the FECA. Second, over the course of the three election cycles during which the Commission has implemented the provisions of Part 111, respondents in enforcement matters, the general public, including the American Bar Association Section of Administrative Law which issued a Resolution and Report on Reform on the FEC's Enforcement Procedures, and the Commission have raised questions and made suggestions about Part 111. With the recent conclusion of a major election cycle this is a good time for the Commission to begin the rulemaking process.

. The Commission is, therefore, seeking from the public comments and suggestions on the current regulations contained in Part 111 and on any general issues that are within the purview of the Part. In addition, the Commission welcomes comments on certain specific issues discussed in this Notice, which the Commission believes are significant enough to raise for comment as broad questions. These issues include whether the Commission should provide a respondent in an externally generated matter with the legal and factual basis for the Commission's reason to believe finding; requests for stays pending judicial review of Commission final repayment determinations; requests for extensions of time for responding to Commission findings; and naming successor treasurers as respondents. Section V of this Notice sets out some general issues on which the Commission welcomes comments. These issues include the confidentiality provision, and the way the Commission implements its procedures for investigations.

I. Providing Respondents With the Legal Basis for Commission Reason To Believe Findings in Externally Generated Complaints

Section 437g(a)(2) of the Act requires the Commission to notify any person against whom it has found reason to believe a violation of the FECA has ocurred and to provide the factual basis for the alleged violation. This requirement applies to both internally generated matters, that is, those that arise through the normal course of the Commission carrying out its supervisory responsibilities, and matters generated by a complaint from the general public. Section 111.8 of the Commission's regulations governs enforcement matters involving internally generated complaints. Subsection (b) of that section requires, in addition to notification of the factual basis supporting the Commission's actions, that the Commission also state the legal basis. The Commission is considering whether to amend § 111.8(b) of its regulations to require a separate notification of the legal basis in externally generated complaints also.

The Commission has not been preparing a separate legal and factual analysis in complaint generated matters for a number of reasons. The Commission has a practice of sending to respondents a copy of the complaint filed against them. It is the Commission's view that this practice satisfies the Act's notification requirements and the requirement that a respondent be given notice of the violations alleged against him or her. The Commission's practice avoids the burden of preparing and approving the analyses, thus shortening the elapsed time involved in initiating a complaint generated matter.

The question remains, however, whether in all cases the complaints clearly state the factual and legal issues. Also, in some cases the Commission raises issues in addition to those raised in the complaint. For these reasons, the Commission is considering whether it should send the respondent a statement of the factual and legal basis like that sent in internally generated matters. One option may be to limit preparation of statements to only those issues not discussed or adequately explained in the complaint. The Commission seeks public comment on this question.

II. Requests for Stay of Final Determination of Repayment of Federal Funds Pending Petition for Review

Title 26 of the U.S. Code requires the Commission to audit Presidential candidates and party committees that receive federal funds for presidential nominating conventions, primary elections and general elections. 26 U.S.C. 9007(a), 9008(g) and 9038(a); see also 11 CFR 9007.1(a), 9008.9 and 9038.1(a). Using the primary election as an example, if the Commission determines that any part of the matching fund payments received exceeded the aggregate amount to which the presidential candidate was entitled or was used for purposes other than to defray qualified campaign expenses, then the candidate must repay to the Secretary of the Treasury that amount. The Commission notifies the candidate of its repayment determination in accordance with the procedures set out in § 9038.2(c) of the regulations. 11 CFR 9038.2(c). The candidate has an opportunity to dispute the Commission's initial calculation. During the Commission's consideration of the materials the candidate submits in disputing the Commission's determination, the time for repayment is suspended. Once the Commission has made its final determination, the candidate must repay the Treasury within 20 days of receiving notice of the final repayment determination, although the candidate may apply for a 90 day extension of this period. 11 CFR 9038.2(d)(2). The candidate, pursuant to 26 U.S.C. 9041(a), may also petition the Court of Appeals for the District of Columbia Circuit for review of the Commission's final repayment determination. In some cases, candidates have requested that the Commission stay its repayment determination pending the judicial appeal of that determination. The Commission is of the opinion that stays are not automatic once a candidate has filed a timely petition for review with the court of appeals, a position which the courts have supported. Rather, a candidate must make a timely application to the Commission to request a stay. Only if, or after, the Commission denies the stay request may the candidate seek a stay from the courts. The Commission has therefore established a set of criteria to determine whether it should grant a stay in a particular case. It seeks comments on these criteria and whether it should add the criteria and specific procedures for requesting stays to the enforcement regulations, 11 CFR Part 111.

The Standard for Review of a Request for Stay

Section 705 of the Administrative Procedure Act ("APA") (Title 5 of the U.S. Code) grants reviewing courts and agencies such as the Commission the

authority to stay an agency order or final determination pending judicial review of such order or determination. Specifically, section 705 states that a stay may be granted by an agency if it finds "that justice so requires," and that a reviewing court may stay agency action pending appeal "to the extent necessary to prevent irreparable injury." Beyond this requirement of irreparable harm, 5 U.S.C. 705 specifies no further criteria to guide the courts and agencies in determining whether to impose a stay of an agency decision. The Federal Rules of Appellate Procedure, however, do provide some additional guidance in this regard.

Fed. R. App. P. 18 sets forth a procedure whereby a person may apply to the court of appeals in which a petition for direct review of an agency order or decision is pending for a stay of that order or decision. That rule of appellate procedure, however, requires that, in most instances, application for a stay first be made to the administrative agency, as provided for by 5 U.S.C. 705. In addition, the Advisory Committee Notes to Fed. R. App. P. 18 state that the rule "merely assimilates the procedure for obtaining stays in agency proceedings with that for obtaining stays in appeals from the district courts." Thus, as an administrative agency is analogous to a district court in the situation where a stay is sought pending appellate review, the standard applied by the district courts in determining, in the first instance, if such a stay should be granted should likewise be applied by the administrative agency when confronted with the same issue.

The standard applied by the courts of appeals and district courts in determining whether a stay or any other type of injunctive relief ought to be imposed pending a judicial action is well-established. The petitioner has the burden of demonstrating that: (1) He or she will suffer irreparable injury in the absence of such a stay; and, if so, that (2) he or she has made a strong showing of the likelihood of success on the merits of the judicial action; (3) that such relief is consistent with the public interest; and (4) that no other party's interests will be substantially harmed by the stay. *Virginia Petroleum Jobbers Ass'n v. Fed. Power Comm.*, 259 F.2d 921, 925 (D.C. Cir. 1958); *Washington Metropolitan Area Transit v. Holiday Tours, Inc.*, 559 F.2d 841, 842–3 (D.C. Cir. 1977). It is this standard that the FEC relies upon in considering a request for a stay of a final repayment determination.

The Commission also is considering establishing procedures to be followed in requesting a stay. The procedures would indicate to whom stay requests should be directed and that they must be submitted within the 20 day repayment period following the candidate's receipt of the Commission's final repayment determination notice.

The Commission seeks comments on the standard outlined above, suggestions for procedures for requesting a stay, and on whether to include these in Part 111 of the regulations.

III. Requests for Extensions of Time

On April 18, 1985, the Commission decided to revise its procedures for requesting and standards for granting extensions of time for respondents to respond to Commission notifications. See Agenda Doc. #85–51, Attachment IV. The Commission is considering whether to include the procedures and standards in its regulations at Part 111.

To request an extention under the April 18 procedures, and respondent must submit to the Commission a *written* request at least *five* days before the response period is to end. The request must set forth a full explanation of the reasons why an extention is necessary. Good cause for an extention might include illness or a prior commitment requiring the requester to be unavailable during the response period.

Any comments or suggestions about the system of granting extentions, including the procedures for requesting and the standards for granting an extension are sought by the Commission.

IV. Naming Committee Treasurers as Respondents

On August 18, 1983, the Commission determined that it would name as respondents in a matter under review ("MUR"), committee officials, candidates or both when the Commission is proceeding against the committee for alleged violations. It would name committee officials individually only if the Commission has a basis for believing there is some individual responsibility. Subsequently on May 24, 1984, the Commission decided to name successor committee treasurers in their official capacities as respondents in compliance actions that allege violations of the FECA which occur during the tenure of the prior treasurer. The Commission is considering whether to include these procedures in its regulations and seeks public comment on the proposal.

In deciding whether to name committee officials, candidates or both as respondents in MUR's, the Commission considered the enforcement provisions of the Act at 2 U.S.C. 437(g). Section 437g(a) requires the Commission to notify, in writing, "any person alleged in the complaint to have committed . . . a violation." 2 U.S.C. 437g(a)(1). The Office of General Counsel, after receiving a complaint, notifies any person identified by the complainant as a respondent and any other person who, although not identified by the complainant, is implicated by the facts as a potential violator of the Act.

Under other provisions of that Act, Congress contemplated liability of committee officials by placing certain responsibilities upon them. For example, 2 U.S.C. 432(c) provides: "The treasurer of a political committee shall keep an account of . . . " the committee's financial activity, committee records and the filing of reports of receipts and disbursements as required by the FECA. A candidate, under 2 U.S.C. 432(e), must designate a political committee to serve as his or her principal compaign committee. Once the candidate designates a principal campaign committee, he or she becomes an agent of the committee, 2 U.S.C. 432(e)(2). Candidates and committee treasurers may be subject to liability because of the obligations that section 432 imposes on them.

Section 441a(f) provides further potential liability for candidates, officers or employees of a political committee by prohibiting them from knowingly accepting a contribution or making an expenditure in violation of section 441a. Similarly, section 441b(a) makes it illegal "for any candidate . . . or other person knowingly to accept or receive any contribution prohibited by . . . " section 441b. Other sections prohibit "any person" from committing certain acts. *See* 2 U.S.C. 441c(a), 441d, and 441e.

The cited provisions of the Act make it clear that the Commission, under the statute, has the authority to proceed against a committee treasurer for accounting, recordkeeping and reporting violations and against the candidate, committee officials, or both for their knowing acceptance of excessive or prohibited contributions.

By notifying the committee treasurer, candidate or other responsible person of the receipt of a complaint, the Commission provides him or her with

notice and an opportunity to participate at every stage of the enforcement process. The early notification of potential liability also prevents delay that might be caused should the Commission at a later stage of the proceeding decide to include the treasurer, candidate or other committee official in the case. After reviewing these considerations, the Commission adopted its decision to name as respondents in a MUR the committee officials, candidates or both, of a committee against which the Commission is proceeding.

On May 24, 1984, the Commission extended this determination by deciding to make findings against successor treasurers in their official capacity in compliance actions alleging violations of the FECA which occurred during the tenure of a prior treasurer. In reaching its decision, the Commission considered treatment by the courts of "official capacity" actions and precedent surrounding automatic substitution of successor public officials under the Federal Rules of Civil Procedure, Fed. R. Civ. P. 25(d). The Federal Rules provide:

> When a public officer is a party to an action in his official capacity and during its pendency dies, resigns, or otherwise ceases to hold office, the action does not abate and his successor is automatically substituted as a party. Proceedings following the substitution shall be in the name of the substituted party, but any misnomer not affecting the substantial rights of the parties shall be disregarded. An order of substitution may be entered at any time, but the omission to enter such an order shall not affect the substitution. Fed. R. Civ. P. 25(d)(1), 1 Moore's Federal Practice-Rules Pamphlets 220 (1983).

The Advisory Committee Note to this 1961 automatic substitution amendment suggests that: "In general it will apply whenever effective relief would call for corrective behavior by the one then having official status and power, rather than the one who has lost that status and power through ceasing to hold office." 3B J. Moore, Federal Practice ¶ 25.01[13], at 25–21 (1982).

The Commission also considered *Spomer* v. *Littleton*, 414 U.S. 514 (1974), in which the Supreme Court cited Fed. R. Civ. P. 25(d)(1) and the Advisory Committee Note. The Court said that "the question of whether corrective behavior is thought to be necessary is, of course, dependent on whether the dispute with the predecessor continued with the successor." *Spomer, supra*, at 521 n.9. Also, the Seventh Circuit stated in *Kincaid* v. *Rusk*, 670 F.2d 737 (1982):

> Official-capacity suit[s] directed at named public officer[s] seeking damages for alleged past misconduct [are] not mooted when the named officer does or is succeeded in office because the purpose and effect of such suit[s] is to recover damages only from the *public entity* for the action of its agents. Neither the predecessor official nor the successor can become personally liable (nor a judgment collected from them) if suit is brought against them repectively in their official capacities.

Kincaid, supra, at 741–742 (emphasis in original).

The Commission, therefore, determined that it would name successor treasurers in their official capacity in compliance actions for violations of the FECA alleged to have been committed during the tenure of past treasurers.

In action to naming successor treasurers as respondents, the Commission is considering naming, as an additional respondent, the person who was treasurer at the time the alleged violation occurred. As discussed previously, the Act places certain responsibilities on committee officials including treasurers. Under the Act, therefore, the Commission could hold an ex-treasurer liable for any violation that occurred as a result of his or her failure to carry out his or her responsibilities. The Commission seeks comments on whether it should include the ex-treasurers for the period in which the violation occurred as respondents in enforcement matters.

The Commission is considering whether to include a statement in the regulations to put the public on notice as to who will be named as a respondent in enforcement matters. The Commission seeks public comment on this proposal.

V. Miscellaneous Issues

The Commission is interested in any comments or suggestions that the public may have on the regulations now in Part 111 and whether any additions or change are warranted. For example, commenters may wish to discuss the confidentiality provision and whether the Commission could be doing anything to protect further the rights of respondents. Another topic may be the way the Commission conducts its investigations. The Commission welcomes any specific proposals that could be addressed in a revision of 11 CFR Part 111, in addition to the issues raised in this Notice.

Dated: May 17, 1985.

John Warren McGarry,

Chairman, Federal Election Commission.

FR Doc. 85–12252 Filed 5–21–85; 8:45 am]

BILLING CODE 6715–01–M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Part 250

[Release No. 35–23693; File No. S7–22–85]

Exemption for Affiliated Persons of Investment Bankers and Commercial Banking Institutions To Serve as Officers or Directors of Registered Public Utility Holding Companies and Their Subsidiaries; Proposed Amendments To Competitive Bidding Rule

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule revision and proposed rule amendment.

SUMMARY: The Commission is publishing for public comment a rule revision that would permit a limited number of investment bankers and commercial bankers to serve as officers or directors of public utility holding companies and their subsidiaries under certain conditions. The proposed action is intended to simplify, clarify, and expand the exemptions now available under the existing rule. The Commission is also proposing amendments to another existing rule which governs competitive bidding procedures for the distribution of securities issued by public utility holding companies and their subsidiaries.

DATE: Comments must be received on or before August 12, 1985.

ADDRESS: Send comments in triplicate to John Wheeler, Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549 (Reference to File No. S7–22–85). All comments received will be available for public inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Denis R. Molleur, Esq. (202–272–2073), Office of Public Utility Regulation, or Jack Murphy, Esq. (202–272–3042), Office of Regulatory Policy, Division of Investment Management, Securities and Exhange Commission, 450 Fifth Street, NW., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission is publishing for public comment a proposed revision of rule 70 (17 CFR 250.70) under section 17(c) (15 U.S.C. 79q(c)) of the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 *et seq.*) ("Act"), which would permit a limited number of persons[1] affiliated

[1] Section 2(a)(1) (15 U.S.C. 79b(a)(1)) defines "person" to mean an individual or company.

with investment bankers or commercial banking institutions to serve as directors or officers of public utility holding companies and their subsidiaries. The purpose of the proposed rule change is to simplify, clarify, and expand the existing rule to give holding companies and their subsidiaries more flexibility in the selection of their officers and directors, reflecting changes that have occured in the financial markets.

The Commission is also proposing to amend rule 50 (17 CFR 250.50) under sections 6, 7(c), and 12(d) (15 U.S.C. 79f, 79g(c), and 79*l*(d)) of the Act, which governs competitive bidding procedures for the distribution of securities issued by holding companies and their subsidiaries. The proposed amendments would address potential conflicts of interest which might arise shortly after an affiliated person of an investment banker leaves the board of directors of a company in a holding company system if that investment banker plays a significant role in the distribution of the securities of any company in the same system. The proposed amendments would also codify the revised competitive bidding procedures which the Commission announced at the time of the adoption of rule 415 (17 CFR 230.415) under the Securities Act of 1933 (15 U.S.C. 77 *et seq.*).[2]

Background

Section 17(c) of the Act prohibits a registered holding company and a subsidiary thereof from having as an officer or director any person who serves in a similar capacity for a bank, trust company, investment banker, or banking association or firm except as permitted by Commission rules.[3] This section was designed to prevent the domination of holding company systems by investment bankers and commercial banking institutions, a practice discovered in connection with the study of utility companies performed by the Federal Trade Commission ("FTC") from 1928 to 1935.[4] Aside from the findings in the FTC report, there is no legislative history relating specifically to the passage of section 17(c).[5] However, the legislative history with regard to the Act in general indicates Congress' concern with the lack of arm's length transactions with respect to the sale of securities and the absence of competition among holding companies.[6] As recently as 1978, Congress expressed a continuing concern with affiliated persons of commercial banking institutions or investment bankers serving as officers or directors of public utility companies [7] when it added section 305(c) to the Federal Power Act which imposes certain reporting requirements when such corporate interlocks exist.[8]

Recognizing that a blanket prohibition of corporate interlocks between holding company systems and investment bankers and commercial banking institutions might be too restrictive Congress added the final clause of section 17(c) which allows the Commission to grant exemptions from the section by rule.[9] In 1936, the Commission adopted its first rule pursuant to section 17(c), and has since amended the rule numerous times.[10] The existing rule provides limited exemptive relief for, *inter alia*, substantial shareholders of holding companies and their subsidiaries, full-time holding company system employees, and persons affiliated with small or local commercial banking institutions and investment bankers. Specifically, with regard to investment bankers, the existing rule permits a registered holding company or subsidiary to have as an officer or director a person whose only financial connection is with a single investment banker, provided the investment banker's total capital and surplus does not exceed $500,000, and the investment banker has never engaged in underwriting or participated in the marketing of securities of any registered holding company or public utility company.[11] Regarding commercial banking institutions, the existing rule permits a registered holding company or subsidiary to have as an officer or director a person whose only financial connection is with one or more commercial banking institutions, each having combined capital and surplus not exceeding $2,500,000, or with one or more commercial banking institutions having their principal offices within the territory where the company carries on its operations.[12]

The Commission believes that dramatic changes in the structure of the financial services industry since 1935 warrant a revision of the limited exemptions provided in rule 70. Although the rule has been one of the most frequently amended rules under the Act, evidence indicates that today the rule still prevents holding companies and their subsidiaries from attracting many otherwise qualified persons to

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[2] Holding Company Act Release No. 22623 (September 2, 1982) (47 FR 24768). These amendments are intended to update the rule on an interim basis while the staff is reviewing the possibility of making more comprehensive changes with respect to competitive bidding.

[3] "* * * No registered holding company or any subsidiary company thereof shall have, as an officer or director thereof, any executive officer, director, partner, appointee, or representative of any bank, trust company, investment banker, or banking association or firm, or any executive officer, director, partner, appointee, or representative of any corporation a majority of whose stock, having the unrestricted right to vote for the election of directors, is owned by any bank, trust company, investment banker, or banking association or firm, except in such cases as rules and regulations prescribed by the Commission may permit as not adversely affecting the public interest or the interest of investors or consumers". Public Utility Holding Company Act of 1935, section 17(c).

[4] FTC, *Utility Corporation*, S. Doc. No. 92, 70th Cong., 1st Sess. (1935). The preamble of the Act states that Congress found, on the basis of facts disclosed by reports of the FTC, and the reports of the House Committee on Interstate and Foreign Commerce, that the interests of investors in holding companies and their subsidiaries, and the interest of consumers of electric energy are or may be adversely affected "when subsidiary public-utility companies . . . enter into transactions in which evils result from an absence of arm's length bargaining or from restraint of free and independent competition. * * *" 15 U.S.C. 79a(b)(2).

[5] Section 17(c), except for its final clause, was added to the Act in the Senate as one of the group of undebated floor amendments. 79 Cong. Rec. 8850 (1935). In this form, it was an absolute prohibition on an officer or director of a bank or investment banker serving in a registered holding company system.

[6] As stated by the Court of Appeals for the District of Columbia Circuit:

"* * * During the passage of the Public Utilities Holding Company Act in 1935, Congress exhibited a relentless interest in, bordering on an obsession with, the evils of concentration of economic power in the hands of a few individuals. It recognized that the conflicts of interest stemming from the presence of the same few persons on boards of companies with intersecting interests generated subtle and difficult-to-prove failures in the arm's length bargaining process. Its overriding concern with eliminating the source of evils result[ing] from an absence of arm's length bargaining was expressed in the preamble to the Act which Congress explicitly referenced for guidance in interpreting other provisions of the Act.

Hatch v. *Federal Energy Regulatory Commission*, 654 F.2d 825, 831 (1981).

[7] "Public utility company" as defined in the Act means an electric utility company or a gas utility company. Section 2(a)(5) of the Act.

[8] Section 211 of the Public Utility Regulatory Policies Act of 1978, 6 U.S.C. 825d.

[9] Authorization for the Commission to grant exemptions by rule was added by the House Conference Committee. *See* H.R. Rept. No. 1903, 74th Cong., 1st Sess., p. 72 (1935).

[10] The first rule adopted under section 17(c) of the Act was rule 17(c). Holding Company Act Release No. 271 (July 2, 1936). Rule 17(c) was subsequently amended thirteen times. The Act's rules were generally revised and renumbered in Holding Company Act Release No. 2694 (April 18, 1941), rule 17(c) becoming rule 70. Rule 70 has been amended by Holding Company Act Release Nos. 3136 (November 24, 1941) (6 FR 5950); 4334 (June 4, 1943) (8 FR 7533); 6318 (December 28, 1945) (10 FR 15413); 11025 (January 25, 1952) (17 CFR 989); 12825 (March 21, 1955) (20 FR 1847); 13454 (April 23, 1957) (22 FR 3010); 13585 (November 4, 1957) (22 FR 9106); 14383 (March 23, 1961) (26 FR 2466); 14916 (July 24, 1963) (28 FR 7970); 19392 (May 17, 1976) (41 FR 21184); and 22369 (February 4, 1982) (47 FR 5223).

[11] 17 CFR 250.70(a)(4)(ii).

[12] 17 CFR 250.70(a)(4)(i), (iii), and (iv).

serve as officers or directors of holding companies and their subsidiaries. Moreover, the substantial increase in the acquisition of investment banks and commercial banks by companies engaged in other businesses has made another large group of qualified persons unavailable for positions in registered holding company systems.[13]

The proposed revision to rule 70 is intended to reflect current conditions in the financial services industry and to strike a reasonable balance between Congress' concern with interlocks between holding company systems and commercial banking institutions and investment bankers and the need for holding company systems to be able to recruit and retain well-qualified directors and officers.

Discussion

I. Revision of Rule 70

Existing rule 70 contains a complicated web of exemptive relief for commercial banking institutions and investment bankers, and some exemptions are so obsolete as to provide no exemptive relief at all.[14] As explained below, the rule has been totally revised to provide registered holding companies and their subsidiaries with the opportunity to attract a wider range of talented people to serve as directors and officers, while safeguarding against any possibility that a small group of commercial or investment bankers might exert undue influence over a holding company system. Comment is requested as to specific areas in which the exemptive relief that would be made available by the revised rule should be expanded or further limited.

In the case of holding companies and non-utility subsidiaries, the revised rule would allow up to one-third of the board of directors to be affiliated persons of commercial banking institutions or investment bankers. In the case of public utility subsidiaries, the revised rule would allow an additional one-third of the board to be affiliated persons of local commercial banking institutions. Such persons could be affiliated with commercial banking institutions or investment bankers only as outside directors of those institutions, and would be permitted to serve only as outside directors of the holding company or its subsidiary companies. The revised rule would also allow officers of public utility subsidiary companies to serve as outside directors of local commercial banking institutions. As discussed in more detail below, the proposed rule would preclude any possibility that a single commercial banking institution or investment banker may exert undue influence over a holding company system, in recognition of the Congressional concerns which led to enactment of section 17(c) of the Act.

An "affiliated person" of a commercial banking institution or investment banker would be defined to include any executive officer, director, partner, appointee or representative,[15] including any person who directly or indirectly owns or holds with power to vote 5 percent or more of any class of the outstanding voting securities of that commercial banking institution or investment banker.[16] A "commercial banking institution" would be defined to include any person that engages directly or indirectly in the business of a bank, trust company or banking institution or firm,[17] as well as any enterprise in which such person owns 20 percent or more of the equity interest.[18] The revised rule would exclude any person that derives 15 percent or less of its gross revenues from commercial banking and investment banking activities [19] during the fiscal year immediately preceding an affiliated person's nomination to the board of directors, or appointment as an officer, of a registered holding company or subsidiary company. An "investment banker" would be defined to include any person that engages directly or indirectly in the business of underwriting or dealing in securities that are not exempt from registration under the Securities Act of 1933 by section 3 thereof (15 U.S.C. 77c), and any enterprise in which such person owns 20 percent or more of the equity interest.[20] This term excludes any person that derived 15 percent or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's nomination to the board of directors, or appointment as officer, of a registered holding company or subsidiary company,[21] unless those revenues were derived from acting as managing underwriter for the distribution of securities of a company in the holding company system.

(a) Directors of Holding Companies and Subsidiary Companies. A holding company is required to own all the common stock of all the subsidiaries within that holding company system.[22] Since the directors of a holding company are in a position to influence the operations of the entire holding company system, the proposed rule would permit no more than one-third of the holding company's board to be affiliated persons of commercial banking institutions or investment bankers. These affiliated persons would have to be outside directors of the commercial banking institutions or investment bankers and would be permitted to serve only as outside directors of the holding company. Similarly, the proposed rule would permit no more than one-third of the board of a non-utility subsidiary to be affiliated persons of commercial banking institutions or investment bankers. This limitation is being applied to non-utility subsidiaries because the Commission is unaware of any particular problems that those subsidiaries have had in attracting qualified directors. Comment is requested, however, on whether this is in fact the case. As discussed below, a utility subsidiary could also have up to one-third of its directors affiliated with commercial banking institutions and investment bankers and an additional one-third of its directors affiliated with local commercial banking institutions.

To limit the influence that any one commercial banking institution or investment banker might exert on a holding company system, the rule would state that an affiliated person of a particular commercial banking institution or investment banker may

[13] The exemption for interlocks with "small" investment bankers, as it currently exists, has little applicability. There are few investment bankers with capital and surplus not exceeding $500,000 or who have not engaged in the underwriting or participated in the marketing of securities of registered holding companies or their subsidiaries.

[14] *Id.*

[15] This language is identical to the language used in section 17(c) of the Act.

[16] The final clause of the definition of affiliated person is taken from the definition of affiliate under the Act. *See* section 2(a)(11).

[17] This language is identical to the language used in section 17(c) of the Act minus the words "investment banker".

[18] *See FASB Accounting Standards*, Vol 2. section 182.104. p. 27717 (1982) which states that "20 percent or more ownership of the voting stock of an investee shall lead to a presumption that . . . an investor has the ability to exercise significant influence over an investee".

[19] This clause is based upon rule 12d3-1(a) under section 12(d)(3) [15 U.S.C. 80a-12(d)(3)] of the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*). That rule provides a blanket exemption for investment companies to acquire securities issued by persons that derive 15% or less of their gross revenues from securities related businesses and a conditional exemption for acquisitions of securities issued by persons that derive more than 15% of their gross revenues from such businesses. *See* Investment Company Act Release No. 14036 (July 13, 1984) (49 FR 29362), adopting the rule.

[20] *See supra* note 18. The definition of investment banker therefore excludes commercial banking institutions that are underwriting municipal securities.

[21] *See supra* note 19.

[22] *See* section 11(b)(2).

serve as a director of only one company in the holding company system, and no other person affiliated with that commercial banking institution or investment banker may serve as a director of the company or of any other company within the holding company system. To prevent potential conflicts of interest, a director of an investment banker could not serve as a director of the holding company or subsidiary company if the investment banker acts as a managing underwriter for the distribution of securities issued by any company within the holding company system while the director serves on the board, or within twelve months prior to the director's appointment or election to the board.

A "managing underwriter" would include an underwriter (or underwriters) who, by contract or otherwise, deals with the registrants; organizes the selling effort, receives some benefit which all other underwriters similarly situated do not; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.[23] This definition would therefore include any persons responsible for managing a traditional retail syndication as well as persons responsibile for other types of distributions such as the "dribble out" of securities into an existing trading market on a regular basis.

(b) Directors of Public Utility Subsidiary Companies. In order to simplify holding company systems, Congress stressed the need for localized management,[24] and existing rule 70 provides greater exemptive relief for directors of local commercial banking institutions to serve on the board of directors of public utility subsidiary companies.[25]

The revised rule would continue this exemptive scheme. In addition to the one-third exemption described above, a public utility subsidiary company would be permitted to have another one-third of its board of directors comprised of affiliated persons of local commercial banking institutions. A local commercial banking institution would be defined to be a commercial banking institution that has its principal place of business located within the state or states in which the subsidiary utility company operates. Only outside directors of the local commercial banking institutions could serve on the board and only as outside directors. Again, to limit the influence of any one commercial banking institution, the revised rule would state that an affiliated person of a particular commercial banking institution may serve as a director of only one company within a holding company system, and that no other affiliated person of that particular commercial banking institution may serve as a director of the utility company or of any other company within the holding company system.

(c) Officers of Public Utility Subsidiaries. Existing rule 70 also reflects the need for localized management by permitting directors of commercial banking institutions to serve as officers of public utility subsidiaries.[26] The revised rule would continue this exemptive scheme by permitting an affiliated person who is an outside director of a local commercial banking institution to serve as an officer of a public utility subsidiary company. Again, the revised rule would state that while an affiliated person of a particular commercial banking institution serves as a director or officer or employee of any company in the holding company system, no other affiliated person of that institution may serve as a director or officer or employee of that company or of any other company within the system.

(d) Grandfather Clause. The revised rule includes a grandfather clause to permit affiliated persons of investment bankers and commercial banking institutions who are serving as directors or officers of a registered holding company or subsidiary company on the date this revised rule is proposed to complete their terms and continue to serve, irrespective of the provisions of the revised rule. In other words, if a holding company exceeds the one-third limitation by two board members on the date this rule revision is proposed, the rule's adoption would not require the resignation of those two members. Further, if the number of board members affiliated with commercial banking institutions or investment bankers has not been reduced by the end of the terms of two board members, they would be eligible to be reappointed or re-elected.

II. Amendments to Rule 50

Rule 50 is being amended to reflect the Commission's Statement of Policy regarding that rule which was published in September, 1982,[27] and to prevent possible conflicts of interest that could arise shortly after an affiliated person of an investment banker has left the board of a company in a holding company system.

With limited exceptions, rule 50 requires a registered holding company or subsidiary company, before entering into a contract or agreement for the distribution of such securities, to publicly invite sealed, written proposals for the distribution of such securities from two or more independent parties. The policy statement, in essence, did away with the requirement that companies publicly invite sealed, written proposals by requiring the companies to obtain two or more independent proposals by any means they wish to use. The Commission is proposing to amend rule 50 to reflect this policy statement with minor technical changes. The rule would also be amended to make clear that the issuer has an obligation not only to obtain proposals from at least two independent parties, but also to accept one of these proposals if it goes forward with the offering

To prevent possible conflicts of interest or the appearance of conflicts after a director leaves the board of a registered holding company or one of its subsidiaries, the amended rule would prohibit an issuer from accepting a proposal from an investment banker if an affiliated person of that investment banker has served as a director of the applicant or declarant or of any company within the same holding company system within the twelve months preceding receipt of the proposal.

List of Subjects in 17 CFR Part 250

Public utility holding companies, Officers and directors of registered holding companies and their subsidiaries, Competitive bidding requirement, Securities.

Text of Proposed Rule Revision and Rule Amendments

It is proposed to amend Part 250 of Chapter II, Title 17 of the Code of Federal Regulations as set forth below.

[23] The definition of managing underwriter is the same as the definition that was added to rule 405 [17 CFR 230.405] when rule 415 was adopted on a temporary basis. (*See* Securities Act Release No. 6383, March 3, 1982, 47 FR 11380). This definition was subsequently removed from rule 405 when the Commission deleted the provision in Item 512(a) of Regulation S-K [17 CFR 229.512] that had required post-effective amendments to be filed to disclose the deletion or addition of a managing underwriter. [See Securities Act Release No. 6423, September 2, 1982, 47 FR 39799].

[24] *See* section 11(b)(1)(C) [15 U.S.C. 79k(b)(1)(C)].

[25] 17 CFR 250.70(a)(4)(iv).

[26] *See* 17 CFR 250.70(a)(4)(iii).

[27] *See supra* note 2.

PART 250—GENERAL RULES AND REGULATIONS, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935

1. The authority citation for Part 250 is revised to read as set forth below and the authority citations following all the sections in Part 250 are removed.

Authority. Sections 6(c), 7, 12(d), 17(c) and 20(a). (15 U.S.C. 79f(c), 79g, 79*l*(d), 79q(c) and 79t(a)).

2. By proposing to revise § 250.70 to read as follows:

§ 250.70 Exemptions from section 17(c) of the Act.

(a) Notwithstanding the prohibitions contained in section 17(c) of the Act, a registered holding company or subsidiary company thereof, may have up to one-third of its board of directors comprised of affiliated persons of commercial banking institutions or investment bankers; *Provided,* That:

(1) Any affiliated person of a commercial banking institution or investment banker serving on the board of directors of a holding company or subsidiary company does not also serve as an officer or employee of that commercial banking institution or investment banker, or as an officer or employee of the holding company or subsidiary company;

(2) An affiliated person of a particular commercial banking institution or investment banker serves as a director of only one company within a holding company system, and no other affiliated person of that institution serves as a director of that company or of any other company within that system; and

(3) Where an affiliated person of an investment banker serves as a director of any company within a holding company system, the investment banker:

(i) Has not acted as a managing underwriter for the distribution of securities issued by any company in the holding company system for at least twelve months prior to the director's appointment or election to the board; and

(ii) Does not act as a managing underwriter for the distribution of securities issued by any company in the holding company system while the director serves on the board.

(b) A subsidiary company which is a public utility company may have an additional one-third of its board of directors comprised of affiliated persons of commercial banking institutions that have their principal places of business located within the state or states in which the subsidiary company operates, *Provided,* That: the conditions of paragraphs (a)(1) and (a)(2) of this rule are met.

(c) A director of a commercial banking institution that has its principal place of business located within the state or states in which the subsidiary company operates may serve as an officer of a subsidiary company which is a public utility company, *Provided,* That:

(1) The director does not also serve as an officer or employee of the commercial banking institution; and

(2) Where an affiliated person of a particular commercial banking institution serves as an officer, employee or director of any company within a holding company system, no other affiliated person of that institution serves as an officer, employee or director of that company or of any other company within that system.

(d) Nothing in this rule shall disqualify an affiliated person of a commercial banking institution or investment banker who is serving as an officer or director of a registered holding company or a subsidiary company thereof as of May 15, 1985 from completing his term or continuing to serve in that capacity.

(e) For purposes of this rule,

(1) An "affiliated person" of a commercial banking institution or investment banker means an executive officer, director, partner, appointee or represenative of that commercial banking institution or investment banker, including any person that directly or indirectly owns or holds with power to vote 5 percent or more of any class of the outstanding voting securities of that commercial banking institution or investment banker.

(2) A "commercial banking institution" means any person:

(i) That engages directly or indirectly in the business of a bank, trust company or banking association or firm; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's nomination to the board of directors, or appointment as officer, of a registered holding company or subsidiary company thereof.

(3) An "investment banker" means any person:

(i) That engages directly or indirectly in the business of underwriting or dealing in securities that are not exempted from registration under the Securities Act of 1933 by section 3 of that Act; and

(ii) Any enterprise in which such person owns 20 percent or more of the equity interest.

The term excludes any person that derived 15% or less of its gross revenues from commercial banking and investment banking activities during the fiscal year immediately preceding an affiliated person's nomination to the board of directors, or appointment as officer, of a registered holding company or subsidiary company thereof, unless those revenues were derived from acting as a managing underwriter for the distribution of securities issued by any company in such holding company system.

(4) A person's gross revenues from its own commercial and investment banking activities and from its ratable share of the commercial banking and investment banking activities of enterprises in which it owns 20 percent or more of the equity interest should be considered in determining the degree to which the person is engaged in such activities.

(5) A "director" means any director of a corporation or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust or other company.

(6) An "officer" or "executive officer" means a chairman of the board of directors, chairman of the finance committee or executive committee, president, vice president, treasurer, secretary, comptroller, and in the case of a commercial banking institution, a trust officer; or any individual who performs similar functions in connection with a corporation, partnership, trust, voting trust, or other company.

(7) A "managing underwriter" means an underwriter (or underwriters) who, by contract or otherwise, deals with the registrant; organizes the selling efforts; receives some benefit directly or indirectly in which all other underwriters similarly situated do not share in proportion to their respective interest in the underwriting; or represents any other underwriters in such matters as maintaining the records of the distribution, arranging the allotments of securities offered or arranging for appropriate stabilization activities, if any.

3. By proposing to revise the section heading and paragraphs (b), (c), and (d) of § 250.50 to read as follows:

§ 250.50 Competitive bidding procedures.

* * * * *

(b)(1) *Requirement.* The Commission will not grant or permit to become

effective any application or declaration subject to this rule unless the applicant or declarant, before entering into any contract or agreement for the issuance or sale of the securities therein proposed, has accepted one of at least two independent proposals obtained for the distribution of the securities.

(2) Any proposal which is received from an investment banker as defined in rule 70(e)(3) (17 CFR 250.70(e)(3)) within twelve months after an affiliated person of that investment banker has served as a director of the applicant or declarant or of any company within the same holding company system as the applicant or declarant will not be considered as independent proposal.

(c) *Sale of securities.* If at least two independent proposals for the distribution of the securities are received, the applicant or declarant may, without further order of or filing with the Commission, issue or sell the securities in accordance with the terms and conditions contained in the application, if granted, or in the declaration, if effective. In any other event the applicant or declarant shall, as promptly as possible after receiving the proposal, file an amendment which shall include the applicable information or documents specified in paragraph (d) of this rule; and the proposed distribution of the securities shall not be consummated until a further order of the Commission authorizing such issuance or sale has been entered.

(d) *Reports.* If the issuance or sale is consummated without further order of the Commission pursuant to paragraph (c) of this rule, the applicant or declarant shall include as part of the certificate filed pursuant to § 250.24(a), the name of the persons participating in the distribution, the terms of the proposal received, the names of the persons (or in the case of a proposal by a group, of the manager of the group) submitting the proposals, the prospectus being used in connection with the issuance or sale, the agreement governing the distribution of the securities, any State Commission order authorizing the issuance or sale not previously filed, and the indenture or stock certificate setting forth the definitive terms of the securities. Unless requested by the Commission or required to complete the record as to any matter as to which jurisdiction has been specifically reserved, no further filing with respect to the issuance or sale shall be required.

* * * * *

Statutory Basis

The proposed revision of rule 70 would be adopted by the Commission pursuant to the authority granted the Commission in sections 17(c) (15 U.S.C. 79q(c)) and 20(a) (15 U.S.C. 79t(a)) of the Act. The proposed amendments to rule 50 would be adopted pursuant to the authority granted the Commission in sections 6(c), 7, 12(d) and 20(a) (15 U.S.C. 79f(c), 79g, 79l(d) and 79t(a)) of the Act.

Regulatory Flexibility Act Certification

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Chairman of the Commission has certified that the proposed revision of rule 70 and the proposed amendments to rule 50 will not, if adopted, have a significant economic impact on a substantial number of small entities. This certification, including the reasons therefor, is attached to this release.

Dated May 14, 1985
By the Commission.

John Wheeler,

Secretary.

Regulatory Flexibility Certification

I, John S.R. Shad, Chairman of the Securities and Exchange Commission, hereby certify pursuant to 5 U.S.C. 605(b) that the proposed revision of rule 70 (17 CFR 250.70) and the proposed amendments to rule 50 (17 CFR 250.50) under the Public Utility Holding Company Act of 1935 ("Act") (15 U.S.C. 79 *et seq.*), set forth in Public Utility Holding Company Act Release No. 35–23693, if promulgated, will not have a significant economic impact on a substantial number of small entities. The revision of rule 70 would simplify, clarify, and expand the exemption from section 17(c) (15 U.S.C. 79q(c)) under the Act, under existing rule 70. The proposed amendments to rule 50 would address potential conflicts of interest which might arise shortly after an affiliated person of an investment banker leaves the board of directors of a company in a holding company system if that investment banker plays a significant role in the distribution of the securities of any company in the same system. The proposed amendments would also codify the revised competitive bidding procedures which the Commission announced at the time of adoption of rule 415 (17 CFR 230.415) under the Securities Act of 1933 (15 U.S.C. 77 *et seq.*) The reason for this certification is that the proposed rule revision and proposed amendments will not affect a substantial number of small entities. There are presently thirteen registered holding company systems to which the rules would apply. None of these systems are a small entity as defined in rule 110 under the Act (17 CFR 250.110). Thus, the proposal will not affect any small entities.

Dated: May 14, 1985.
John S.R. Shad,
Chairman.
[FR Doc. 85–12351 Filed 5–21–85; 8:45 am]
BILLING CODE 8010–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–9–FRL–2839–2]

Merced County and San Francisco Bay Area Air Pollution Control Regulations; State of California

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of Comment Period.

SUMMARY: On February 14, 1985 (50 FR 6217), EPA invited comment on the proposed disapproval of Merced County and San Francisco Bay Area revised regulations pertaining to food processors. Due to the complexity of the regulations and in light of a request for an extension of the comment period by the California League of Food Processors, EPA is extending the comment period to June 5, 1985.

DATE: Comments are due on or before June 5, 1985.

ADDRESS: Comments may be sent to: Regional Administrator, Attn: Air Management Division (A–3–1), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

FOR FURTHER INFORMATION CONTACT: David Howekamp at (415) 974–8201.

Dated: May 10, 1985.

Judith E. Ayres,

Regional Administrator.

[FR Doc. 85–12295 Filed 5–21–85; 8:45 am]
BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 205

Duplication of Benefits

AGENCY: Federal Emergency Management Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule will implement the duplication of benefits provisions of the Disaster Relief Act of 1974 (Pub. L. 93–288), section 315, 42 U.S.C. 5155. This will establish Federal Emergency Management Agency (FEMA) regulations on duplication of

benefits, replacing those which are currently in effect at 44 CFR 205.10. This rule specifies policies for preventing duplication of benefits and for remedying it when it has occurred.

DATES: Comments must be received on or before July 22, 1985.

ADDRESS: Comments may be mailed to the Rules Docket Clerk, Federal Emergency Management Agency, Office of General Counsel, 500 "C" St., SW., Washington, DC 20472.

FOR FURTHER INFORMATION CONTACT: Donna M. Dannels, Individual Assistance Division, Office of Disaster Assistance Programs, State and Local Programs and Support, Federal Emergency Management Agency, 500 "C" St., SW., Washington, DC 20472, (202) 646-3662.

SUPPLEMENTARY INFORMATION: The duplication of benefits regulations being withdrawn basically repeat the law and do not provide specific procedures or policies. New procedures have been developed based on input FEMA solicited from other agencies involved in the duplication of benefits process. These new procedures have been published in a handbook. The proposed regulations are more specific than the existing regulations and prescribe policy more clearly.

Environmental Considerations

The regulation is procedural, and based on the following criteria, FEMA has determined that the implementation of this regulation will have no significant impact on the environment:

(1) Minimal or no effect on environmental quality;

(2) No significant change to existing environmental conditions; and

(3) No significant cumulative environmental impact.

Executive Order 12291 and Regulatory Flexibility Act

This rule has been determined not to be a "major rule" within the sense of Executive Order 12291, for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more;

(2) It will not result in a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; and

(3) It will not have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Also, it has been determined that this regulation will not have a significant economic impact on a substantial number of small entities. Therefore, an initial regulatory flexibility analysis will not be prepared.

There are no collection information requirements in this regulation.

Content of the Rule

This rule implements section 315 of the Disaster Relief Act of 1974, 42 U.S.C. 5155. It states the agency policy for preventing duplication of benefits and for remedying it when it has occurred.

List of Subjects in 44 CFR Part 205

Community facilities, Disaster assistance, Grant programs, Housing and community development.

Accordingly it is proposed to amend 44 CFR Chapter 1, Subchapter D as follows:

PART 205—FEDERAL DISASTER ASSISTANCE

1. The authority citation for Subpart A is revised to read:

Authority: 42 U.S.C. 5201 Reorganization Plan No. 3 of 1978, Executive Order 12148.

2. Section 205.10 is revised to read as follows:

§ 205.10 Duplication of benefits.

(a) *Purpose.* This section establishes the policies for implementing Section 315 of the Disaster Relief Act, entitled Duplication of Benefits.

(b) *Agency Policy.* (1) It is FEMA policy to prevent duplication of benefits between its own programs and insurance benefits, and between its own programs and other disaster assistance, by providing assistance under the Act only when other assistance, which is the primary responsibility of another State or Federal agency to provide, will be significantly delayed or is unavailable, and when the delay or unavailability is not caused by the applicant;

(2) To examine a debt resulting from duplication to determine that the likelihood of collecting the debt and the best interests of the United States government justify taking the necessary recovery actions to remedy duplication which has occurred when other assistance has become available;

(3) To assure, by consultation with other Federal agencies and by performing selected quality control reviews, that the other disaster relief agencies establish and follow policies and procedures to prevent and remedy duplication among their programs, other programs, and insurance benefits; and

(4) To coordinate the efforts of agencies providing assistance so that each agency understands the prevention and remedial policies of the others and is able to fulfill its own responsibilities regarding duplication of benefits.

(c) *Delivery Sequence.* (1) Duplication occurs when an agency has provided assistance which was the primary responsibility of another agency, and the agency with primary responsibility later provides assistance. A delivery sequence establishes the order in which disaster relief agencies and organizations provide assistance. The specific sequence, in accordance with the mandates of the assistance programs, is to be followed in the delivery of assistance. When the delivery sequence has been disrupted, the disrupting agency is responsible for rectifying the duplication. The delivery sequence occurs with the volunteer agencies and insurance (including flood insurance) providing assistance first, and Federal and State agency assistance programs next. The delivery sequence pertains to that period of time in the recovery phase when most of the traditional disaster assistance programs are available.

(2) Two significant points about the delivery sequence are that:

(i) Each assistance agency should, in turn, offer and be responsible for delivering assistance without regard to duplication with a program later in the sequence; and

(ii) That the sequence itself determines what types of assistance can duplicate other assistance (e.g., a Federal program can duplicate insurance, however, insurance cannot duplicate the Federal assistance). An agency's position in the sequence determines the order in which it should provide assistance and what other resources it must consider before it does so.

(3) If following the delivery sequence concept would adversely affect the timely receipt of essential assistance by a disaster victim, the following exception may be invoked. When there is a time delay, an agency may offer assistance which is the primary responsibility of another agency. There may be cases when an agency (Agency B) delivers assistance which is normally the primary responsibility of another agency (Agency A) because the agency (A) has, for good cause, denied assistance. After the assistance is delivered, the agency (A) re-opens the case. If the primary response agency (A) then provides assistance, that agency (A) is responsible for coordinating with the other agency (B) to prevent duplication of benefits.

(d) *Program Guidance.* (1) *Programs Under the Act* v. *Other Agency Assistance.* In making an eligibility determination, the FEMA Regional Director, in the case of Federally operated programs, or the State, in the case of State operated programs, shall:

(i) Determine whether assistance is the primary responsibility of another agency to provide, according to the delivery sequence; and

(ii) Determine whether that primary response agency can provide that assistance in a timely way.

(iii) If it is determined that timely assistance under the Act can be provided by the agency with primary responsibility, then assistance will not be provided. If it is determined that assistance from the agency with primary responsibility will be significantly delayed, assistance under the Act may be provided, but then must be recovered from the applicant when the other assistance becomes available.

(2) *Programs Under the Act* v. *Insurance.* In making an eligibility determination, the FEMA Regional Director or State shall:

(i) Obtain information about the extent of the applicant's insurance coverage, and remind the applicant about his/her responsibility to pursue an adequate settlement. By applying for disaster assistance, an applicant expressly agrees that FEMA may obtain such information from his/her insurance company. The applicant must cooperate by providing information concerning insurance recoveries. The burden of proof is on the applicant to prove that, despite conditions of settlement or expected settlement, the need for disaster assistance is paramount;

(ii) Determine whether the applicant's insurance coverage will be sufficient to cover the loss or need without disaster assistance; and

(iii) Determine whether insurance benefits (including flood insurance) will be provided in a timely way, thus precluding the need for disaster assistance, or whether assistance should be provided immediately to prevent a hardship. Where flood insurance is involved, the Regional Director shall coordinate with the Flood Insurance Claims Office (FICO) manager at the disaster site, or with the examining unit established in Washington, DC if there is no on-site FICO. The purpose of this coordination is to obtain information about flood insurance coverage and settlements.

(3) *Random Sample.* Each disaster assistance agency is responsible for preventing and rectifying duplication of benefits under the coordination of the FCO and the general authority of section 315. To determine whether duplication has occurred and established procedures have been followed, the Regional Director shall, within 90 days after the close of the disaster assistance programs' application period, for selected disaster declarations, examine on a random sample basis, FEMA's and other agencies' case files and document the findings in writing.

(4) *Duplication When Assistance Under the Act is Involved.* If duplication is discovered, the Regional Director shall determine whether the duplicating agency followed its own remedial procedures.

(i) If the duplicating agency followed its procedures and was successful in correcting the duplication, the Regional Director will take no further action. If the agency was not successful in correcting the duplication, and the Regional Director is satisfied that the duplicating agency followed its remedial procedures, no further action will be taken.

(ii) If the duplicating agency did not follow its duplication of benefits procedures, or the Regional Director is not satisfied that the procedures were followed in an acceptable manner, then the Regional Director shall provide an opportunity for the agency to take the required corrective action. If the agency cannot fulfill its responsibilities for remedial action, the Regional Director shall notify the recipient of the excess assistance, and after examining the debt, if it is determined that the likelihood of collecting the debt and the best interests of the United States Government justify taking the necessary recovery actions, then take those recovery actions in conjunction with agency representatives for each identified case in the random sample (or larger universe, at the Regional Director's discretion).

(5) *Duplication When Assistance Under Other Authorities is Involved.* When the random sample shows evidence that duplication has occurred and corrective action is required, the Regional Director and the FCO shall urge the duplicating agency to follow its own procedures to take corrective action, and shall work with the agency toward that end. Under his/her authority in section 315, the Regional Director shall require the duplicating agency to report to him/her on it's attempt to correct the duplications identified in the sample.

(e) *Recovering FEMA Funds: Debt Collection.* FEMA's Debt Collection Regulations (44 CFR Part 11) and policy statements give agency debt collection officers and the Comptroller certain responsibilities in recovering funds due to FEMA. In addition, they specify threshholds for compromise, suspension, and termination of debts. These regulations precribe the procedures FEMA will follow to recover duplications FEMA is responsible for acting upon.

Dated: May 2, 1985.

Samuel W. Speck,

Associate Director State and Local Programs and Support.

[FR Doc. 85-12243 Filed 5-21-85; 8:45 am]

BILLING CODE 6718-01-M

DEPARTMENT OF ENERGY

48 CFR Parts 915 and 952

Acquisition Regulations; Contracting by Negotiation

AGENCY: Department of Energy.

ACTION: Proposed rule.

SUMMARY: The Department of Energy (DOE) proposes to amend the Department of Energy Acquisition Regulation (DEAR) by revising the manner in which contract representations are obtained. The purpose of this rulemaking is to further reduce the paperwork burdens associated with the preparation of representations and certifications by prospective Government contractors. This effort is a part of the Department's ongoing effort to eliminate paperwork burdens in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*) The effect of this proposal will be to relieve most offerors/bidders of the requirement to submit a full set of representations and certifications every time they respond to a DOE solicitation.

DATES: Written comments should be submitted not later than June 21, 1985 to be considered.

ADDRESS: Comments should be addressed to: Procurement Policy Branch, DOE, Attn: R. Langston, MA-421.1, 1000 Independence Ave., SW., Washington, D.C. 20585.

FOR FURTHER INFORMATION CONTACT:

Richard B. Langston, Procurement Policy Branch (MA-421.1), Procurement and Assistance Management, Department of Energy, (202) 252-8250.

Christopher T. Smith, Office of General Counsel, AGC For Procurement and Financial Incentives (GC-43), Department of Energy, (202) 252-1526.

SUPPLEMENTAL INFORMATION:

I. Background

II. Procedural Requirements

A. Executive Order 12291

B. Regulatory Flexibility Act
C. Paperwork Reduction Act
D. National Environmental Policy Act
III. Public Comments

I. Background

Over the years, various statutes, Executive Orders, and regulations have been enacted or promulgated which require that prospective Federal contractors submit certain representations and certifications prior to award of a Federal contract. Some of these are merely informational while others are necessary to determine eligibility for award. Some are required before the award of any contract while others are required only for special situations. Despite the varying nature of these representations and certifications, traditional Federal practice has been to require them all to be submitted with every bid or offer. This requirement creates an unnecessary paperwork burden on unsuccessful competitors since only the representations and certifications submitted by a successful competitor are routinely evaluated to assure eligibility for award. This practice was not seen as a problem when the representations and certifications were so abbreviated that they could literally be completed by checking a few blocks on the back of a standard form used to submit bids or proposals. With the passage of years, however, representations and certifications, depending upon the nature of the acquisition and the agency involved, now vary from one paragraph to several pages. The length of the representations and certifications when combined with their repetitious nature (that is filed with every bid or proposal submitted) has become a significant irritant to many prospective contractors. This appears especially true for small businesses who tend to submit a greater number of bids and proposals for small contracts.

After evaluating this situation, the Department of Energy authorized its Contracting Activities to adopt a simplified procedure. This new procedure, following a public comment period, was included in the DEAR as section 915.406–5 (see 49 FR 11922, March 28, 1984). The procedure allows prospective contractors to place representations and certifications which generally recur from submission-to-submission on file with a contracting activity for a period of three years. During that period, prospective contractors must submit only a simplified representation confirming the continued validity of the previously filed set of recurrent representations and certifications and provide some minimum administrative data.

At this time, the Department is proposing to further simplify the process by requiring the recurrent representations and certifications only of successful offerors and bidders. Specifically, this proposal will revise DEAR 915.406–5 by relieving unsuccessful bidders and offerors of the burden of submitting recurrent representations and certifications. All bidders will be asked to submit simplified representations and certifications with their bid or proposal. The simplified representations and certifications contain only the minimal information needed to allow a routine evaluation. Under this proposed procedure DOE will require only the successful bidder/offeror to submit the recurrent representations and certifications, which are required for all contracts, such as the contingent fee or small business concern representations. From time to time, it may be necessary to request one or more of a third category of representations and certifications. These are referred to as additional representations and certifications and whether they are applicable depends on the nature or subject matter of the contract. Like the recurrent representations and certifications, these representations and certifications must only be submitteid by the successful bidder/offeror. Illustrative of these is the certification entitled "Jewel Bearings and Related Items Certification" of FAR 52.208–8 which is required when purchasing items containing jewel bearings. When needed, these will be described in section L of the solicitation.

II. Procedural Requirements

A. Executive Order 12291

This Executive order, entitled "Federal Regulation," requires that certain regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. OMB Bulletin 86–7 exempts all but certain types of procurement regulations from such review. Based on this bulletin, this proposed rule is exempt from such review.

B. Regulatory Flexibility Act.

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

C. Paperwork Reduction Act

No new information collection and recordkeeping requirements are imposed on the public by this proposed rulemaking. Simplified procedures have previously been cleared by OMB in accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). The OMB Clearance Number is 1910–3100.

D. National Environmental Policy Act

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 432 *et seq.* (1976)), the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), and the DOE guidelines (10 CFR Part 1020), and therefore does not require an environmental impact statement or an environmental assessment pursuant to NEPA.

III. Public Comments

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposed DEAR changes set forth in this notice. Comments should be submitted to the address indicated in the "ADDRESS" section of this notice. All comments received will be available for public inspection in the DOE Reading Room, RM IE–190, Forrestal Building, 1000 Independence Avenue SW., Washington, D.C. 20585, between the hours of 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays. All written comments received by June 21, 1985 will be fully considered prior to publication of a final rule resulting from this proposal. Any information you consider to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of the information and to treat it according to our determination.

The Department has concluded that this proposed rule does not involve a substantial issue of fact or law and that the proposed rule should not have a substantial impact on the nation's economy or large number of individuals or businesses. Therefore, pursuant to Pub. L. 96–91, the DOE Organization Act, the Department does not plan to hold a public hearing on this proposed rule. Interested persons are invited to participate in this rulemaking by

submitting in writing, any data, views, or arguments with respect to the proposals set forth in this notice.

List of Subjects in 48 CFR Parts 915 and 950

Government procurement.

For the reasons set out in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., May 13, 1985.

Berton J. Roth,

Director, Procurement and Assistance Management Directorate.

PART 915—[AMENDED]

48 CFR Chapter 9 is proposed to be amended as set forth below.

11. The authority citation for 48 CFR Part 915 continues to read as follows:

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95-91 (42 U.S.C. 7254); and sec. 148 of the Atomic Energy Act of 1954, as amended (42 (U.S.C. 2168).

Revise section 915.406-5 to read as follows:

915.406-5 Part IV representations and instructions.

(a) *Section K, Representations, certifications and other statements of offerors or quoters.* (1) Various statutes, Executive orders, and regulations require the submission of certain representations and certifications prior to the award of a Federal contract. Some of these are merely informational while others are necessary to determine eligibility for award. Some are required before the award of any contract while others are required only for special situations. Traditional practice is to require submission of these representations and certifications with every bid, proposal, or quotation. This practice creates an unnecessary paperwork burden on unsuccessful competitors since only the representations and certifications submitted by the successful competitor are routinely evaluated to assure eligibility for award. In order to lessen the administrative expense and burden associated with the repetitious submission of representations and certifications, DOE allows offerors/bidders to use a smplified three-part approach to submitting representations and certifications and requires a complete submission only by those who have been selected for award. The essential feature of this approach, which is discussed below, is that once submitted and accepted, most representations and certifications can be placed on record with the contracting activity for a period of three years and may be incorporated by reference in subsequent bids or proposals unless a change occurs in one or more of the certifications.

(2) *Organization.* The three-part approach to submitting representations and certifications consists of the following:

(i) *Part I—Simplified Representations and Certifications.* When issuing competitive solicitations, DOE will request only submission of Part I—Simplified Representations and Certifications with each bid or proposal. Part I is required as an administrative convenience for both Government and bidder/offeror personnel. It contains certain basic information which is necessary for Government consideration prior to selection, such as who to contact for discussions and business size information which would be necessary should the solicitation be a small business set-aside. It also contains information of mutual administrative convenience such as the indication that recurrent representations and certifications have already been placed on record with the contracting activity and that they remain current and correct.

(ii) *Part II—Recurrent Representations and Certifications.* Recurrent representations and certifications generally apply to all contracts which DOE awards and in the past have been submitted in a repetitious manner by all bidders/offerors. Under this approach, however, DOE will request Part II only from the source selected for award unless it has had recurrent representations and certifications accepted by the contracting activity and placed on record within the three-year period preceding the anticipated contract award date and the offeror/bidder has certified that the previous submission remains current and correct as required by Part I.

(iii) *Part III—Additional Representations and Certifications.* When required by a particular contractual situation, DOE will request any pertinent additional representations and certifications from the source selected for award.

(3) *Procedures.* Contracting activities shall establish a central repository for maintenance of recurrent representations and certifications and assure that record copies are placed in the repository for reference as may be required. DOE officials shall review submissions for completeness and acceptability prior to placing them on record and notify the bidder/offeror that the recurrent representations and certifications have been placed on record.

(4) *Contents.* Contracting activities shall include, at Section K of the solicitation, a requirement that the Part I Simplified Representations and Certifications be submitted with each bid or proposal and identify which, if any, of the additional representations and certifications are required and whether they must be submitted with the bid or proposal or may be deferred until time of selection.

Representations and Certifications

(1) Part I—Simplified Representations and Certifications—

(a) The offeror or bidder certifies:

(i) It is ( ) a Corporation, incorporated in the state of ____; ( ) an individual; ( ) a partnership; ( ) a nonprofit or educational institution; or ( ) a state or local government; and,

(ii) It is ( ), is not ( ), a small business is ( ), is not ( ), a small and disadvantaged business; is ( ), is not ( ), a women-owned small business; is ( ), is not ( ) a labor surplus area concern.

(iii) Its Data Universal Numbering System (DUNS) establishment number is: _____

(b) The offeror or bidder represents that the following persons are authorized to communicate on its behalf with the Government in connection with this solicitation: list names and telephone numbers of appropriate personnel.

Name _____
Phone _____

(c) The offeror or bidder (check appropriate entry):

(i) ( ) certifies that the recurrent representations and certifications submitted to the DOE (insert appropriate DOE contracting activity) on (insert date) remain current and accurate with respect to this bid or proposal submitted in response to solicitation (insert number) dated (insert date) except as amended hereby.

(ii) ( ) certifies the following specific representations and certifications differ from the disclosures previously filed: (list any differences); and revised representations and certifications are therefore submitted.

(iii) ( ) acknowledges that no recurrent representations and certifications have been placed on record but agrees to submit them if selected for award.

(d) By signing below, the offeror or bidder certifies that the representations and certifications are accurate, current and complete. The offeror or bidder further certifies that it will notify the contracting activity of any changes affecting a recurrent representations and certifications package if one has been placed on record.

Solicitation Number _____
Signature _____
Date _____
Typed Name _____
Title and _____
Address _____

(2) Part II—Recurrent Representations and Certifications—

(a) Certificate of Independent Price Determination FAR 52.203–2.
(b) Contingent Fee Representation and Agreement FAR 52.203–4.
(c) Type of Business Organization-Sealed Bidding FAR 52.214–2 or for negotiation, FAR 52.215–6.
(d) Parent Company and Identifying Data FAR 52.214–8.
(e) Place of Performance-Sealed Bidding FAR 52.214–14 or for negotiation, FAR 52.215–20.
(f) Small Business Concern Representation FAR 52.219–1.
(g) Small Disadvantaged Business Concern Representation FAR 52.219–2.
(h) Women-Owned Small Business Concern Representation FAR 52.219–3.
(i) Walsh-Healey Public Contracts Act Representation FAR 52.222–19 (need be completed only for contracts for the manufacture or furnishing of supplies to be performed in the United States and which exceed $10,000).
(j) Certification of Nonsegregated Facilities FAR 52.222–21.
(k) Previous Contracts and Compliance Reports FAR 52.222–22.
(l) Affirmative Action Compliance FAR 52.222–25 (not applicable to construction contracts)
(m) Clean Air and Water Certification FAR 52.223–1
(n) Buy American Certificate FAR 52.225–1.
(3) Part III—Additional Representations and Certifications—
(a) Foreign Ownership, Control, or Influence—Representation DEAR 952.204–73.
(b) Jewel Bearings and Related Items Certificate FAR 52.208–2.
(c) Organizational Conflicts of Interest Disclosure Representation 952.209–70.
(d) Preference for Labor Surplus Area Concerns FAR 52.220–1.
(e) Recovered Material Certification FAR 52.223–4.
(f) Balance of Payments Program Certificate FAR 52.225–6.
(g) Cost Accounting Standards Notices and Certification FAR 52.230–1, or FAR 52.230–2.
(h) Permits, Authorities and Franchises FAR 52.247–2.
(i) Technical Data Certification 952.227–80.
(j) Royalty Payments Certification 952.227–81.

(5) *Special Circumstances.* Contracting personnel may, in special circumstances, request recurrent and/or additional representations and certifications from all sources or those selected for the competitive range in negotiated procurements. Special circumstances might include situations where discussions are not anticipated following receipt of proposals and time does not permit the delay associated with requesting representations and certifications after selection. It may also be appropriate to request full representations and certifications prior to an especially important selection which may require special consideration of such topics as conflict of interest or access to classified information prior to selection.

(b) *Section L Instructions, Conditions and Notices to offerors and quoters.* A proposal may include technical data and other data, including trade secrets and privileged or confidential commercial or financial information, which the proposer does not want disclosed to the public or used by the Government for any purposes other than proposal evaluation. Procedures for handling and protecting such data and information are discussed at 927.402–3(d)(2). Insert the solicitation provision at 952–208–71.

(d) Insert the notice at 952.215–70 in solicitations if the resulting contract will contain any of the clauses referenced therein.

PART 952—[AMENDED]

3. The authority citation for Part 952 continues to read as follows:

Authority: Sec. 644 of the Department of Energy Organization Act, Pub. L. 95–91 (42 U.S.C. 7254); and sec. 148 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2168).

4. At Part 952, add section 952.208–71 to read as follows:

952.208–71 Simplified representations and certifications.

As prescribed at Section 952.406(b), insert the following provision and solicitations:

In order to reduce repetitious paperwork related to various representations and certifications which must be obtained prior to the award of Federal government contracts, DOE has developed as simplified process for their submission. They have been separated into three categories:

Simplified Representations and Solicitations

Part I—Simplified Representations and Certifications;
Part II—Recurrent Representations and Certifications; and,
Part III—Additional Representations and Certifications.

Part I is a one-page form containing a minimum amount of information which is to be submitted with every bid or proposal and which provides the basic information necessary to process the bid or proposal. Part II contains the recurrent representations and certifications needed for all contracts. It will be requested only of successful competitors selected for award. As a further convenience, those organizations having repetitive contracts with a particular contracting activity may elect to have the recurrent representations and certifications placed on record at that contracting activity. Once on record, the recurrent representations and certifications need not be completed again for a period of three years unless there is a change in one or more of the representations. (You are welcome to submit the recurrent representations and certifications in anticipation of an award in order to avoid the inconvenience on future bids or proposals.) Part III contains additional representations and certifications which are only needed under special circumstances. If these circumstances exist, Section K of the solicitation will contain instructions on which of these to complete.

[FR Doc. 85–12147 Filed 5–21–85; 8:45 am]
BILLING CODE 6450–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 82–02; Notice 02]

Federal Motor Vehicle Safety Standards; Brake Hoses; Termination in Part of Petition for Rulemaking

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes several related changes to the adhesion test for air brake hoses contained in Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. It responds to a petition for rulemaking submitted by the B.F. Goodrich Company (Goodrich). The petitioner requested two related changes in the adhesion test for air brake hoses specified in S8.6. First, the petitioner requested that the adhesion value of an air brake hose be calculated by an averaging technique rather than by the minimum force recorded during the test as is presently required by S8.6.4 of the standard. Second, the petitioner requested that the force levels recorded in separating the layers of the brake hose at the beginning and the end of the test be disregarded. A notice granting Goodrich's petition and requesting comments on the issues raised by the petition was published in the **Federal Register** on February 18, 1982 (47 FR 7293).

This notice announces the termination of rulemaking as to the part of Goodrich's petition requesting that an averaging technique be used to calculate adhesion value. Included in this proposal is an amendment to the standard to exclude the first and last 20% of the test chart in the calculation of adhesion value. The agency is also proposing to amend FMVSS No. 106 to change the test apparatus used to measure the adhesion value of an air brake hose. The proposed test procedure will replace the pendulum type

apparatus with a tension type apparatus. These amendments to Standard No. 106 are intended to ensure that the minimum force recorded on the test chart corresponds to the actual separation of the part of the hose being tested.

DATES: Comment closing date: July 22, 1985. Proposed effective date: 120 days after publication of the final rule in the Federal Register.

ADDRESSES: Comments should refer to the docket number and notice number and be submitted to: Docket Section, Room 5109, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590 (Telephone: 202–426–2242). Docket hours are 8 a.m. to 4 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Vernon Bloom, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, D.C. 20590 (Telephone: 202–426–2153).

SUPPLEMENTARY INFORMATION: On February 18, 1982, NHTSA published in the Federal Register (47 FR 7293) a notice granting a petition for rulemaking submitted by the B.F. Goodrich Company concerning possible amendments to Federal Motor Vehicle Safety Standard (FMVSS) No. 106, *Brake Hoses*. The notice explained that the agency believed that the changes in the standard suggested by B.F. Goodrich warranted further consideration, and the petition was granted to that extent. Comments were requested on the issues raised by the petition.

In its petition for rulemaking, B.F. Goodrich requested two related changes in the adhesion test for air brake hoses. The adhesion test is included in the standard to assure that the various layers of an air brake hose do not separate in service. The petitioner requested that adhesion value, i.e., the force required to separate adjacent layers of a brake hose, be determined by an averaging technique rather than by the present method of using the minimum force recorded during the test. The petitioner also requested that the force levels recorded in separating the layers of the brake hose at the beginning and the end of the test be disregarded.

After carefully evaluating the issues raised by B.F. Goodrich and the commenters, NHTSA has decided not to change the requirement of Standard No. 106 of a certain minimum, as opposed to average, adhesion value. However, the agency has tentatively decided that some technical changes in the standard are warranted. NHTSA proposes to amend FMVSS No. 106 such that the force levels recorded in separating the layers of the brake hose would be disregarded at the beginning and end of the test. Further, this notice proposes to reference a tension test machine in place of the pendulum type test apparatus currently specified in S8.6.1 of the standard.

As explained in the February 1982 notice, the adhesion test is included in Standard No. 106 to ensure that the various layers of a brake hose do not separate in service. Low adhesion in brake hoses can result in the build-up of air between plies. The trapped air can cause inward ballooning of the hose, resulting in slow reaction of the brakes served, or a complete malfunction due to the hose conduit being blocked altogether.

The first step of the adhesion test procedure is to cut a specimen of brake hose, 1 inch or more in length. The specimen is then cut longitudinally along its entire length to the level of contact with a lower layer. The layer to be tested is peeled back along the longitudinal cut so as to create a flap large enough to be attached to a test apparatus. The test apparatus applies tension in a direction essentially perpendicular to the axis of the brake hose so as to separate, i.e., unroll, the layer being tested from the rest of the brake hose. A chart is produced which has inches of separation as one coordinate and applied tension as the other. Section S7.3.7 requires that except for hose reinforced by wire, an air brake hose must withstand a tensile force of 8 pounds per inch of length before the adjacent layers separate. Paragraph S8.6.4 of the standard provides that adhesion value is the mininum force recorded on the portion of the chart corresponding to the to the actual separation of the part being tested. Adhesion value is the force required to separate adjacent layers of a brake hose.

The February 1982 notice explained that both changes requested by B.F. Goodrich, i.e., using average rather than minimum value and disregarding the force levels recorded at the beginning and end of the test, concerned how the test chart is interpreted to determine adhesion value.

B.F. Goodrich argued in its petition that an averaging of recorded forces represents a more relevant and valid adhesion value than a single minimum value on the chart. The company stated that an averaging procedure has been standard practice for testing textile reinforced industrial hose for years. B.F. Goodrich stated that it had conducted extensive tests indicating that the minimum values recorded on the charts can be influenced by such factors as sample preparation, operator intervention, inherent structural details such as longitudinal yarns, and by the normal variation within a sample of hose. Therefore, the petitioner argued, the minimum values may not represent the force required for actual separation of adjacent layers.

Averaging v. Minimum Value

Commenters to the notice took sharply different positions with respect to whether an averaging approach should be adopted by the standard in place of using a minimum value. Four commenters, all rubber manufacturers, argued in favor of an averaging approach and generally cited the factors raised by B.F. Goodrich. It was argued that an averaging approach would result in cost savings, with no adverse impact on safety. One company stated that under the persent rules a certain amount of hose which would be perfectly satisfactory in service is discarded as scrap because it fails the 8 pound minimum test requirement. No comments were received which attempted to estimate the magnitude of possible cost savings.

Five commenters, including one major rubber company, three copanies which use brake hoses in manufacturing their products, and one private individual, argued against adoption of an averaging technique and in favor of the current 8 pound minimum requirement. Goodyear Tire and Rubber Company stated that it objects to averaging since that technique would reduce the effective levels of minimum acceptable air brake hose adhesion and therefore represent a reduction of performance and safety. According to Goodyear, the current adhesion minimums do not present a problem of compliance, and averaging would not serve to provide any cost savings or benefit.

PACCAR, a manufacturer of heavy duty trucks and truck tractors, expressed concern that if an averaging technique is used, a weak point, with sub-average results, could produce a later failure during use. According to that company, the purpose of setting a minimum standard for hose adhesion and reliability would not be fully achieved under an averaging approach. Two other commenters also raised concerns regarding subaverage results being compensated by adhesion values exceeding the 8 pound/inch requirement.

Blue Bird, a manufacturer of school buses, other buses and multi-purpose passenger vehicles, argued that while averaging is a valid method in some areas of testing, it is not valid when

minimum forces are the most relevant factor under consideration. According to that company, the potential consequences of failures with brake hoses dictate that the adhesion test determine primarily the minimum force needed to separate the layers of hose. Blue Bird noted that the nature of the application of force to brake hoses is much different than the application of force to normal industrial hoses. According to that commenter, application of force is constant in the latter case, while brake hoses are subjected to intermittent and relatively high forces and any failure on any application could result in catastrophe.

Blue Bird specifically commented on the petitioner's contention that test results can be influenced by sample preparation, operator intervention, plus variable factors in the hose construction. Blue Bird stated that these are valid points, but argued that sample preparation and operator intervention are factors which can be controlled by properly trained technicians. The commenter stated that the variable factors in the hose construction are essentially what is being tested in the adhesion test, and that the variations in hose construction should not be a factor relevant to this rulemaking action.

After reviewing the petitioner's submission and all of the comments, NHTSA has determined that the need for motor vehicle safety is best assured by maintaining the requirement for a certain minimum, as opposed to average, adhesion value. As noted above, the adhesion test is included in the standard to assure that the various layers of an air brake hose do not separate in service. If separation were to occur, the brake hose could fail.

The agency is concerned that an averaging approach could yield results where sub-average adhesion values are compensated by measurements which exceeded the minimum requirement. If an averaging technique were specified, it would be necessary to specify a minimum performance criterion for the average that is higher than the 8 pound/inch value currently referenced, in order to maintain the current level of safety. Since NHTSA has determined that the present method of specifying an absolute minimum adhesion value is practicable, well defined, and furthers the interests of safety, the agency has concluded that it is unnecessary to determine what the new criterion should be.

Further, the effect of operator intervention on the values recorded on the test chart is an issue addressed by a proposal in this rulemaking notice to exclude the force levels recorded at the beginning and end of the test chart. The agency has thus concluded that a minimum, as opposed to average, force level recorded on the test chart reflects a valid indication of the adhesion value of a test specimen.

Some commenters expected some cost savings resulting from a change to an averaging approach based on less scrap production. However, most manufacturers exceed the 8 pounds/inch minimum adhesion requirement currently specified in Standard No. 106 by a considerable margin. The agency therefore believes that the cost savings anticipated from less scrap production would be minimal.

Disregarding Force Levels at Beginning and End of Test

Based on a review of the petitioner's submissions and the comments, NHTSA has tentatively decided that certain technical changes in the standard should be made. First, the agency is proposing to amend the standard to exclude the force levels recorded in separating the layers of the brake hose at the beginning and end of the adhesion test from the calculation of adhesion value.

Section S8.6.4(a) defines adhesion value as "the minimum force recorded on the portion of the chart corresponding to the actual separation of the part being tested." As noted above, the chart in question has inches of separation as one coordinate and applied tension as the other. A typical chart produced under the adhesion test shows a curve which sharply rises from zero, levels off (although there continue to be smaller peaks and valleys), and then sharply declines to zero.

B.F. Goodrich's petition requested that the portion of the test chart showing the force used to separate the layers of the air brake hose specimen at the beginning and end of the test be disregarded. According to the petitioner, the adhesion between layers may be disturbed during sample preparation by pulling the flap loose for attachment to the jaws of the test machine. Also, if the sample distorts near the end of the test, erratic values may occur. That company concluded that only the center portion of the test chart truly represents the force of actual separation.

The February 1982 notice solicited comments on whether the first and last 20 percent of the chart should be disregarded in determining adhesion value.

Goodyear stated that the initial and final 20 or 25 percent of the test chart could be spurious because of distortion or mechanical effects, and believed that amending the standard to exclude these portions of the test results would be reasonable and acceptable. Porter commented that at least 10 percent at either end of the chart must be disregarded because the results at the beginning and end are both influenced by sample preparation. That company explained that variables which result from sample preparation, such as the proximity of the initial cut to the hose axis, or the separation of cover or ply from the underlying component which attaches the sample to the testing machine, cause irregularities at the start and end of separation distance along the horizontal axis of the chart. Aeroquip also cited factors resulting from sample preparation in its comment agreeing that the beginning and end of the chart should be excluded. Specifically, Aeroquip explained that factors which can affect test results include the angularity or irregularity in performing the longitudinal cut of the specimen, any heat generated during the cutting operation, and the "discontinuity" resulting from the separation of the adjacent layers when the specimen is attached to the test apparatus.

Midland Ross believed that disregarding the beginning and end of the adhesion test chart has merit, but felt that excluding 20 percent on either end was too much. The commenter suggested that the portion of the chart disregarded should be a maximum of 10 percent at each end. Blue Bird agreed that the beginning and end of the chart can invalidate overall test results, but also believed that 40 percent of the test is too much to be disregarded. Another commenter stated that force levels in the beginning and end of the adhesion test should be recorded and not excluded, but did not elaborate on the reasons for this recommendation.

Based on the comments to the notice and its own investigation, the agency has tentatively determined that an excluded area at each end of the test curve is necessary. The end points on the test curve appear to vary considerably depending on the sensitivity of the recording device and variation of sample preparation. The agency is proposing to amend S8.6.4(a) to specify that the actual separation of the part of the brake hose being tested shall be determined by excluding the portion of the chart which corresponds to the initial and final 20 percent of the separation distance along the displacement axis of the chart. NHTSA believes that the remaining portion of the test chart would correspond more accurately to the adhesion value of a brake hose specimen.

NHTSA has tentatively determined that using only a 10 to 15 percent exclusion zone at each end of the test chart might not be adequate. The end portions in the 10 to 15 percent zone were still found to be in the areas of the chart where separation of the test sample was influenced by factors such as the initial cut to separate the sample, and the position of the test grips on the sample. A 20 percent exclusion zone is thus proposed because it appears that this area would cover the portions of the chart which are artificially influenced by variables other than the actual adhesion of the hose layers.

The agency has tentatively determined that safety would not be negatively affected by this proposal. Each air brake hose tested for compliance must meet the adhesion test requirement regardless of the specimen tested, i.e., each specimen selected to be tested must comply with the adhesion requirement. Disregarding 20 percent at the beginning and end of the chart yields test results for 60 percent of the hose test specimen. This does not mean that 40 percent of the hose is not tested to the adhesion requirements of the standard. Multiple specimens of the brake hose can be oriented on the test apparatus so that test results for the entire circumference of the hose can be obtained. Several one inch long test specimens are usually cut from a single piece of hose. These additional samples are each individually cut axially in preparation for the adhesion test. Another hose specimen, adjacent to the original specimen, can be tested for compliance, with the cut made at a different point from the original. The portion of the air brake hose falling within the 40 percent range that was formally disregarded in the first test can thus be included in the portion of the hose tested for compliance in a subsequent test.

Effect of Longitudinal Yarns

Two commenters addressed the issue of momentary drops in the adhesion value measured during the test. For example, one commenter stated that momentary dips in adhesion value occur at the location of longitudinal yarns and at the colored identification yarns specified by the Society of Automotive Engineers (SAE) in SAE Standard J1402. That commenter believed that the dip in adhesion below 8 pounds/inch at a strand of yarn has no bearing on the real adhesion of the hose. The other commenter likewise said that the momentary drops were not relevant in determining the adhesion value of the hose being tested.

NHTSA has considered these comments and has tentatively decided that the calculation of adhesion value should not exclude low adhesion dips in the test chart. NHTSA has reviewed its recent compliance testing and has not found aberrations in test results that can be positively identified as caused by longitudinal yarns. Thus, NHTSA believes that there is no need to exclude low values in the test results caused by longitudinal yarns, since brake hoses usually comply with the adhesion test in Standard No. 106 without difficulty and the present requirement of an absolute minimum adhesion value is practicable and well defined.

Test Apparatus

Paragraph S8.6.1 of Standard No. 106 references a pendulum type test apparatus in the adhesion test procedure. In its effort to keep Standard No. 106 current with technological developments in the industry, the agency has tentatively decided to amend S8.6.1 to specify a tension type apparatus in place of the pendulum apparatus.

The tension type apparatus is commonly available in brake hose testing laboratories. This type of machine is a constant-speed, pulling device whose rate of pull can be set to that required in the standard. A load cell is utilized to measure the resistive load of the bonded layers of hose as they are separated by the machine. NHTSA has tentatively concluded that this type of machine provides more valid and consistent data than the pendulum apparatus. Accordingly, the agency is proposing to amend paragraph S8.6.1 to provide for a tension type apparatus in place of the pendulum test machine presently referenced in the adhesion test procedure.

Environmental Impact

NHTSA has analyzed this proposal for the purposes of the National Environmental Policy Act. The proposal would not have a significant impact on the quality of the human environment since the materials used in the production of brake hoses and in compliance tests would not be changed. No adverse impact on safety is anticipated.

Analyses of Regulatory Impacts

NHTSA has considered this proposal and has determined that it is neither major within the meaning of Executive Order 12291 "Federal Regulation" nor significant under Department of Transportation regulatory policies and procedures. A full regulatory evaluation is not required because the expected economic impact of the proposal is minimal. The proposal clarifies established test procedures referenced in FMVSS No. 106 and does not require any additional tests for brake hoses manufactured to the specifications of the standard.

The agency has also considered the impacts of this proposal in relation to the Regulatory Flexibility Act. The agency believes that few of the brake hose manufacturers would qualify as small businesses within the meaning of the Regulatory Flexibility Act. Any brake hose manufacturers that do qualify as small businesses would not be significantly affected by this proposal, since the proposal would not impose any new cost requirements or result in significant cost impacts for manufacturers.

Small governmental units and small organizations are generally affected by amendments to the Federal motor vehicle safety standards as purchasers of new motor vehicles and new motor vehicle equipment. These entities will not be affected by the proposed changes ince the changes will not significantly affect the price of such motor vehicles or motor vehicle equipment. For the reasons stated above, I hereby certify that this proposal will not have a significant impact on a substantial number of small entities, and that a regulatory flexibility analysis is, therefore, not required.

Comments

Interested persons are invited to submit comments on the proposal. It is requested but not required that 10 copies be submitted. All comments must be limited not to exceed 15 pages in length. (49 CFR 553.21.) Necessary attachments may be appended to these submissions without regard to the 15 page limit. This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

If a commenter wishes to submit certain information under a claim of confidentiality, three copies of the complete submission, including purportedly confidential information, should be submitted to the Chief Counsel, NHISA, at the street address given above, and seven copies from which the purportedly confidential information has been deleted should be submitted to the Docket Section. A request for confidentiality should be accompanied by a cover letter setting forth the information specified in the agency's confidential business information regulation (49 CFR Part 512).

All comments received before the close of business on the comment

closing date indicated above will be considered, and will be available for examination in the docket at the above address both before and after the date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date, and comments received after the closing date and too late for consideration in regard to the action will be treated as suggestions for future rulemaking. NHTSA will continue to file relevant material as it becomes available in the docket after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the rules docket should enclose, in the envelope with their comments, a self addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

§ 571.106 [Amended]

In consideration of the foregoing, it is proposed that Standard No. 106, *Brake Hoses*, 49 CFR Part 571.106, be amended to read as set forth below.

1. The authority citation for Part 571 would be revised to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.106 [Amended]

2. S8.6.1 would be amended by revising it to read:

S8.6.1 *Apparatus.* A tension testing machine that is power-driven and that applies a constant rate of extension is used for measuring the force required to separate the layers of the test specimen. The apparatus is constructed so that:

(a) The recording head includes a freely rotating form with an outside diameter substantially the same as the inside diameter of the hose specimen to be placed on it.

(b) The freely rotating form is mounted so that its axis of rotation is in the plane of the ply being separated from the specimen and so that the applied force is perpendicular to the tangent of the specimen circumference at the line of separation.

(c) The rate of travel of the power-actuated grip is a uniform 1 inch per minute and the capacity of the machine is such that maximum applied tension during the test is not more than 85 percent nor less than 15 percent of the machine's rated capacity.

(d) The machine produces a chart with separation as one coordinate and applied tension as the other.

3. S8.6.4(a) would be amended by revising it to read:

S8.6.4(a) The adhesion value shall be the minimum force recorded on the chart excluding that portion of the chart which corresponds to the initial and final 20 percent portion along the displacement axis.

* * * * *

Issued on May 16, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 85-12307 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-59-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1051

[No. MC-C-10939]

Petition for Waiver of Modification of the Recordkeeping Requirements for Shipments of Low Value Packages

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: In response to a petition filed by United Parcel Service, the Commission is proposing to waive the recordkeeping requirements of 49 CFR 1051.1 for shipments of low value packages. Under the proposal, the shipper could determine which packages have a low value and then either continue to keep detailed shipping records or elect to ship packages as low value under a streamlined parcel register system. It is proposed that daily records be required only as to the total number of low value packages shipped and the total applicable charges. The shipper would save the expense and inconvenience of detailed recordkeeping. Comments are also sought from other similarly situated carriers and shippers on whether the Commission's regulations should be modified to specifically exclude low value shipments from the recordkeeping requirements, as well as suggestions on how low-value packages can be defined.

DATES: Comments are due July 8, 1985.

ADDRESS: Send comments (original and 15 copies) to:

No. MC-C-10939, Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, D.C. 20423

A copy of all comments should be served on petitioner's representatives:

Irving R. Segal, 1600 Market Street, Philadelphia, PA 19103

and

Everett Hutchinson, 1150 Connecticut Ave. NW., Suite 400, Washington, D.C. 20036

FOR FURTHER INFORMATION CONTACT:

Robin Williams Denick, (202) 275-7711
Howell I. Sporn, (202) 275-7691

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. Infosystems, Inc., Room 222, Interstate Commerce Commission, Washington, DC 20423, or call 289-4357 (D.C. Metropolitan area) or toll free (800) 424-5403.

Energy and Environmental Considerations

This action does not appear to affect significantly the quality of the human environment or the conservation of energy resources. Comments are welcome on this issue.

Regulatory Flexibility Analysis

The Commission certifies that adoption of the proposal in this notice will not have a significant economic impact on a substantial number of small entities, because only recordkeeping requirements are waived for certain shipments. Comments on this issue are also invited.

List of Subjects in 49 CFR Part 1051

Freight, Motor carriers.

Authority: 49 U.S.C. 10321 and 5 U.S.C. 553.

Decided: May 13, 1985.

By the Commission Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley, and Strenio.

James H. Bayne,

Secretary.

[FR Doc. 85-12260 Filed 5-21-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR
Fish and Wildlife Service
50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposal To Determine Lepidomeda Vittata (Little Colorado Spinedace) To Be a Threatened Species With Critical Habitat

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to list *Lepidomeda vittata* (Little Colorado spinedace), a native fish of Arizona, as a threatened species and to determine its critical habitat under the authority contained in the Endangered Species Act (Act) of 1978, as amended. A special rule is proposed which would allow take for certain purposes in accordance with Arizona State laws and regulations. The Little Colorado spinedace was historically known to occur throughout the upper portions of the Little Colorado River drainage, but is now found only in portions of East Clear, Chevelon, Silver, and Nutrioso Creeks and the Little Colorado River in Coconino, Navajo, and Apache Counties, Arizona. The decline of this species has been caused by habitat alteration and loss due to impoundment, removal of water from the streams, channelization, grazing, road building, urban growth, and other human activities. The decline was also caused by the introduction and spread of exotic predatory and competitive fish species, and the use of ichthyotoxins in many of its native streams. These same factors continue to threaten the survival of the spinedace, and there are several water development projects which have been or are being proposed for the remaining habitat of the species. Remaining Little Colorado spinedace habitat is found on U.S. Forest Service, Bureau of Land Management, State of Arizona, and privately owned lands. This proposal, if finalized, would implement Federal protection for *Lepidomeda vittata* as provided by the Endangered Species Act of 1973, as amended. The Service seeks data and comments from the public, State, and Federal agencies on this proposal.

DATES: Comments from all interested parties must be received by July 22, 1985. Public hearing requests must be received by July 8, 1985.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, 421 Gold Avenue SW., Room 407, Albuquerque, New Mexico 87103. Comments and materials received will be available for public inspection during normal business hours, by appointment, at the Service's Office of Endangered Species at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. James E. Johnson, Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Region 2 (see **ADDRESSES** above) 505/766-3972.

SUPPLEMENTARY INFORMATION:

Background

The Little Colorado spinedace, *Lepidomeda vittata*, was first collected by members of the U.S. Topographical and Geographical Survey west of the 100th meridian (Wheeler, 1889). The species was described by E.D. Cope in 1874 from that collection. Cope listed the type locality as the "Chiquito Colorado," which was later defined as "The Little Colorado River somewhere between the mouth of the Uni River and Sierra Blanca (White Mountain)" (Miller and Hubbs, 1960). This fish is a member of the family Cyprinidae and is generally less than 10 centimeters (4 inches) in total length. The species is endemic to the upper portions of the Little Colorado River and to its north flowing, permanent tributaries on the Mogollon Rim and the northern slopes of the White Mountains, in eastern Arizona. This naturally restricted historic range has been significantly reduced in the past 50 years by habitat destruction, use of fish toxicants, and the introduction of exotic predatory and competitive fish species.

Populations of the Little Colorado spinedace, like those of many other desert fishes, fluctuate dramatically from year-to-year. There are many reasons for these fluctuations, and historically they have probably reflected periods of drought and/or increased rainfall. However, in more recent history the impact of human populations and their increasing demand for water has adversely affected spinedace populations. Various uses of water by man have adversely altered spinedace habitat and have accentuated population lows and reduced population highs. Such activities could lead to the extirpation of the Little Colorado spinedace in areas which normally would have sustained populations of the fish through drought periods. Such population fluctuations make it difficult to delineate precisely the current range of the Little Colorado spinedace. Spinedace populations have fallen to extremely low levels several times within the past 25 years. During these population lows, extensive collection efforts may fail to take spinedace at locations which formerly supported healthy populations. These same locations may later support spinedace populations. Little Colorado spinedace are presently know from the following locations (Miller, 1961; Miller and Hubbs, 1960; Minckley, 1973; Minckley and Carufel, 1967; Miller, 1963; Minckley and McCall, 1977):

(1) *East Clear Creek and its Tributaries.* Coconino County, Arizona. The spinedace occupies approximately 35 stream miles extending upstream from the confluence with Clear Creek to the headwaters near Potato Lake. The stream flows through the Apache-Sitgreaves and Coconino National Forests, with some interspersed privately-owned lands. At present the only tributary known to harbor Little Colorado spinedance is Leonard Canyon at Dines tank (T. 13 N., R. 12 E, Sec. 28); however, during periods of higher population levels it is likely that spinedace occupy the other tributaries, particularly near their mouths.

(2) *Chevelon Creek.* Navajo County, Arizona. The spinedace occupies the lower 8 stream miles from the confluence with the Little Colorado River, near Winslow, upstream. Lands here are privately-owned, with the exception of a small portion which is the Arizona Game and Fish Department's Chevelon Creek Wildlife Area.

(3) *Silver Creek.* Navajo County, Arizona. The spinedace occupies approximately 20 stream miles of Silver Creek extending from its confluence with the Little Colorado River upstream to its headwaters near the town of Silver Creek. The stream flows primarily on privately-owned lands with only small sections of stream flowing through State and Bureau of Land Management lands.

(4) *Little Colorado River.* Apache County, Arizona. The Little Colorado spinedace is found sporadically throughout approximately 40 miles of stream in this area, from the town of St. Johns upstream to the headwaters in the White Mountains near the town of Greer. Upstream from St. Johns, Arizona, the river flows through privately-owned lands, then through contiguous State lands, and then through additional privately-owned lands around the town of Springerville. The upper end of the river flows through the Apache-Sitgreaves National Forest with only a few privately-owned inholdings.

(5) *Nutrioso Creek.* Apache County, Arizona. The spinedace occupies approximately 12 stream miles from the confluence with the Little Colorado River upstream to near the town of Nutrioso. The stream flows through privately-owned lands around the towns

of Springerville and Nutrioso; however, approximately 5 miles of the stream flows through the Apache-Sitgreaves National Forest, and a small portion flows through State-owned lands.

The Little Colorado spinedace inhabits very small to moderate sized streams and is characteristically found in pools with flowing water, over fine gravel and silt-mud substrates. During periods of drought spinedace persist in intermittent streambed pools, and during flooding they tend to distribute themselves throughout the stream with no apparent habitat preferences. The spinedace apparently spawns primarily in early summer, but continues at a reduced level until early fall (Minckley, 1973).

The Little Colorado spinedace was included in the Service's "Review of Vertebrate Wildlife for Listing as Endangered or Threatened Species" published in the **Federal Register** on December 30, 1982 (47 FR 58454–60). It was considered a category 1 species, indicating that the Service had substantial information on hand to support a proposal to list as endangered or threatened. On April 12, 1983, the Service received a petition from the Desert Fishes Council to list the Little Colorado spinedace. this petition was found to contain substantial scientific or commercial information, and a notice of finding was published on June 14, 1983 (48 FR 27273). After a review and evaluation of the petition's merits, the service has found that the petitioned action is warranted, and a notice of the finding that the species warrants listing was published in the **Federal Register** on July 13, 1984 (49 FR 28583). This proposed rule constituted a required 12-month finding on that petition, that the action requested is warranted.

Summary of Factors Affecting the Species

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, 49 FR 38900, October 1, 1984) set forth the procedures for adding species to the Federal lists. 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 the Little Colorado spinedace (*Lepidomeda vittata*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Much of the historic habitat of the Little Colorado spinedace has been adversely modified or destroyed by human activities in the Little Colorado River basin. One of the most detrimental of these uses has been the impoundment of the rivers and streams. The spinedace is a stream dwelling fish and as such is unable to exist in lacustrine waters such as reservoirs. There are now approximately 150 impoundments in the Little Colorado basin, ranging from small stock tanks to reservoirs of up to 1,400 surface acres. Except for the smaller stock tanks located on streams, these reservoirs are uninhabitable by the spinedace. In many areas, these reservoirs have inundated and thus destroyed previously occupied spinedace stream habitat. In addition, these impoundments have often resulted in the total or partial dewatering of long downstream reaches of stream, resulting in the destruction of spinedace habitat. The presence of these reservoirs also adversely affects the continued existence of the spinedace upstream and downstream from the reservoir through predation by and competition with exotic fish species.

Other human uses and alterations of the waters and lands of the Little Colorado spinedace range have also been detrimental to spinedace habitat. These uses include riparian destruction, urban growth, mining, timber and pulpwood harvest, road construction, livestock grazing, and other watershed disturbances. The precise effect of many of these uses on fish populations, particularly spinedace, are difficult to define. However, these uses have resulted in many changes to the streams utilized by the Litle Colorado spinedace such as dewatering, erosion and channel downcutting, chemical and organic pollution, alteration of flow regimes, alteration of stream temperature, and excessive siltation. In the 1880's, the Little Clorado River above Grand Falls was a perennial stream with extensive riparian areas of grasses, cottonwoods, and willows. Extensive swamps and marshy areas existed above the town of Winslow (Miller, 1961). The river now has perennial flow only in the uppermost 10 to 15 percent of its length.

Future threats to the remaining habitat of the Little Colorado spinedace come from the same human uses that have resulted in past habitat alteration and destruction. There are several proposed new water projects for the area, and additional new projects continue to be proposed as water demand increases. Wilkin's Dam, at the confluence of Clear and East Clear Creeks, is a proposed Bureau of Reclamation project, a part of the larger Mogollon Mesa project which would also include a new dam on upper Chevelon Creek. Wilkin's Dam would inundate approximately 8 miles of stream and significantly decrease downstream flows, while contributing significantly to the problem of exotic predatory and competitive fishes in East Clear Creek (see Factors C and E). This project is presently inactive and is not expected to be reactivated in the near future. However, the nearby town of Flagstaff is presently seeking ways to increase its water supply, thus creating pressure to reactivate this or other similar projects. In 1977, the Arizona Public Service Corporation did test drilling to tap groundwater in the Chevelon Creek drainage. This water was to be used for the Cholla Lake generating facility near Holbrook, Arizona; however, the quality of the water found in the test drilling was too poor for their needs. Additionally, the Arizona Game and Fish Department has identified nine potential sites within existing spinedace range that they are considering for future recreational impoundments.

Residential, recreational, and urban growth in the vicinity of the towns of Snowflake, Taylor, Springerville, and Saint Johns, Arizona, are also potential threats to spinedace habitat. This growth has indirect effects on the spinedace through an increased water demand, and direct effects through alterations to the stream channels and riparian zones and by contributing pollution and excess sediments into the streams.

Much of the remaining Little Colorado spinedace habitat is afforded some protection by inaccessibility or by public ownership of the lands. The East Clear Creek population is located on the Coconino and Apache-Sitgreaves National Forests; portions of the Little Colorado River, Silver and Nutrioso Creeks populations are also located on the Apache-Sitgreaves National Forest, and the lower portion of Chevelon Creek flows through a rugged canyon in relatively roadless country. As the human population of the adjacent areas increases, and the demand for water and recreational access increases, those spinedace populations on public or presently inaccessible lands will be subjected to mounting pressures for water projects, road construction, and other development.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* There is no evidence that the Little Colorado spinedace is overutilized for any of these purposes.

C. *Disease of predation.* Predation by exotic piscivorous fish has been shown to be a contributing factor in the decline of many native Southwestern fishes, and has undoubtedly been a major factor in

the decline of the Little Colorado spinedace. The spinedace was historically associated with few, if any, fish predators. Of the native fish species of the Little Colorado River, only the roundtail chub (*Gila robusta*) was a potential predator on spinedace. However, in the past 100 years, several exotic predatory fish species have been introduced into Little Colorado spinedace habitats. These species include black bullhead (*Ictalurus melas*), channel catfish (*Ictalurus punctatus*), yellow bullhead (*Ictalurus natalis*), green sunfish (*Lepomis cyanellus*), largemouth bass (*Micropterus salmodies), rainbow trout (Salmo gairdneri*), and brown trout (*Salmo trutta*). The continuing adverse impact of these predators on the Little Coloardo spinedace, and the possibility of further introduction and spread of predatory fish is a significant threat to the existence of the spinedace. The construction of reservoirs in or near spinedace habitat exacerbates the threat of exotic fish introductions and the spread of predatory fishes since reservoirs are desirable habitat for many predatory game fishes, many of which are purposely introduced for recreational purposes. The introduction of such fish into these reservoirs allows and encourages their spread throughout the range of the Little Colorado spinedace. Additionally, parasites introduced with such exotic fish may also adversely affect the spinedace.

D. *The inadequacy of existing regulatory mechanisms.* The State of Arizona lists this species under Group 3 of the Threatened Wildlife of Arizona. Group 3 includes, "Species or subspecies whose continued presence in Arizona could be in jeopardy in the foreseeable future" (Arizona Game and Fish Commission, 1882). Under this designation taking of the Little Colorado spinedace is regulated and is allowed only under a collecting permit or by licensed angling. However, no protection of the habitat is included in such a designation and no management plan exists for this species.

E. *Other natural or manmade factors affecting its continued existence.* The introduction of exotic fishes into the habitat of the Little Colorado spinedace poses a major threat to the spinedace from competitive interactions as well as from predation. The golden shiner (*Notemigonus chrysoleucus*) is presently found in large numbers in Chevelon Creek, and has been found in the Little Colorado River basin since the late 1950's. In Chevelon Creek, golden shiners were present in such large numbers in 1965 that the Arizona Game and Fish Department treated the stream with a pesticide (fish toxicant) in an unsuccessful attempt to eradicate them. This treatment was considered necessary because the golden shiner competes with the young of game fish, particularly trout (Minckley, 1973). Since the Little Colorado spinedace is "troutlike in its behavior and habitat requirements" (Miller, 1963), it is quite likely that the golden shiner is also a significant competitor with the Little Colorado spinedace (Minckley and Carufel, 1967). The possibility of the further introduction of other competitive species, particularly the red shiner (*Notropis lutrensis*) and the redside shiner (*Richardsonius balteatus*), into spinedace habitats is an additional threat to the Little Colorado spinedace. The redside shiner has been shown to displace the Virgin River spinedace (*Lepidomeda mollispinis mollispinis*) in the Virgin River, and the red shiner is apparently displacing the spinedace (*Meda fulgida*) in portions of the Gila River system (Minckley, 1973). The shiners are widespread in Arizona. The red shiner is commonly used for bait, thus increasing the probability of its eventual introduction into Little Colorado spinedace habitat. Construction of reservoirs in or near Little Colorado spinedace habitat also increases that probability because of the increased use of bait in the fishery which develops in such reservoirs. Other exotic fishes, particularly cyprinids, may also be a competitive threat to the Little Colorado spinedace, and it has been found that the spinedace is generally rare or absent where exotic fish other than trout are present.

Another important factor in the decline of the Little Colorado spinedace has been the use of piscicides (fish toxicants) in the streams of the Little Colorado River drainage. Most of the major game-fish streams of the drainage have been subjected to poisoning, with such chemicals as rotenone and toxaphene, in generally unsuccessful attempts to rid these streams of "trash" fish such as carp, suckers, chubs, and shiners and thereby improve the streams for game fish (Miller, 1963). The Little Colorado River was treated from Lyman Reservoir downstream for approximately 10 miles in 1951, and Chevelon Creek was treated twice in 1965 (Minckley and Carufel, 1967), and again several years later. These treatments undoubtly reduced both the populations and range of the Little Colorado spinedace significantly.

No estimate has been made of Little Colorado spinedace population sizes; however, it is well known that their numbers fluctuate markedly. Because of this, threats to the spinedace must be analyzed as to their impact at the lowest population levels. Habitat alterations which may not significantly affect populations at moderate or high levels may be disastrous at low population levels, and could lead to extirpation of the species.

The Service has carefully assessed the best scientific and commerical information available, regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list the Little Colorado spinedace as threatened. Threatened status seems appropriate because of the severely reduced range of the species, and because of the many threats to the fish and its remaining habitat. If this species is not listed, it could reasonably be expected to become endangered within the foreseeable future and thus not listing would be a violation of the Act's intent. Since the species is still extant in several locations and the threats to the species are generally localized, the species is not in danger of extinction at this time and thus endangered status is not appropriate.

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 proposed for the Little Colorado spinedace to include the following:

(1) *East Clear Creek, Coconino County, Arizona:* approximately 18 miles of stream extending from the confluence with Leonard Canyon upstream to the Blue Ridge Reservoir dam, and approximately 13 miles of stream extending from the upper end of Blue Ridge Reservoir upstream to Potato Lake.

(2) *Chevelon Creek, Navajo County, Arizona;* approximately 8 miles of stream extending from the confluence with the Little Colorado River upstream to a spring source.

(3) *Nutrioso Creek, Apache County, Arizona;* approximately 5 miles of stream from the Apache-Sitgreaves National Forest boundary upstream to the Nelson Reservoir dam.

These stream portions were chosen for critical habitat designation because they presently support healthy self-perpetuating populations of the Little Colorado spinedace. They provide all of the ecological, behavioral, and physiological requirements necessary for the survival of the spinedace. However, due to the extreme fluctuations which Little Colorado spinedace populations exhibit, these areas may not necessarily support the most stable and healthy populations of spinedace at any given time in the future. At present, the Silver Creek and Little Colorado River populations are spotty and/or difficult to locate, but this situation may change with periodic population fluctuations. This designation of critical habitat was proposed based on the best available information; however, if subsequent to this proposal, some areas are found not to be critical to the species' needs, or if exclusion of some areas outweigh the benefits of specifying the areas as part of the critical habitat, they may be excluded from the final rulemaking. Notwithstanding this provision, if failure to designate any area as critical habitat would result in extinction of the species, such areas may not be excluded. If new information demonstrates additional necessary critical habitat areas for this species, they must be subject to a new **Federal Register** proposal.

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 which would deplete the flow, lessen the amount of minimum flow, or significantly alter the natural flow regime of East Clear, Chevelon, or Nutrioso Creeks could adversely impact the proposed critical habitat. Such activities include, but are not limited to, excessive groundwater pumping, impoundment, and water diversion. Also, any activity which would extensively alter the water chemistry of East Clear, Chevelon, or Nutrioso Creeks could adversely affect the proposed critical habitat. Such activities include, but are not limited to, release of chemical or biological pollutants at a point source or by dispersed release. The introduction, advertent or otherwise, of exotic predatory and competitive fish species and their parasites could adversely affect Little Colorado spinedace populations and could reduce or eliminate them within the critical habitat.

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 will consider the critical habitat designation in light of all additional relevant information obtained at the time of final rule.

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 other 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 by Federal agencies and the prohibitions against taking and harm 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 provision of the Act are codified at 50 CFR Part 402, and are presently under revision (see proposal published at 48 FR 29990; June 29, 1983). Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, 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 such a 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.

At present, no known Federal activities would be affected by this proposal. On East Clear Creek, the Little Colorado spinedace habitat is primarily on the Conconino and Apache-Sitgreaves National Forests. The Forest Service does not expect any significant impact on management of this area as a result of this proposal since the Little Colorado spinedace is already one of their emphasized species. Wilkin's Dam on Clear Creek is a Bureau of Reclamation project and Section 7 consultation will be required if that project is ever reactivated. On Chevelon Creek, the majority of the lands is privately owned. This land is used for livestock grazing and the activities that might be affected by this proposal could be future water development projects if they are federally funded or authorized. At the lower end of Chevelon Creek, there is a small portion of land owned by the Arizona Game and Fish Department. This is the Chevelon Creek Wildlife Area and no effects from this proposal are expected on its management since it is already being managed for wildlife values. On the privately-owned lands on Silver and Nutrioso Creeks, and the Little Colorado River, no effect is expected from this proposal. It is possible that future water development projects on these lands might be affected if such projects have any Federal involvement. On portions of those streams on the Apache-Sitgreaves National Forest no effect is expected.

The Act and implementing regulations found at 50 CFR 17.21 and 17.31 set forth a series of general prohibitions and exceptions that apply to all threatened wildlife. These prohibitions, in part, would make it illegal for any person subject to the jurisdiction of the United States to take, import or export, ship in interstate commerce in the course of a commercial activity, or sell or offer for sale in interstate or foreign commerce, any listed species. It would also be illegal to possess, sell, deliver, carry, transport or ship any such wildlife that had been illegally taken. Certain exceptions would apply to agents of the Service and State conservation agencies.

The above discussion generally applies to threatened species of fish or wildlife. However, the Secretary has the discretion, under section 4(d) of the Act to issue such special regulations as are necessary and advisable for the conservation of a threatened species. The State of Arizona presently regulates direct taking of the little Colorado spinedace through the requirements of State collecting permits. Since the primary threat to this species stems

from habitat disturbance and modification, and not from direct taking of the species or from commercialization, the Service concludes that the State's collecting permit system is more than adequate to protect the species from excessive taking, so long as such takes are limited to: educational purposes, scientific purposes, the enhancement of the propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Endangered Species Act. A separate Federal permit system is not required to address the current threats to the species. Therefore, a special rule for the Little Colorado spinedace is proposed which will allow taking to occur for the above stated purposes without the need for a Federal permit, if a State collecting permit is obtained and all other State wildlife conservation laws and regulations are satisfied. In relying upon the State's permitting system, however, and not establishing separate Federal permitting procedures, the Service is interpreting the act as precluding any further application of piscicides which could directly affect the Little Colorado spinedace, unless it is in accordance with an approved conservation plan for the species. The special rule also acknowledges the fact that incidental take of the species by State-licensed recreational fishermen is not a significant threat to this species. Therefore, such incidental take would not be a violation of the Act if the fisherman immediately returned the taken fish to its habitat. It should be recognized that any activities involving the taking of this species not otherwise enumerated in the special rule are prohibited. Without this special rule, all of the prohibitions under 50 CFR Part 17.31 would apply. The Service believes that this special rule will allow for more efficient management of the species, thereby facilitating its conservation. For these reasons, the Service has concluded that this regulatory proposal is necessary and advisable for the conservation of the Little Colorado spinedace.

Public Comments Solicited

The Service intends that any final rule adopted will be accurate and as effective as possible in the conservation of any endangered or threatened species. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, private interests, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or the lack thereof) to *Lepidomeda vittata;*

(2) The location of any additional populations of *Lepidomeda vittata* and the reasons why any habitat of this species should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of the species;

(4) Current or planned activities in the subject areas and their possible impacts on *Lepidomeda vittata;* and

(5) Any foreseeable economic and other impacts resulting from the proposed designation of critical habitat.

Final promulgation of the regulations on *Lepiodmeda vittata* will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requested. Requests must be filed within 45 days of the date of the proposal. Such requests must be made in writing and addressed to the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103.

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).

Literature Cited

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Miller, R.R. 1961. Man and the changing fish fauna of the American Southwest. Pap. Much. Acad. Sci., Arts and Letters 46:365–404.

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Miller, R.R., and C.L. Hubbs. 1960. The spiny-rayed cyprinid fishes (Plagoterini) of the Colorado River system. Misc. Publ. Univ. Mich. Mus. Zool. 115:1–39. 3 pls.

Minckley, C.O., and T.C. McCall. 1977. Fish populations. Pages 24–30 *in:* Blinn, D.W. (ed.), An aquatic survey of Chevelon Creek, Arizona. Report to Arizona Public Service Company, Department of Biology, Northern Arizona Univ. 44 pp.

Minckley, W.L. 1973. Fishes of Arizona. Sims Printing Company, Phoenix, Arizona. 293 pp.

Minckley, W.L., and L.H. Carufel. 1967. The Little Colorado River spinedace, *Lepidomeda vittata*, in Arizona. Southwestern Nat. 12(3):291–302.

Wheeler, G.M. 1889. Report upon United States geographical surveys west of the One Hundred Meridian, Vol. I, Geographical Rep., Washington. 780 pp. 39 pls.

Authors

The authors of this proposed rule are Sandra Limerick and Sally Stefferud, Endangered Species Staff, U.S. Fish and Wildlife Service, Albuquerque, New Mexico (505/766–3972 or FTS 546–5608). Status information was provided by C.O. Minckley, Flagstaff, Arizona.

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulations Promulgation

PART 17—[AMENDED]

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, 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. It is proposed to amend § 17.11(h) by adding the following, in alphabetical order, under "Fishes" to the List of Endangered and Threatened Wildlife:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
Spinedace, Little Colorado	*Lepidomeda vittata*	U.S.A. (AZ)	Entire	T		17.95(e)	17.44( )

3. It is further proposed to amend Title 50 CFR section 17.44 by adding the following (the position of this special rule will be determined at the time the final rule is published in the **Federal Register**):

§ 17.44 Special rules—fishes.

* * * * *

( ) Little Colorado spinedace (*Lepidomeda vittata*).

(1) No person shall take this species, except in accordance with applicable State fish and wildlife conservation laws and regulations in the following instances: for educational purposes, scientific purposes, the enhancement of propagation or survival of the species, zoological exhibition, and other conservation purposes consistent with the Act.

(2) Any violation of applicable State fish and wildlife conservation laws or regulations with respect to the taking of this species will also be a violation of the Endangered Species Act.

(3) No person shall possess, sell, deliver, carry, transport, ship, import, or export, by any means whatsoever, any such species taken in violation of these regulations or in violation of applicable State fish and wildlife conservation laws or regulations.

(4) It is unlawful for any person to attempt to commit, solicit another to commit, or cause to be committed, any offense defined in paragraphs (1) through (3) above.

* * * * *

4. It is further proposed to amend § 17.95(e) by adding critical habitat of the Little Colorado spinedace, as follows: The position of this entry under § 17.95(e) follows the same sequence as the species occurs in §17.11.

§ 17.95 Critical habitat—fish and wildlife.

(e) * * *

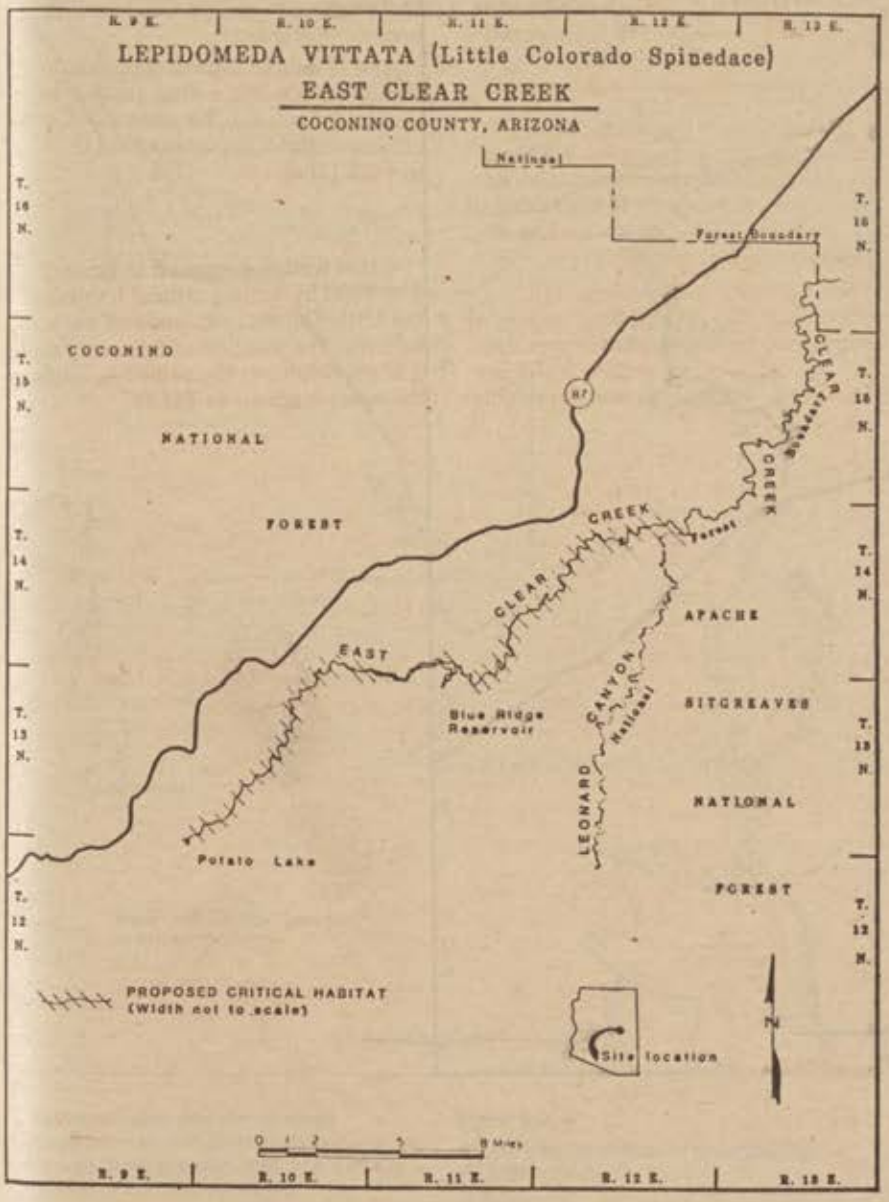
* * * * * *

Little Colorado Spinedace

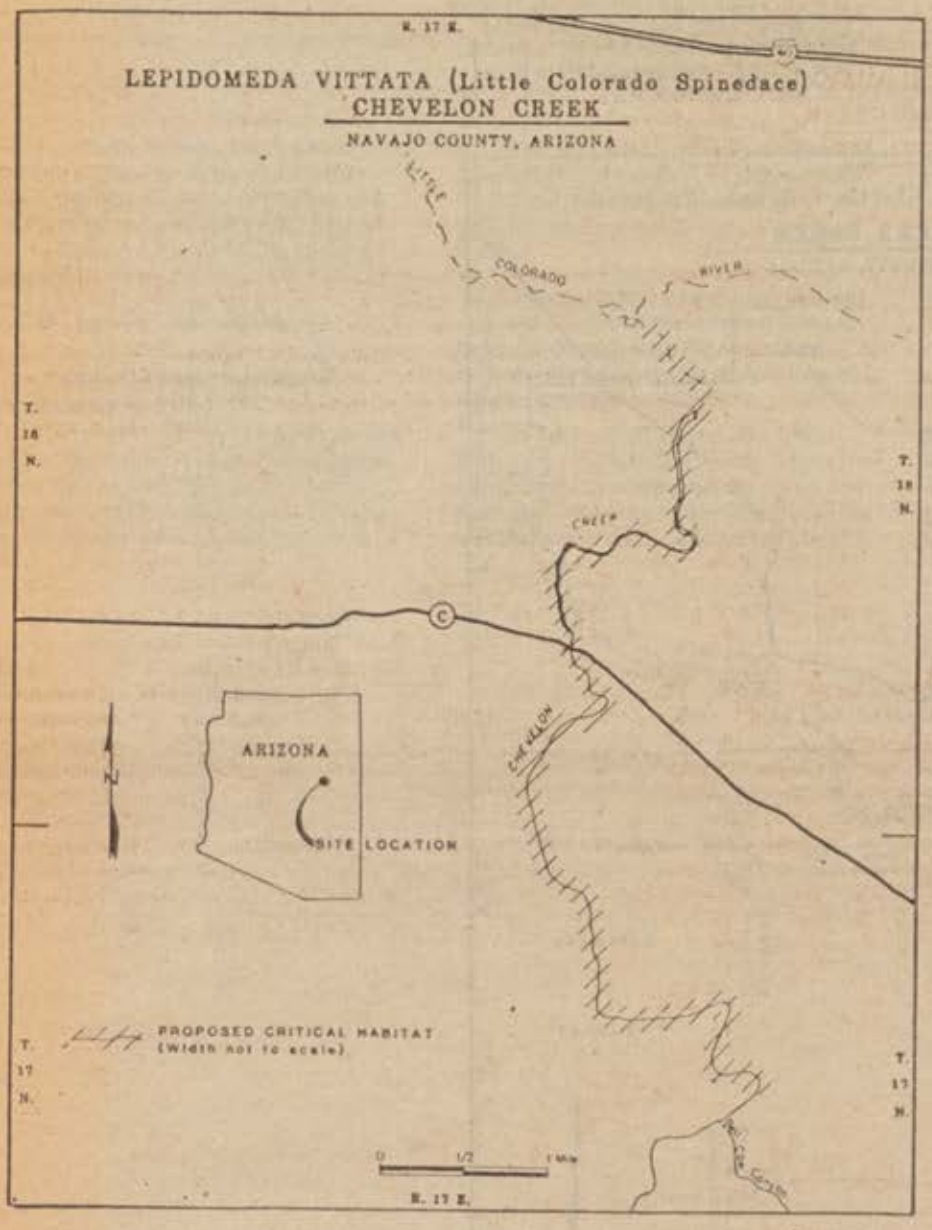
(Lepidomeda vittata)

Arizona:

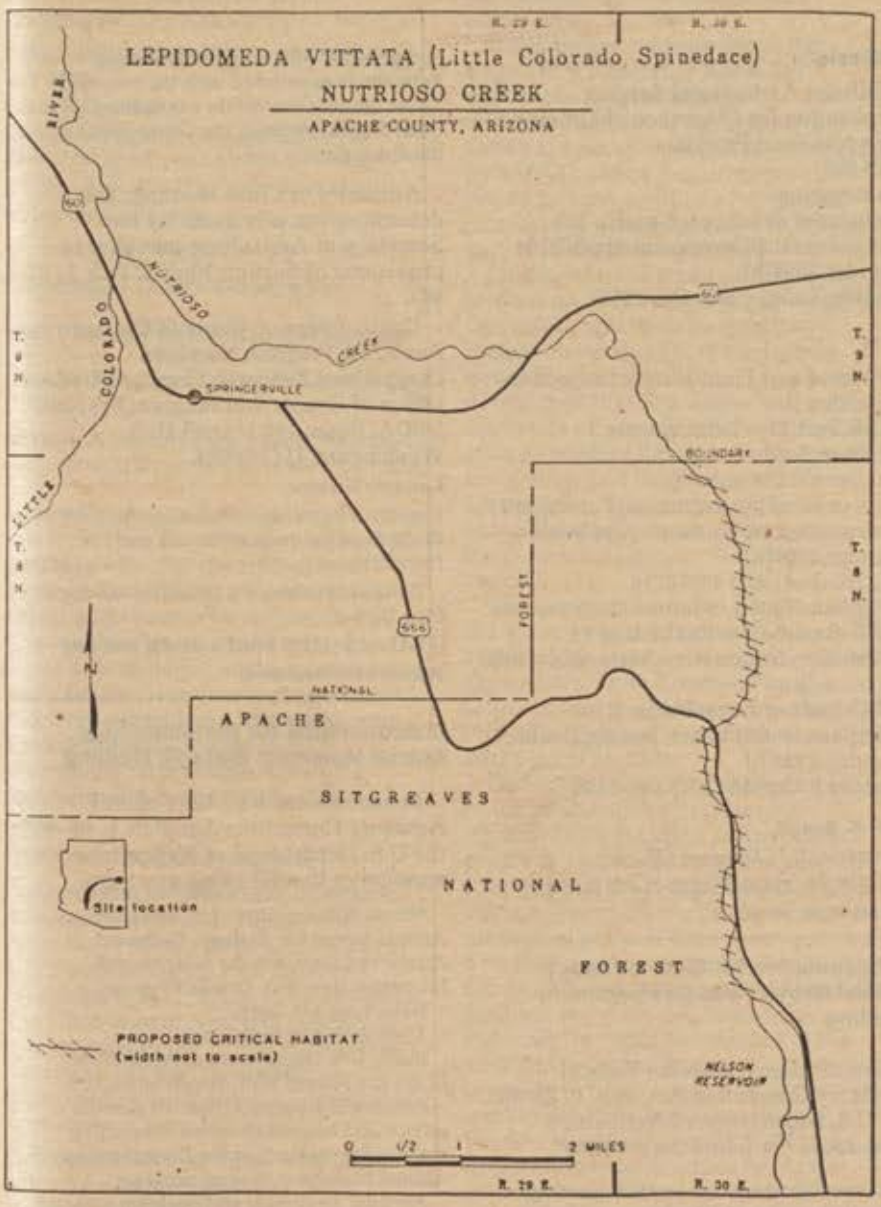
1. *Coconino County.* East Clear Creek: approximately 18 miles of stream extending from the confluence with Leonard Canyon (NE ¼ Sec. 11, T. 14 N., R. 12 E.) upstream to the Blue Ridge Reservoir dam (SE ¼ Sec. 33, T. 14 N., R. 11 E.), and approximately 13 miles of stream extending from the upper end of Blue Reservoir (east boundary SE ¼ Sec. 36, T. 14 N., R. 10 E.) upstream to Potato Lake (NE ¼ Sec. 1, T. 12 N, R. 9 E.).



2. *Navajo County.* Chevelon Creek: approximately 8 miles of stream extending from the confluence with the Little Colorado River (NW ¼ Sec. 23, T. 18 N., R. 17 E.) upstream to a spring source (NE ¼ of the SW ¼ Sec. 11, T. 17 N., R. 17 E.).



3. *Apache County.* Nutrioso Creek: approximately 5 miles of stream extending from the Apache-Sitgreaves National Forest boundary (north boundary Sec. 5, T. 8 N., R. 30 E.) upsteam to the Nelson Reservoir dam (NE ¼ Sec. 29, T. 8 N., R. 30 E.).



Constituent elements, for all areas proposed as critical habitat, include clean, permanent flowing water, with pools and a fine gravel or silt-mud substrate.

* * * * *

Dated: April 29, 1985.

Susan Recce,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 85-12242 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 50, No. 99
Wednesday, May 22, 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

Forms Under Review by Office of Management and Budget

May 17, 1985.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Pub. L. 96–511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, D.C. 20250, (202) 447–2118.

Comments on any of the items listed should be submitted directly to: Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503, Attn: Desk Officer for USDA.

If you anticipate commenting on a submission but find that preparation time will prevent you from doing so promptly, you should advise the OMB Desk Officer of your intent as early as possible.

Extension

- Foreign Agricultural Service

Application for Clearance of Labels on Export Food Products
FAS 633
On occasion
Businesses or other for-profit; 100 responses; 50 hours; not applicable under 3504(h)
Audrey Talley (202) 475–3408

New

- Animal and Plant Health Inspection Service

9 CFR Part 77—Tuberculosis
VS Form 6–38
On occasion, Annually
State or local governments; Farms; 110 responses; 88 hours; not applicable under 3504(h)
R.L. Hosker (301) 436–8715

- Human Nutrition Information Service

CSFII–Summative Evaluation of Nutrition Information Materials—1986
On occasion
Individuals or households; 2,100 responses; 992 hours; not applicable under 3504(h)
Frances J. Cronin (301) 436–5194

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 85–12326 Filed 5–21–85; 8:45 am]
BILLING CODE 3410–01–M

Subcommittee for Biotechnology Animal Growth and Development; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biotechnology Animal Growth and Development, Technical Advisory Committee for Science and Education Research Grants Program.

Date: June 25–28, 1985.

Time: 8:30 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 024 Morrill Hall, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Biotechnology Animal Growth and Development program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Contact Person: Kenneth Cremer, Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112 Morrill Hall, Washington, D.C. 20251.

Kenneth Cremer,
Executive Secretary, Subcommittee for Biotechnology Animal Growth and Development

Done at Washington, D.C., this 7th day of May 1985

[FR Doc.85–12323 Filed 5–21–85; 8:45 am]
BILLING CODE 3410–MT–M

Subcommittee for Biotechnology Animal Molecular Biology; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, the U.S. Department of Agriculture announces the following meeting:

Name: Subcommittee for Biotechnology Animal Molecular Biology, Technical Advisory Committee for Science and Education Research Grants Program.

Date: June 4–7, 1985.

Time: 8:30 a.m. to 5:00 p.m.

Place: U.S. Department of Agriculture, Room 024 Morrill Hall, Washington, D.C.

Purpose of Subcommittee: To provide advice and recommendation concerning support for research in the Biotechnology Animal Molecular Biology program.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Type of Meeting: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), the Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Secretary of Agriculture pursuant to provisions of Section 10(d) of Pub. L. 92–463.

Contact Person: Kenneth Cremer, Associate Program Manager, Competitive Research Grants Office, Office of Grants and Program Systems, USDA, Room 112 Morrill Hall, Washington, D.C. 20251.

Done at Washington, D.C., this 7th day of May 1985.

Kenneth Cremer,

Executive Secretary, Subcommittee for Biotechnology Animal Molecular Biology.

[FR Doc. 85-12322 Filed 5-21-85; 8:45 am]

BILLING CODE 3410-MT-M

Commodity Credit Corporation

1985 Peanut Program; Determination

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of Determination—1985-Crop Peanut Price Support Differentials.

SUMMARY: This notice of determination sets forth specific price support loan and purchase rates for the 1985-crop of quota and additional peanuts which reflect adjustments for differences in type, quality, location and other factors. These adjusted loan and purchase rates apply to both warehouse-stored loans and farm-stored loans and purchases. The adjustments are made in accordance with section 403 of the Agricultural Act of 1949 (the "1949 Act").

EFFECTIVE DATE: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: Solomon J. Whitfield, Tobacco and Peanuts Division, ASCS, USDA, Room 5727 South Building, P.O. Box 2415, Washington, D.C. 20013, (202) 447-5754. The Final Impact Analysis describing options considered in developing this determination and the impact of implementing such options is available upon request from Mr. Whitfield.

SUPPLEMENTARY INFORMATION: This notice of determination has been reviewed under USDA procedures in accordance with Executive Order 12291 and Departmental Regulation No. 1512-1 and has been classified "not major". It has been determined that this determination will not result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local governments, or geographical regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The title and number of the Federal assistance program to which this determination applies are: Commodity Loans and Purchases, 10.051, as found in the Catalog of Federal Domestic Assistance.

It has been determined that the Regulatory Flexibility Act is not applicable to this notice of determination since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this determination.

On the basis of an environmental evaluation, it has been determined that this action will have no significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitats, water quality, air quality, and land use and appearance. Therefore, neither an environmental assessment nor an Environmental Impact Statement is needed.

This program/activity is not subject to the provisions of Executive Order No. 12372 which requires intergovernmental consultation with State and local officials. See the Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Under the provisions of section 108A of the 1949 Act, the Secretary of Agriculture is required to announce price support levels for quota peanuts (peanuts marketed under a quota held by or acquired by the producer) and additional peanuts (non-quota peanuts). The 1985 quota support level of $559 per ton and the additional support level of $148 per ton were announced on February 14, 1985. Section 403 of the 1949 Act provides that adjustments may be made in these support levels for type, quality, location and other factors. Section 403 also provides that on the application of such adjustments the average level of support shall, to the extent practicable and based on the expected incidence of the factors on which the adjustments are made, be equal to the support level announced by the Secretary for the crop year involved.

A ton of farmers stock peanuts will normally include a large, but variable, proportion of high quality edible peanuts referred to as Sound Mature Kernels (SMK) and Sound Splits, as well as smaller quantities of lower quality Loose Shelled Kernels, Other Kernels and Damaged Kernels. Under the differentials applicable to the 1984 and preceding crop years, the value of any ton of farmers stock peanuts has been determined on the basis of the quantity and the mix of kernel values, including a premium for Extra Large Kernels (ELK) in the case of Virginia-type peanuts, and discounts for such factors as excess Foreign Material, Split Kernels and Damaged Kernels.

A Notice of Proposed Determination regarding adjustments (or "differentials") in the levels of price support for the 1985-crop of peanuts was published in the **Federal Register** on January 31, 1985 (50 FR 4550). The 1984-crop differentials were developed by: (1) Setting the SMK value of Virginia-type peanuts at 2 percent above the SMK value of Runner-type peanuts, and (2) setting the SMK value of Spanish-type peanuts at one-half percent above the SMK value of Runner-type peanuts, the Valencia SMK value was not determined based upon a percentage of any other SMK value. However, as with preceding crop years, the differentials for the 1984 crop were established so that the average support value per ton for Valencia-type peanuts would be the same as the average support value per ton for Virginia-type peanuts or Spanish-type peanuts depending on the quality and location of the Valencia-type peanuts. It was proposed that these relationships between types of peanuts would remain unchanged for the 1985 crop and that the premiums and quality discounts which were otherwise applicable to the 1984 crop differentials would also remain unchanged for the 1985 crop. The only change from the method of determining and establishing the 1984 crop differentials was the proposed use of a four-year average to predict the expected incidence of Virginia-type ELKs, rather than a three year average as was used for the 1984 crop.

Having reviewed the comments it has been determined that the proposed method of establishing the 1985 crop differentials should be adopted. However, the particular prices proposed in the January 31 notice have been adjusted to reflect the actual overall price support levels announced on February 14.

Three commenters responded to the January 31 notice. Two were grower organizations, the other was a peanut sheller/handler organization. One commenter fully supported the proposed determination for the 1985-crop year as adjusted to compensate for the national average quota support level announced for the 1985-crop.

The second commenter agreed with the January 31, 1985 proposed determination except to suggest a uniform excess moisture level of 8 percent should be adopted for all peanut

types and areas. The excess moisture level is the level above which moisture as a percentage of gross weight will be deducted from gross weight to determine net weight for peanut program purposes. The excess moisture level is not a component of the price support differentials and is, therefore, outside the scope of this rulemaking proceeding.

The third commenter recommended that all SMK values be made uniform. Historically, USDA and the industry have generally agreed that the existing relationship of dollars per percentage SMK between types is acceptable. The market places different values on different types of peanuts. To adopt a uniform pricing schedule for SMKs at this time is not practical and could disrupt industry price relationships and marketings, not only with respect to peanuts pledged as collateral for price support loans, but also on private purchases by handlers and manufacturers.

As with the 1984 crop, the value of additional peanuts for price support purposes will, in effect, be calculated by using a two-step process. The first step is to calculate the level at which the peanuts would be supported if the particular peanuts involved were quota peanuts. That figure is then reduced by a factor that represents the ratio of the national average support level for additional peanuts for the 1985-crop ($148/ton) to the national average support level for quota peanuts for the 1985-crop ($559/ton). That factor for the 1985 crop year is .2648.

Determination

Accordingly, the following support prices and applicable adjustments are set forth with respect to the 1985 crop of peanuts.

(a) *Average 1985 Support Values for Quota Peanuts by Type Per Average Grade Ton of Peanuts*

(1) *Support Value for Warehouse-Stored Peanuts:*

Type	Per Average Grade Ton
Virginia	$543.02
Runner	565.91
Spanish	539.24
Valencia:	
Southwest area—suitable for cleaning and roasting	543.02
Southwest area—not suitable for cleaning and roasting	539.24

(2) *Support Value for Farm-Stored Peanuts:*

Type	Per Average Grade Ton
Virginia	543.00
Runner	566.00
Spanish	539.00
Valencia:	
Southwest Area	543.00
Areas Other Than Southwest	539.00

(b) *Calculation of Support Prices for Quota Peanuts by Type and Quality.* The support price per ton for 1985-crop quota peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums, and discounts (with no value assigned to Damaged Kernels), except that the minimum support value for any quota lot of eligible peanuts of any type shall be 8 cents per pound of kernels in the lot:

(1) *Kernel value per ton excluding Loose Shelled Kernels.*

(i) The price per ton for each percent of Sound Mature and Sound Split kernels shall be:

	Per percent
Type:	
Virginia	$8.087
Runner	7.928
Spanish	7.968
Valencia:	
Southwest area—suitable for cleaning and roasting	8.136
Southwest area—not suitable for cleaning and roasting	7.968
Areas other than Southwest	7.968

(ii) The price per ton for each percent of Other Kernels shall be: All types, per percent, $1.40.

(iii) The premium per ton for each percent of Extra Large Kernels (ELKs) for Virginia-type peanuts shall be $0.35. However, no premium of ELKs shall be applicable to any ton of such peanuts containing more than 4-percent Damaged Kernels.

(2) *Price of Loose Shelled Kernels Per Pound.* The price for each pound of Loose Shelled Kernels shall be: All types, per pound, $0.07.

(3) *Foreign Material Discount.* For all types of peanuts, the discount per ton for Foreign Material shall be as follows:

Percent	Discount
0–4	$0
5	1.00
6	2.00
7	3.00
8	4.00
9	5.00
10	6.00
11	7.00
12	8.50
13	10.00
14	11.50
15	13.00
16 and over	(1)

[1] For each full percent in excess of 15 percent, deduct an additional $2.

(4) *Sound Split Kernel Discount.* For all types of peanuts, the discount per ton for Sound Split kernel shall be as follows:

Percent	Discount
1 through 4	$0
5	1.00
6	1.60
7 and over	[1]

[1] For each full percent in excess of 6 percent deduct an additional $0.80.

(5) *Damaged Kernel Discount.*

(i) For all types of peanuts, the discount per ton for Damaged Kernels shall be as follows:

Percent	Discount
1	$0
2	3.40
3	7.00
4	11.00
5	25.00
6	40.00
7	60.00
8 to 9	80.00
10 and over	100.00

(ii) Notwithstanding the above discount schedule, the Damaged Kernel discount for Segregation 2 peanuts transferred from additional to quota loan pools shall not exceed $25 per ton.

(6) *Adjustment for peanuts sampled with other than a pneumatic sampler.* The support price per ton for Virginia-type peanuts sampled with other than a pneumatic sampler shall be reduced by $0.10 per every percentage point of Sound Mature and Sound Split kernels.

(7) *Mixed type discount.* Individual lots of farmers stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is $10 per ton less than the support rate available to the type in the mixture having the lowest support rate.

(8) *Adjustments for location where peanuts are not customarily shelled or crushed.*

(i) Farmers stock peanuts on which price support is made available in the States specified below shall be discounted as follows:

State	Per ton
Arizona	$25.00
Arkansas	10.00
California	33.00
Louisiana	7.00
Mississippi	10.00
Missouri	10.00
Tennessee	25.00

(ii) Farmers stock peanuts on which price support is made available in Puerto Rico and all other States, territories and possessions of the United States (excluding the States specified in paragraph (8)(i) and Alabama, Florida, Georgia, New Mexico, North Carolina, Oklahoma, South Carolina, Texas, and Virginia) shall be discounted at $40.00 per ton.

(9) *Virginia-Type Peanuts.* Virginia-type peanuts, in order to be eligible for peanut price support as Virginia-type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at 34/64 inch space. Virginia-type peanuts so determined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were Runner-type.

(10) *Discount for Aspergillus Flavus Mold (Segregation 3 Peanuts)* There will be no discount applied to Segregation 3 peanuts for Aspergillus flavus mold when such peanuts are pledged as loan collateral at the additional price support loan rate. Should such peanuts later be transferred to a quota loan pool under 7 CFR 1446.66, they will be discounted at the rate of $25 per net ton from the quota price support loan rate.

(c) *Calculation of Support Values for Additional Peanuts.* The support price per ton for 1985-crop additional peanuts of a particular type and quality shall be calculated on the basis of 26.48 percent of the same rates, premiums, and discounts which are applicable to quota peanuts. This percentage has been computed by dividing the national average price support loan rate per ton for 1985-crop additional peanuts by the national average price support loan rate per ton for 1985-crop quota peanuts.

Signed at Washington, D.C., on May 17, 1985.

Milton J. Hertz,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 85-12325 Filed 5-21-85; 8:45 am]

BILLING CODE 3410-05-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 30-83]

Foreign-Trade Zone 41, Milwaukee, WI; Withdrawal of Application for Subzone at Aldrich Chemical Plant

The Foreign Trade Zone of Wisconsin, Ltd., grantee of Foreign-Trade Zone 41, has requested withdrawal of its application to the Foreign-Trade Zones Board for a subzone at the Aldrich Chemical Company plant in Milwaukee. The application was filed on July 28, 1983 (48 FR 37504, 8/18/83). The request has been made because of changed circumstances.

The request is approved and Foreign-Trade Zones Board Docket No. 38-83 is closed.

Dated: May 16, 1985.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 85-12300 Filed 5-21-85; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-408-001]

Sodium Gluconate From the European Communities; Final Results of Administrative Review of Suspension Agreement

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of Final Results of Administrative Review of Suspension Agreement.

SUMMARY: On January 4, 1985, the Department of Commerce published the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities. The review covers the period November 1, 1982, through October 31, 1983 and two programs.

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results.

EFFECTIVE DATE: May 22, 1985.

FOR FURTHER INFORMATION CONTACT: Al Jemmott or Richard Moreland, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On January 4, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 521) the preliminary results of its administrative review of the agreement suspending the countervailing duty investigation on sodium gluconate from the European Communities ("the EC") (46 FR 58132, November 30, 1981). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of the chemical sodium gluconate from the EC. Such merchandise is currently classifiable under item 437.5250 of the Tariff Schedules of the United States Annotated. The review covers the period November 1, 1982, through October 31, 1983, and two programs: (1) Production refunds, and (2) export restitution payments.

Final Results of the Review

We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results of the review are the same as the preliminary results. We determine that the signatories to the agreement have complied with its terms during the period of review. Therefore, the suspension agreement for sodium gluconate from the EC will remain in effect.

The Department encourages interested parties to review the public record and submit applications for protective orders as early as possible.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 355.41 of the Commerce Regulations (19 CFR 355.41).

Dated: May 16, 1985.

Alan F. Holmer,

Deputy Assistant Secretary, Import Administration.

[FR Doc 85-12299 Filed 5-21-85; 8:45 am]

BILLING CODE 3510-DS-M

Automated Manufacturing Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Automated Manufacturing Equipment Technical Advisory Committee will be held June 11, 1985, at 9:30 a.m., Herbert C. Hoover Building, Room 3708, 14th Street and

Constitution Avenue NW., Washington, D.C.

The Committee advises the Office of Export Administration with respect to technical questions which affect the level of export control applicable to automated manufacturing equipment or technology.

Agenda

1. Introduction of members and guests.
2. Opening remarks by the Chairman.
3. Presentation of papers or comments by the public.
4. Invited presentations by members of industry.
5. Discussion of programable controllers (CCL #1565).
6. Discussion of embedded computers (CCL #1565).
7. Plan for achieving decontrols of lower-end technology.
8. Discussion of precision grinders for manufacturing ball bearings.
9. New Business.
10. Action items underway.
11. Action items due at meeting.

Executive Session

12. Discussions of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on February 6, 1984, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended by section 5(c) of the Government In the Sunshine Act, Pub. L. 94–409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1) and are properly classified under Executive Order 12356.

A copy of the Notice of Determination to close meetings or portions thereof is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, telephone: (202) 377–4217. For further information or copies of the minutes contact Margaret A. Cornejo (202) 377–2583.

Dated: May 16, 1985.

Milton M. Baltas,

Director of Technical Programs, Office of Export Administration.

[FR Doc. 85–12248 Filed 5–21–85; 8:45 am]

BILLING CODE 3510-DT-M

National Bureau of Standards

National Voluntary Laboratory Accreditation Program

AGENCY: National Bureau of Standards, Commerce.

ACTION: Notice of formal establishment of a laboratory accreditation program for laboratories that test seals and sealants.

SUMMARY: Under the National Voluntary Laboratory Accreditation Program (NVLAP), the National Bureau of Standards (NBS) announces the establishment of a laboratory accreditation program (LAP) for laboratories that test building seals and sealants (Seals and Sealants LAP). This notice includes the fees for this LAP. Laboratories that are interested in becoming accredited under the Seals and Sealants LAP may request an application package by contacting the Associate Manager, Laboratory Accreditation, National Bureau of Standards.

FOR FURTHER INFORMATION CONTACT: Harvey W. Berger, Associate Manager, Laboratory Accreditation, National Bureau of Standards, Admin A531, Gaithersburg, MD 20899, (301) 921–3431.

SUPPLEMENTARY INFORMATION:

Background

This notice is issued in accordance with § 7.17 of the NVLAP Procedures (15 CFP Part 7). Establishment of this laboratory accreditation program (LAP) for laboratories that test seals and sealants follows a request letter from the American Society for Testing and Materials (ASTM) Committee C–24, Building Seals and Sealants, dated March 23, 1984. The ASTM letter identified the standards and test methods for building seals and sealants for inclusion in the LAP. A **Federal Register** notice announcing the request for a Seals and Sealants LAP was published on June 21, 1984 (49 FR 25495–25497).

Pursuant to section 7.18 of the mentioned Procedures, other related standards and test methods may be added as long as those standards and test methods are covered by the scope of this LAP. The scope of the LAP for building seals and sealants includes caulking compounds, putty, elastometric compounds, glazing compounds, preformed gaskets, sealing tapes for joint application, and membranes and liquid-applied elastometric sealing compounds for surface application. The purpose of the LAP is to accredit and provide national recognition to laboratories capable of performing tests in accordance with the designated test methods.

Application Process

Any testing laboratory interested in becoming accredited under this LAP should contact the Associate Manager, Laboratory Accreditation, at the address shown above. The laboratory will be sent an application package including an application form with a test method selection list and fee schedule, and the Seals and Sealants LAP Handbook, which describes the administrative, operational, and technical requirements for accreditation.

The fees for the Seals and Sealants LAP are as follows:

a. One-time initiation fee for laboratories applying for this LAP for the first time	$650
b. Annual administrative charge (Prorated for laboratories participating in other LAPS)	875
c. Test method charge:	
For 15 test methods or less	1,300
For more than 15 test methods	1,700

Dated: May 17, 1985.

Ernest Ambler,

Director, National Bureau of Standards.

[FR Doc. 85–12261 Filed 5–21–85; 8:45 am]

BILLING CODE 3510-13-M

National Oceanic and Atmospheric Administration

Marine Mammals; Application for Permit; Los Angeles County Museum of Natural History

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1407), and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant:

a. Name: Los Angeles County Museum of Natural History (P133A).

b. Address: 900 Exposition Blvd., Los Angeles, CA 90007.

2. Type of Permit: Scientific Research.

3. Name and Number of Marine Mammals: Pacific harbor seals (Phoca vitulina richardii) 945/year.

4. Type of Take: Incidental harassment to censusing, tagging with flipper tags, marking with bleach and radio tagging.

5. Location of Activity: Santa Barbara County, California.

6. Period of Activity: 5 years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, D.C. 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Documents submitted in connection with the above application are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW, Washington, D.C.; and

Regional Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

Dated: May 15, 1985.

Richard B. Roe,

Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 85-12346 Filed 5-21-85; 8:45 am]

BILLING CODE 3510-22-M

Permits; Foreign Fishing

This document publishes for public review a summary of applications received by the Secretary of State requesting permits for foreign vessels to fish in the fishery conservation zone under the Magnuson Fishery Conservation and Management Act (Magnuson Act, 16 U.S.C. 1801 *et seq.*)

Send comments on applications to: Fees, Permits and Regulations Division (F/M12), National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 or, send comments to the Fishery Management Council(s) which review the application(s), as specified below:

Douglas G. Marshall, Executive Director, New England Fishery Management Council, 5 Broadway (Route 1), Saugus, MA 01906, 617/231-0422

John C. Bryson, Executive Director, Mid-Atlantic Fishery Management Council, Federal Building Room 2115, 300 South New Street, Dover, DE 19901, 302/674-2331

David H.G. Gould, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, SC 29407, 803/571-1366

Omar Munoz-Roure, Executive Director, Caribbean Fishery Management Council, Banco De Ponce Building, Suite 1108, Hato Rey, PR 00818, 809/753-6910

Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Blvd., Tampa, FL 33609, 813/228-2815

Joseph C. Greenley, Executive Director, Pacific Fishery Management Council, 526 S.W. Mill Street, Portland, OR 97201, 503/221-6352

Jim H. Branson, Executive Director, North Pacific Fishery Management Council, 411 W. Fourth Avenue, Suite 2D, Anchorage, AK 99510, 907/271-4060

Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 164 Bishop Street, Room 1405, Honolulu, HI 96813, 808/523-1368

FOR FURTHER INFORMATION CONTACT:

John D. Kelly (Fees, Permits, and Regulations Division, 202-634-7432).

The Magnuson Act requires the Secretary of State to publish a notice of receipt of all applications for such permits summarizing the contents of the applications in the **Federal Register.** The National Marine Fisheries Service under the authority granted in a memoranudm of understanding with the Department of State effective November 29, 1983, issues the notice behalf of the Secretary of State.

Individual vessel applications for fishing in 1985 have been received between March 27, 1985 and May 16, 1985 from the Government(s), shown below.

Dated: May 21, 1985.

Carmen J. Blondin,

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

Fishery codes and designation of Regional Fishery Management Councils which review applications for individual fisheries are as follows:

Code	Fishery	Regional fishery management councils
ABS	Atlantic Billfishes and Sharks	New England, Mid Atlantic, South Atlantic, Gulf of Mexico, Caribbean
BSA	Bering Sea and Aleutian Islands Groundfish	North Pacific
GOA	Gulf of Alaska	North Pacific
NWA	Northwest Atlantic Ocean	New England, Mid-Atlantic
SMT	Seamount Groundfish	Western Pacific
SNA	Snails (Bering Sea)	North Pacific
WOC	Pacific Groundfish (Washington, Oregon and California)	Pacific
PBS	Pacific Billfishes and Sharks	Western Pacific

Activity codes which specify categories of fishing operations applied for are as follows:

Activity code	Fishing operations
1	Catching, processing and other support
2	Processing and other support only
3	Other support only
4	"Joint venture" in support of U.S. vessels

Nation, vessel name and vessel type	Application No.	Fishery	Activity
The Government of Greece: *Polar Brasil*, cargo transport vessel	GR-85-0003	BSA, GOA	3
The Government of Italy: *Amoruso Settimo*, Medium Stern Trawler	IT-85-0005	NWA	1 (4)
The Government of Japan			
Kohfu Maru, Cargo Transport Vessel	JA-85-0641	BSA, GOA	3
Kyowa Maru No. 8, Pot Fishing Vessel	JA-85-0901	SNA	1
Yasu Maru No. 28, Longline Fishing Vessel	JA-85-1277	ABS	1
Ryuo Maru No. 28, Longline Fishing Vessel	JA-85-1373	ABS	1
Shinmei Maru No. 78, Longline Fishing Vessel	JA-85-1569	ABS	1
The Kingdom of the Netherlands			
North Pole, Cargo Transport Vessel	NL-85-0016	NWA	3

Nation, vessel name and vessel type	Application No.	Fishery	Activity
Celtic, Cargo Transport Vessel.	NL-85-0029	NWA	3
Atlantic, Cargo Transport Vessel.	NL-85-0030	NWA	3
The Government of the Polish People's Republic: *Zyrardow*, Cargo Transport Vessel.	PL-85-0089	BSA, GOA, WOC	3
Taiwan			
Lucky Star 787, Medium Stern Trawler.	TW-85-0076	BSA, GOA	1 (4)
Chief Phoenix, Medium Stern Trawler.	TW-85-0077	BSA, GOA	1 (4)
Union of the Soviet Socialist Republics: *Zerkalnyj*, Cargo Transport Vessel.	UR-85-0779	BSA, GOA, WOC	3

Government of Japan

Joint Venture—The Government of Japan has submitted applications for four (4) vessels already permitted in Alaska joint venture fisheries to also engage in joint venture activities in the BSA and GOA fisheries for yellowfin sole with the following three U.S. operations:

American Partner: Whitney Fidalgo Seafoods, Inc., Seattle, Washington
Species amount: 2,050 mt
American Partner: Alaska Contact, Ltd., Anchorage, Alaska
Species amount: 2,550 mt
American Partner: Alyeska Ocean, Inc., Anacortes, Washington 98221
Species amount: 1,890 mt

The Taiwan vessels, *Lucky Star*, and *Chief Phoenix* will participate in the joint venture operation published at 49 FR 47322.

The Italian vessel, *Amoruso Settimo* will participate in the joint venture operation published at 50 FR 3728.

[FR Doc. 85-12562 Filed 5-21-85; 11:41 am]
BILLING CODE 3510-11-M

National Technical Information Service Intent To Grant Exclusive Patent License; Merieux Laboratories, Inc.

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Merieux Laboratories, Inc. having a place of business in Athens, Georgia, an exclusive right to manufacture, use and sell products embodied in the invention entitled "Disease Control in Avian Species by Embryonal Vaccination," U.S. Patent 4,458,630. The patent rights in this invention have been assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the day of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-12310 Filed 5-21-85; 8:45 am]
BILLING CODE 3510-04-M

Intent To Grant Exclusive Patent License; Rocky Mountain Wildlife Products

The National Technical Information Service (NTIS), U.S. Department of Commerce, intends to grant to Rocky Mountain Wildlife Product's having a place of business in La Porte, Colorado, an exclusive right to manufacture, use, and sell products embodied in the invention entitled "Method and Composition for Luring Coyotes," U.S. Patent 4,472,377. The patent rights in this invention will be assigned to the United States of America, as represented by the Secretary of Commerce.

The proposed license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 41 CFR 101-4.1. The proposed license may be granted unless, within sixty days from the day of this published Notice, NTIS receives written evidence and argument which establishes that the grant of the proposed license would not serve the public interest.

Inquiries, comments and other materials relating to the proposed license must be submitted to the Office of Federal Patent Licensing, NTIS, Box 1423, Springfield, VA 22151.

Douglas J. Campion,

Office of Federal Patent Licensing, U.S. Department of Commerce, National Technical Information Service.

[FR Doc. 85-12287 Filed 5-21-85; 8:45 am]
BILLING CODE 3510-04-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China; Correction

May 15, 1985.

On March 4, 1985 a notice was published in the **Federal Register** (50 FR 8651) which established, among other things, a limit of 293,421 pounds for cotton vests in Category 359pt. (only TSUSA numbers 359.0654, 379.0258, 379.3949, 379.5700, 379.5820, 383.0648, 383.0652, 839.4200, and 383.4320), produced or manufactured in the People's Republic of China and exported during designated restraint periods. The correct ninety-day period should have been January 31, 1985 through April 30, 1985, and May 1, 1985 through April 30, 1986 for the twelve-month period.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-12245 Filed 5-21-85; 8:45 am]
BILLING CODE 3510-DR-M

Import Limits for Certain Cotton and Wool Textile Products Produced or Manufactured in the People's Republic of China; Correction

May 16, 1985.

On August 27, 1984 a notice was published in the **Federal Register** (49 FR 33921) which established, among other things, a limit of 4,296,657 pounds for cotton shop towels in Category 369pt (only TSUSA 366.2740), produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on August 28, 1984 and extends through August 27, 1985. The level for the period should have been 4,429,068 pounds.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-12246 Filed 5-21-85; 8:45 am]
BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of the Republic of Indonesia

May 15, 1985.

On April 30, 1985, the Government of the United States requested consultations with the Government of the Republic of Indonesia with respect to man-made fiber sweaters, produced or manufactured in Indonesia. This request was made on the basis of the agreement, as amended, between the Governments of the United States and the Republic of Indonesia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products of October 13 and November 9, 1982.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement, as amended, may establish a prorated twelve-month specific limit for the entry and withdrawal from warehouse for consumption of textile products in Category 645/646, produced or manufactured in Indonesia and exported to the United States during the period which began on April 30, 1985 and extends through the end of the agreement year, June 30, 1985.

The Government of the United States has decided, pending agreement on a mutually satisfactory solution, to control imports in this category during the prorated 90-day consultation period (April 30—June 30, 1985) at a level of 38,673 dozen. In the event the limit established for the prorated ninety-day period is exceeded, such excess amount, if allowed to enter, may be charged to the prorated twelve-month specific limit, if established, and to any restraint period established subsequent to that, pending negotiations for renewal of the bilateral agreement.

A summary market statement for this category follows this notice.

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).

Anyone wishing to comment or provide data or information regarding the treatment of Category 645/646 under the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement with the Government of the Republic of Indonesia, or on any other aspect thereof, or to comment on domestic production or availability of textile products included in the category, is invited to submit such comments or information in ten copies to Mr. Walter C. Lenahan, Chairman, Committee for the Implementation of Textile Agreements, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230. Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Indonesia—Market Statement

Categories 645/646: Man-Made Fiber Sweaters

April 1985.

Summary and Conclusions

Man-made fiber sweater imports from Indonesia reached 169,932 dozen during the year ending February 1985. This was over nine times the 18,341 dozen imported during the previous twelve months. Indonesia accounted for more than half of the growth in man-made fiber sweater imports from all sources during the twelve months ending February 1985. This increase in imports from Indonesia was sharp and substantial and was in a sector already adversely affected by imports. This increase disrupted the U.S. market for man-made fiber sweaters and continuation of the increase would further disrupt the market.

U.S. Imports

Imports have made greater inroads into the U.S. sweater market than in any other category grouping. Total sweater imports, encompassing all fibers, increased by nearly 5 million dozen in 1984 to 21,314,000 dozen. This was two times 1983 domestic sweater production levels. In 1983, the import-to-production ratio was 153 percent.

Man-made fiber sweaters accounted for sixty percent of the sweater import total. Imports of Categories 645/646 sweaters increased from 7,929,000 dozen in 1979 to 10,775,000 dozen in 1983, an increase equal to nearly 40 percent of U.S. production in 1983. Imports increased by an additional 200,000 dozen in 1984, to reach 10,976,000 dozen. Year ending February 1985 man-made fiber sweater imports were 3 percent above the previous twelve months level.

In addition, U.S. man-made fiber sweater producers are being adversely affected by imports of sweaters of polyester and acrylic blended with chief weight and chief value non-MFA fibers such as ramie. We estimate total non-MFA fiber sweater imports to have been 5,626,788 dozen in 1984. Further, during the first two months of 1985 these imports already reached 1,108,677 dozen.

U.S. Production

Man-made fiber production averaged 7,440,000 dozen annually during 1979–1983. There was no growth in the industry during this period despite a growing market. Production in 1983, at 7,368,000 dozen, was below the five-year average. Indicators point to a downturn in the industry in 1984, particularly during the last half of the year when men's and women's sweater shipments declined 30 percent. For the entire year, shipments were down 17 percent. There is no evidence of any improvement in 1985; sweater shipments were down 31 percent during January-February.

U.S. Market

The U.S. market increased by 2.8 million dozen during 1979–1983, matching the import increase during this period. As a result, the domestic producers' share of this market declined from 48 percent in 1979 to 41 percent in 1983. The U.S. domestic producers' share declined further in 1984.

Import-to-Production Ratio

The import-to-production ratio was 146.2 percent in 1983 compared to 107.5 percent in 1979. For every seven man-made fiber sweaters produced in the United States in 1983 nearly eleven were imported.

Import Value vs Domestic Producer Price

Over half of the man-made fiber sweaters imported from Indonesia were entered under TSUSA No. 383.8073—Women's and girls' not ornamented sweaters; 18 percent under 383.8070—Infants' not ornamented sweaters; and, 11 percent under 379.9035—Men's not ornamented sweaters. These sweaters are entering at landed, duty-paid values below the U.S. producer price for comparable U.S. garments.

May 15, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C.

Dear Mr. Commissioner: Under the terms of section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the

Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977 and December 22, 1981; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of October 13 and November 9, 1982, as amended and extended, between the Governments of the United States and Republic of Indonesia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on May 21, 1985, entry into the United States for consumption and withdrawal from warehouse for consumption of man-made fiber textile products in Category 645/646 produced or manufactured in Indonesia and exported during the prorated ninety-day period which began on April 30, 1985 and extends through June 30, 1985 in excess of 38,673 dozen [1].

Textile products in Category 645/646 which have been exported to the United States prior to April 30, 1985 shall not be subject to this directive.

Textile products in Category 645/646 which have been released from the custody of the U.S. Customs Service under the provisions of 19 U.S.C. 1448(b) or 1484(a)(1)(A) prior to the effective date of this directive shall not be denied entry under this directive.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and in Statistical Headnote 5, Schedule 3 of the Tariff Schedules of the United States Annotated (1985).

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-12247 Filed 5-21-85; 8:45 am]

BILLING CODE 3510-DR-M

[1] The level has not been adjusted to reflect any imports exported after April 29, 1985.

DEPARTMENT OF EDUCATION

Advisory Council on Education Statistics; Meeting

AGENCY: Advisory Council on Education Statistics (ACES), Education.

ACTION: Notice of meeting.

SUMMARY: This sets forth the schedule and proposed agenda of a forthcoming meeting of the Advisory Council on Education Statistics. This notice also describes the function of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATE: June 10–11, 1985.

ADDRESS: 1200 19th Street, NW, Room 823, Washington, DC 20208.

FOR FURTHER INFORMATION CONTACT: John W. Christensen, Executive Director, 1200 19th Street, NW, (Brown Building) Room 717–C, Washington, DC. 20208. Telephone (202) 254–8227.

SUPPLEMENTARY INFORMATION: The Advisory Council on Education Statistics is established under section 406(c)(1) of the Education Amendments of 1974, Pub. L. 93–380. The Council is established to review general policies for the operation of the National Center for Education Statistics (NCES) and is responsible for establishing standards to insure that statistics and analyses disseminated by the Center are of high quality and are not subject to political influence.

The meeting of the Council in open to the public. The proposed agenda includes:

- A discussion of testimony provided by education data users and suppliers at the Council's February meeting.
- An update report on the National Academy of Sciences evaluation of the National Center for Education Statistics.
- Further discussion of program direction and priorities for the National Center for Education Statistics.
- Such old and new business as the Chairman or membership may put before the Council.

Records are kept of all Council proceedings, and are available for public inspection at the Office of the Executive Director, Advisory Council on Education Statistics, 1200 19th Street, NW, (Brown Building) Room 717–C, Washington, DC 20208.

Dated: May 15, 1985.

Emerson J. Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 85-12269 Filed 5-21-85; 8:45 am]

BILLING CODE 4000-01-M

Assessment Policy Committee, National Assessment of Educational Progress (NAEP); Meeting

AGENCY: Department of Education.

ACTION: Notice of meeting.

SUMMARY: The Secretary of Education has scheduled a meeting of the Assessment Policy Committee of the National Assessment of Educational Progress (NAEP). The purpose of the meeting is to provide guidance and direction to the National Institute of Education supported NAEP project. The entire meeting will be open to the public.

DATE: June 1, 1985, 8:30 a.m. to 5:00 p.m.

Location: Educational Testing Service, Princeton, New Jersey 08541.

FOR FURTHER INFORMATION CONTACT: Mr. Paul Barton, Liaison-APC, National Assessment of Educational Progress, CN 6710, Princeton, NJ 08541–6710, telephone: (800) 223-0267.

SUPPLEMENTARY INFORMATION: One of the primary purposes of NAEP is to assess the performance of children and young adults in the basic skills of reading, mathematics, and communication. The Assessment Policy Committee (APC) is established by section 405 (k)(2)(A) of the General Education Provisions Act, 20 U.S.C. 1221e. The committee is responsible for the design of NAEP which includes the selection of learning areas to be assessed, the development and selection of goal statements and assessment items, and the methodology, form, and the content of the reporting. The committee is also responsible for the dissemination of results, and the implementation of studies to evaluate and improve the form and utilization of the program.

The agenda for the meeting includes—

- Filling of expiring terms and election of Chair;
- Reports on work of standing committees;
- Approval of guidelines for NAEP's state and local assessments; and
- Preview of decisions to be made next fall on the 1987–1988 assessment.

In order to assure adequate seating arrangements and to obtain an advance copy of the final agenda, individuals may contact Mr. Paul Barton at the address cited above.

Dated: May 16, 1985.

(Catalog of Federal Domestic Assistance Number 84.117, Educational Research and Development)

Emerson J. Elliott,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 85-12272 Filed 5-21-85; 8:45 am]

BILLING CODE 4000-01-M

Office of Special Education and Rehabilitative Service

National Institute of Handicapped Research; Fellowship Programs, Applications

ACTION: Application Notice for Transmittal of Applications for Research Fellowships for Fiscal Year 1985.

Applications are invited for new research fellowships in selected priority areas for Fiscal Year 1985 under the National Institute of Handicapped Research.

Authority for this program is contained in section 202(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95-602 and Pub. L. 98-221 (29 U.S.C. 761a(d)).

Closing date for transmittal of applications: Applications for new awards must be mailed or hand delivered on or before July 22, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.133Fp, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C. 20202.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted after 4:30 p.m. on the closing date.

Available funds: NIHR expects to make up to $250,000 available to award fellowships under this program. NIHR intends to award one Distinguished Fellowship in each of these priority areas. Each individual fellowship may carry a stipend of up to $50,000 plus an allowance for expenses and travel in connection with the fellowship. However, these estimates do not bind the U.S. Department of Education to any specific number of awards or to the amount of any award unless that amount is otherwise specified by statute or regulations.

All fellowships will be for a one-year period. Fellows are expected to devote full-time to the fellowship activity.

Program information: The National Institute of Handicapped Research (NIHR) is authorized to support research and related activities under several program authorities, including a research fellowship program. In 1984, NIHR revised its fellowship regulations to provide that the Secretary could either conduct competitions for fellowship awards without reference to areas of priority beyond those authorized by the law or could establish priority areas in which fellowship applications would be accepted. This year, fiscal 1985, NIHR has already announced and completed a competition in which applicants were encouraged to submit applications in any research area permitted by the statute. That competition is not affected by this notice. However, the Secretary has determined that there are specific areas in which research is needed, and has set aside additional funds to provide fellowship assistance for research in these specific areas.

As specified in regulations governing the research fellowship program (34 CFR Part 356), fellowship awards will be made to highly qualified individuals whose training and experience indicate a potential for engaging in scientific research related to the specific priority area, and whose proposed research activity is likely to contribute to the solution to problems in that priority area. Fellows are expected to devote full-time for one year to the fellowship activity, and must work in a setting which is appropriate to the conduct of the proposed research. Fellows may be required to attend one or more meetings, at the invitation and expense of the Federal government, in connection with fellowship activities.

Under the regulations, individuals applying for these fellowships will be evaluated on the basis of: quality and level of formal education, previous work experience, recommendations of present and former supervisors and colleagues, and research proposal submitted to NIHR. Fellowship applications will be evaluated in accordance with the peer review requirements governing NIHR's fellowship program. Prospective applicants should be familiar with the criteria which the Secretary uses to evaluate fellowship applications. A copy of the regulations is included in each program information package supplied with the application kit (see 34 CFR 356.30, 356.31, and 356.32).

The regulations also require that fellows submit a final report which includes, at a minimum, an analysis of the significance of the project and an assessment of the degree to which the objectives of the project have been achieved.

The regulations provide that publication, distribution, and disposition of all manuscripts and other materials resulting from the fellowship must acknowledge assistance received from the Department of Education and NIHR, and three copies of these publications or other materials must be furnished to NIHR.

The proposed priority areas for these fellowships awards are described in the Notice of Proposed Funding Priorities for Research Fellowships published on May 9, 1985 in the **Federal Register**. The Secretary expects to award one fellowship in each of these proposed priority areas:

(1) Community Mental Retardation Services;

(2) Transitional and Supported Employment;

(3) Early Intervention;

(4) Medical Research; and

(5) Disability Statistics.

Applicants for fellowships should submit their applications under one of these proposed priority areas on the assumption that the final priorities will not be different from the proposed priorities.

Application forms: Application forms and further information may be obtained by writing to or calling the National Institute of Handicapped Research, U.S. Department of Education, Mailstop 3070-2305, Switzer Office Building, 400 Maryland Avenue, SW., Washington, D.C. 20202 (Attention: Fellowship Unit), Telephone (202) 732-1200. Deaf and hearing impaired individuals may call (202) 732-1198 for TTY services. Requests should refer to application for Priority Fellowships 84.133Fp.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information packages is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations. Applicants should note that applications are limited to 12 pages under this program (34 CFR 356.30).

In addition to the research proposal, the regulations require that applicants also submit evidence of the quality and level of formal education, work experience, and recommendations of current or former supervisors and colleagues.

(Approved by the Office of Management and Budget under Control Number 1820-0027)

Applicable regulations Regulations governing this program include the following:

(a) Regulations governing the National Institute of Handicapped Research (34 CFR Part 356). A Notice of Proposed Annual Funding Priorities for this program was published on May 9, 1985 at 50 FR 19660. Prospective applicants are advised that the proposed annual funding priorities are subject to modification in response to public comment submitted by June 10, 1985, or on the basis of other Department of Education considerations. In the event any substantive changes are made in the final priorities or other requirements for new awards, applicants will be given the opportunity to amend or resubmit their applications.

For further information contact: Ms. Rheable Edwards, National Institute of Handicapped Research, U.S. Department of Education, Switzer Office Building, Room 3070, 330 C Street, SW., Washington, D.C. 20202. Telephone (202) 732-1200; deaf and hearing impaired individuals may call (202) 732-1198 for TTY services.

(29 U.S.C. 762)

Dated: May 16, 1985.

(Catalog of Federal Domestic Assistance No. 84.133, National Institute of Handicapped Research)

William J. Bennett,

Secretary of Education.

FR Doc. 85-12274 Filed 5-21-85; 8:45 am]

BILLING CODE 4000-01-M

Training of Interpreters for Deaf Individuals Program; Application

AGENCY: Department of Education.

ACTION: Application notice establishing closing date for transmittal of new Fiscal Year 1985 applications for Training of Interpreters for Deaf Individuals Programs.

Applications for new projects for Fiscal Year 1985 are invited under the Training of Interpreters for Deaf Individuals Program.

Authority for this program is contained in Section 304(d) of the Rehabilitation Act of 1973, as amended. (29 U.S.C. 774(d))

Closing date for transmittal of applications: Applications for grant awards must be mailed or hand delivered by June 24, 1985.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.160, 400 Maryland Avenue, SW., Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other evidence of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with the local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant for a new award will be notified that the application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time), daily except Saturdays, Sundays, and Federal holidays. An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Awards are made under this program to public and private non-profit agencies and organizations, including institutions of higher education.

The purpose of this program is to train skilled manual and oral interpreters available for employment in public and private agencies involved in the provision of health, education, welfare, rehabilitation, employment and related services to deaf people. This program was established to assist in the training of a sufficient number of interpreters to meet the communication needs of deaf individuals.

Available funds: The total amount of funds awarded under this program in Fiscal Year 1984 was about $900,000. Approximately $900,000 will be available for new projects in Fiscal Year 1985. An estimated 10 new projects will be funded at an average cost of about $90,000.

It is expected that new projects funded under this program in Fiscal Year 1985 will be approved for project periods up to 60 months.

However, these estimates do not bind the U.S. Department of Education to a specified number of grants or to the amount of any grant unless that amount is otherwise specified by statute or regulation.

Application forms: Application forms and program information packages are available and may be obtained by writing to the Office of Developmental Programs, Rehabilitation Services Administration, U.S. Department of Education, 400 Maryland Avenue, SW., Room 3329, Mary E. Switzer Building, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those specifically imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages. The Secretary further urges that applicants submit only the information that is requested.

Applicable regulations: Regulations applicable to this program include the following:

(a) When adopted in final form, regulations governing Training of Interpreters for Deaf Individuals Program (proposed 34 CFR Part 396). A notice of proposed rulemaking is published in this issue of the Federal Register. Applicants should prepare applications based on the proposed regulations. If there are substantive changes made in the proposed regulations when published in final form, applicants will be given the opportunity to amend or resubmit their applications.

(b) Education Department General Administration Regulations (EDGAR) (34 CFR Parts 74, 75, 77, and 78).

The Secretary strongly urges that the narrative portion of the application not exceed 25 pages. The Secretary further urges that applicants submit only the information that is requested.

For further information: Contact Mary V. West, Division of Special Projects, Rehabilitation Services Administration, U.S. Department of Education, Room 3332, Mary E. Switzer Building, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: 202/732-1343.

(29 U.S.C. 774(d))

(Catalog of Federal Domestic Assistance No. 84.160; Training of Interpreters for Deaf Individuals)

Dated: May 16, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-12276 Filed 5-21-85; 8:45 am]

BILLING CODE 4000-01-M

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before June 21, 1985.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, D.C. 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Deputy Under Secretary for Management publishes that notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title, (3) Agency form number (if any); (4) Frequency oif the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract.

OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 16, 1985.

Linda M. Combs,

Deputy Under Secretary for Management.

Office of Educational Research and Improvement

Type of Review Requested: Revision
Title: Library Services and Construction Act (Pub. L. 98-480) Financial, Performance and Completion Reports for State-Administered Programs—Titles I, II and III
Agency Form Number: ED 921-1, 921-2 and 915-1
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 54; Burden Hours: 2,160
Recordkeeping Burden: Recordkeepers: 54; Burden Hours: 54

Abstract: These report forms are needed to obtain information relating to expenditures of funds, project performance, and completion of projects from State library administrative agencies under Title I (Library Services), Title II (Public Library Construction) and Title III (Interlibrary Cooperation and Resource Sharing) of the Library Services and Construction Act, as amended by Pub. L. 98-480.

Type of Review Requested: New
Title: Final Financial Status and Performance Report for the Library Services for Indian Tribes and Hawaiian Natives Program
Agency Form Number: G50-11P
Frequency: Annually
Affected Public: Indian Tribes or Hawaiian Native Organizations
Reporting Burden: Responses: 525; Burden Hours: 1,838
Recordkeeping Burden: Recordkeepers: 525; Burden Hours: 625

Abstract: This form is needed to determine the utilization of basic and special project grant funds administered under the Library Services for Indian Tribes and Hawaiian Natives Program, Title IV of the Library Services and Construction Act, as amended. An additional performance report is necessary to evaluate project performance of both basic and special project grantees.

Type of Review Requested: Reinstatement
Title: National Assessment of Educational Progress Part I: Bridge Assessments
Agency Form Number: ED 2371-17
Frequency: Non-recurring
Affected Public: Individuals or households; State or local governments
Reporting Burden: Responses: 1,440,000; Burden Hours: 23,760
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: Congress mandated the collection of National Assessment survey data. In the Bridge Assessment, previously assessed exercises in mathematics, reading and science will be administered to provide a statistical linkage between the former National Assessment of Educational Progress (NAEP) design and the new design. Results will permit translation from past to new data and effectively maintain the integrity of trend analysis. Respondents will be students, ages 9, 13, and 17.

Type of Review Requested: Revision
Title: National Survey of Private Schools, 1985-86
Agency Form Number: ED 2455, 2455-A
Frequency: Biennially
Affected Public: Individuals or households; Non-profit institutions; Small businesses or organizations (Private Schools)
Reporting Burden: Responses: 19,000; Burden Hours: 14,250
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This survey is designed to provide information needed by departmental policy makers, in relation to such current issues as public funds to private school pupils, and qualifications of and compensation to private school teachers.

Type of Review Requested: Extension
Title: State-Level Personnel Exchange (Elementary-Secondary)
Agency Form Number: ED 2428–1, 2428–2
Frequency: Quarterly
Affected Public: State or local governments
Reporting Burden: Responses: 40; Burden Hours: 60
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: The National Center for Education Statistics (NCES) was mandated by Pub. L. 93–380, as amended, to "assist State and local educational agencies in improving and automating their statistical and data collection activities". As part of its assistance program, NCES has established a State-Level Personnel Exchange to facilitate the interchange of information and expertise among States.

Type of Review Requested: Extension
Title: Common Core of Data (CCD) 1985–86, 1986–87
Agency Form Number: ED 2442, 2443, 2443–1, 2444, 2445, 2446 and 2447
Frequency: Annually
Affected Public: State or local governments
Reporting Burden: Responses: 57; Burden Hours: 19,549
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: These data provide information about student enrollment, teachers, and related finances by source and function. Data are used to create sampling frames, allocate Federal funds under Chapter 1 of the Education Consolidation Improvement Act, and carry out studies mandated by the National Center for Education Statistics.

Office of Postsecondary Education

Type of Review Requested: Extension
Title: Report for International Resource Centers—Foreign Language and Area Studies Fellowship Program
Agency Form Number: ED 7614, ED 7608 and ED 7632
Frequency: Annually
Affected Public: Individuals; Institutions of Higher Education
Reporting Burden: Responses: 1,700; Burden Hours: 2,601
Recordkeeping Burden: Recordkeepers: 0; Burden Hours: 0

Abstract: This information will enable the Department to upgrade training and resources at Centers for International Studies including foreign languages and area studies. Under the Foreign Language and Area Studies Fellowship Program the Secretary awards fellowships (stipends) through institutions of higher education in modern foreign languages, area studies, international studies, or international aspects of professional and other fields of study.

Office of Vocational and Adult Education

Type of Review Requested: Extension
Title: Financial Status and Performance Report for Direct Grants
Agency Form Number: ED 360, 360–1
Frequency: Annually
Affected Public: State or local governments; Non-profit institutions
Reporting Burden: Response: 50; Burden Hours: 400
Recordkeeping Burden: Recordkeeping: 0; Burden Hours: 0

Abstract: Recipients of direct grants from the Office of Vocational and Adult Education submit financial status and performance reports to be used by grant and project officers to monitor the expenditure and use of funds and the performance of approved activities.

Type of Review Requested: Extension
Title: Financial Status Reports for State-Administered Vocational Education
Agency Form Number: ED 576–6
Frequency: Annually
Afffected Public: State or local governments
Reporting Burden: Response: 35; Burden Hours: 2,915
Recordkeeping Burden: Recordkeeping: 53; Burden Hours: 106,000

Abstract: These financial status reports are required to determine each State's compliance with the enabling regulation (34 CFR 74.73), to close out each year's grant and to provide information for the Secretary's Report to Congress on the status of vocational education.

Office of Special Education and Rehabilitative Services

Type of Review Requested: New
Title: Survey of Expenditures for Special Education and Related Services at the State and Local Level
Agency Form Number: B20–11)
Frequency: Annually; Nonrecurring
Afffected Public: State or local educational agencies
Reporting Burden: Response: 244,800; Burden Hours: 2,530
Recordkeeping Burden: Recordkeeping: 0; Burden Hours: 0

Abstract: This study will collect information on expenditures for special education and related services from a sample of 18 State and 60 local educational agencies. Study results will inform the Department and Congress about the costs of educating a handicapped child, how State and local educational agencies finance these costs, and the characteristics of programs and services.

[FR Doc. 85–12273 Filed 5–21–85; 8:45 am]
BILLING CODE 4000–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00203; FRL–2838–2]

Administrator's Pesticide Advisory Committee; Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: The Administrator's Pesticide Advisory Committee (APAC) will hold a meeting to discuss FPA's current tolerance setting process which is authorized by the Federal Food, Drug, and Cosmetic Act (FFDCA). The APAC will also discuss contamination of groundwater by pesticides. General activities of the Office of Pesticide Programs (OPP) may also be discussed. The meeting will be open to the public.

DATE: The meeting will take place on Thursday, June 20, 1985, at 9:00 a.m. and adjourn by 4:30 p.m.

ADDRESS: The meeting will be held in: Room M—3906–08, Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Betty Winter, Executive Secretary, Administrator's Pesticide Advisory Committee (TS–788), Office of Pesticides and Toxic Substances, Environmetal Protection Agency, Room E–639A, 401 M Street, SW., Washington, D.C. 20460. (202–382–2916).

SUPPLEMENTARY INFORMATION: The APAC will begin with opening remarks by Dr. Dale L. Stansbury, the Chairperson for the APAC, and Dr. John A. Moore, Assistant Administrator for Pesticides and Toxic Substances. The Agency will seek the APAC's comments on recent revisions and proposals for revising the tolerance setting process. In addition, the Agency will brief the APAC on its current Pesticides in Groundwater Strategy and will ask the Committee to comment on specific issues identified by EPA. Background

papers and a more detailed agenda will be available at the meeting.

The meeting will be open to the public, and time will be set aside for public comments on issues relevant to topics of discussion. Any member of the public wishing to present an oral or written statement relating to the Committee's topic of discussion for this meeting should contact the APAC Executive Secretary at the address or telephone number listed above.

Dated: May 13, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-12074 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G3138/T491; FRL-2838-5]

E.I. du Pont de Nemours & Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide DPX-M6316 (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazine-2-yl)carbonyl]amino]amino]sulfonyl]-2-thiophene-carboxylate) in or on certain raw agricultural commodities. These temporary tolerances were requested by E.I. duPont de Nemours and Co.

DATE: These temporary tolerances expire October 1, 1937.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460

Office location and telephone number: Room 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703-557-1800).

SUPPLEMENTARY INFORMATION: E.I. duPont de Nemours and Co., Argircultural Chemicals Dept., Wilmington, DE 10690, has requested in pesticide petition PP 4G3138 the establishment of temporary tolerances for residues of the herbicide DPX-M6316 (methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazine-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate) in or on the raw agricultural commodities wheat grain at 0.05 part per million (ppm) and wheat straw at 0.1 ppm, barley grain at 0.05 ppm, and barley straw at 0.1 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permit 352-EUP-121, which is being issued 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 evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established 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 experimental use permit.

2. DuPont 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, distritution, 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 October 1, 1987. Residues not in excess of these amounts 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. 610-612), 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. 346a(j)))

Dated: May 13, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-12185 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 4G3001/T490; FRL-2838-6]

Stauffer Chemical Co.; Establishment of Temporary Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has established temporary tolerances for residues of the herbicide Ro-Neet, S-ethyl cyclohexylethylthiocarbamate in or on certain raw agricultural commodities. These temporary tolerances were requested by Stauffer Chemical Co.

DATE: These temorary tolerances expire April 1, 1987.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

Office location and telephone number: Room 245, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-1800).

SUPPLEMENTARY INFORMATION: Stauffer Chemical Co., 1200 S. 47th St., Richmond, CA 94804, has requested in pesticide petition PP 4G3001 the establishment of temporary tolerances for residues of the herbicide Ro-Neet, S-ethyl cyclohexylethylthiocarbamate in or on the raw agricultural commodities corn (grain) at 0.05 part per million (ppm), and corn forage and corn fodder at 0.25 ppm.

These temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with the provisions of the experimental use permits 476-EUP-106 and 476-EUP-107 which are being issued 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 evaluated, and it was determined that establishment of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been established on the condition that the pesticide be used in accordance with the experimental use

permits and with the following provisions:

1. The total amount of the active ingredient to be used must not exceed the quantity authorized by the experimental use permits.

2. Stauffer Chemical Co. must immediately notify the EPA of any findings from the experimenatal 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 toleranes expire April 1, 1987. Residues not in excess of these amounts 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 permits and temporary tolerances. These tolerances may be revoked if the experimental use permits are 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. 610-612), 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. 346a(j))

Dated: May 13, 1985.

Douglas D. Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-12184 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

[OPP-50638; FRL-2838-7]

Issuance of Experimental Use Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has granted experimental use permits to the following applicants. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

FOR FURTHER INFORMATION CONTACT: By mail, the product manager cited in each experimental use permit at the address below: Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

In person or by telephone: Contact the product manager at the following address at the office location or telephone number cited in each experimental use permit: 1921 Jefferson Davis Highway, Arlington, VA.

SUPPLEMENTARY INFORMATION: EPA has issued the following experimental use permits:

8340-EUP-8. Extension. American Hoechst Corporation, Route 202-206 North, Somerville, NJ 08876. This experimental use permit allows the use of 515 pounds of the herbicide ethyl 2-[4-[(6-chloro-2-benzoxazolyl)oxy]phenoxy]propanoate on rice and soybeans to evaluate the control of weeds. A total of 3,018 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 4, 1985 to April 4, 1986. A temporary tolerance for residues of the active ingredient in or on rice and soybeans has been established. (Richard Mountfort, PM 23, Rm. 237, CM#2, (703-557-1830))

1471-EUP-84. Extension. Elanco Products Company, 740 S. Alabama St., Indianapolis, IN 46285. This experimental use permit allows the use of 162 pounds of the fungicide fenarimol on apples and grapes to evaluate the control of cedar rust of apples, powdery mildew of apples and grapes, and scab. A total of 500 acres (200 acres for apples and 300 acres for grapes); the program is authorized only in the States of California, Georgia, Illinois, Indiana, Maryland, Michigan, North Carolina, New York, Ohio, Oregon, Pennsylvania, South Carolina, Virginia, Washington, and West Virginia for apples and in the States of California, Idaho, Michigan, New York, Ohio, and Washington for grapes. The experimental use permit is effective from September 20, 1984 to February 14, 1985. Temporary tolerances for residues of the active ingredient in or on apples and grapes has been established. (Henry Jacoby, PM 21, Rm. 227, CM#2, (703-557-1900))

352-EUP-121. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 624.5 pounds of the herbicide methyl 3-[[[[(4-methoxy-6-methyl-1,3,5-triazin-2-yl)amino]carbonyl]amino]sulfonyl]-2-thiophenecarboxylate on barley and wheat to evaluate the control of various weeds. A total of 1,260 acres are involved over a 3 year period; the program is authorized only in the States of Alabama, Arkansas, Arizona, California, Colorado, Delaware, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, Texas, Utah, Virginia, Washington, and Wyoming. The experimental use permit is effective from April 11, 1985 to October 1, 1987. A temporary tolerance for residues of the active ingredient in or on wheat and barley has been established. (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

352-EUP-124. Issuance. E.I. duPont de Nemours and Company, Wilmington, DE 19898. This experimental use permit allows the use of 3,990 pounds of the herbicides ethyl 2-[[[[(4-chloro-6-methoxypyrimidin-2-yl)amino]carbony1]sulfony1]benzoate and 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazine-5(4H)-one on soybeans to evaluate the control of various weeds. A total of 6,650 acres are involved; the program is authorized only in the States of Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. The experimental use permit is effective from April 11, 1985 to April 11, 1986. A temporary tolerance for residues of ethyl 2-[[[[(4-chloro-6-methoxy-pyrimidin-2-yl)amino[carbonyl]amino]sulfonyl]benzoate in or on soybeans has been established. A permanent tolerance for residues of 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazine-5(4H)-one on soybeans has been established (40 CFR 180.332). (Robert Taylor, PM 25, Rm. 245, CM#2, (703-557-1800))

8730-EUP-13. Extension. Health Chem Corporation, Middlesex Business Center, S. Plainfield, NJ 07080. This experimental use permit allows the use of 8.8 pounds of the insecticide 9-dodecenyl acetate in forest and residential areas to evaluate the control of moth and shoot borer. A total of 550 acres are involved; the program is authorized only in the States of Idaho, Montana, and Oregon. The experimental use permit is effective from April 22, 1985 to April 22, 1986. (Timothy Gardner, PM 17, Rm. 207, CM # 2, (703-557-2690))

3125-EUP-189. Extension. Mobay Chemical Corporation, P.O. Box 4913, Hawthorn Road, Kansas City, MO 64120. This experimental use permit allows the use of 192 pounds of the insect growth regulator 2-chloro-N-[[[4-(trifluoromethoxy)-phenyl]amino]carbonyl]benzamide on cotton to evaluate the control of the boll weevil. A total of 500 acres are involved; the program is authorized only in the States of Georgia and South Carolina. The experimental use permit is effective from May 7, 1985 to May 7, 1986. (Timothy Gardner, PM 17, Rm. 207, CM # 2, (703-557-2690))

476-EUP-106. Issuance. Stauffer Chemical Company, 1200 S. 47th St., Richmond, CA 94804. This experimental use permit allows the use of 165 pounds of the herbicide S-ethyl cyclohexylethylthiocarbamate on corn to evaluate the control of grasses and broadleaf weeds. A total of 37 acres are involved; the program is authorized only in the States of Georgia, Illinois, Indiana, Iowa, Kansas, Minnesota, Nebraska, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from April 1, 1985 to April 1, 1987. A temporary tolerance for residues the active ingredient in or on corn (grain), fodder, and forage has been established. (Robert Taylor, PM 25, Rm. 245, CM # 2, (703-557-1800))

476-EUP-107. Issuance. Stauffer Chemical Company, 1200 S. 47th St., Richmond, CA 94804. This experimental use permit allows the use of 4,665 pounds of the herbicide S-ethyl cyclohexylethylthiocarbamate on corn to evaluate the control of grasses and broadleaf weeds. A total of 933 acres are involved; the program is authorized only in the States of Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. The experimental use permit is effective from April 1, 1985 to April 1, 1987. A temporary tolerance for residues of the active ingredient in or on corn (grain), fodder, and forage has been established. (Robert Taylor, PM 25, Rm. 245, CM # 2, (703-557-1800))

Persons wishing to review these experimental use permits are referred to the designated product managers. Inquiries concerning these permits should be directed to the persons cited above. It is suggested that interested persons call before visiting the EPA office, so that the appropriate file may be made available for inspection purposes from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays.

(Sec. 5, Pub. L. 95-396; 92 Stat. 828 (7 U.S.C. 136c))

Dated: May 13, 1985.

Douglas Campt,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 85-12183 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

[PP 5G1579/T480; FRL-2800-4]

State of Florida; Renewal of Temporary Tolerance

Correction

In FR Doc. 85-6701 beginning on page 12077 in the issue of Wednesday, March 27, 1985, make the following corrections: In the third column, in the **SUMMARY**, in the third line, "-5-methyle-" should read "-3-methyl-".

BILLING CODE 1505-01-M

[OPTS-51564; FRL-2806-5]

Certain Chemicals; Premanufacture Notices

Correction

In FR Doc. 85-7340 beginning on page 12623 in the issue of Friday, March 29, 1985, make the following correction: On page 12624, in the second column, under "P85-673", the second line under *Toxicity Data* should read: "mg/kg; Acute dermal: >2,000 mg/kg;"

BILLING CODE 1505-01-M

[OPTS-51562A; FRL-2833-5]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 85-11260 appearing on page 19580 in the issue of Thursday, May 9, 1985, the docket number should read as set forth above.

BILLING CODE 1505-01-M

[A-1-FRL-2839-4]

Prevention of Significant Deterioration; Applicability Determination; Amtrack (Penn Central)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Applicability Determination.

Notice is hereby given that the EPA has determined that Amtrack's proposed new gas turbine generator and waste heat boiler addition to their power plant in New Haven, Connecticut is not subject to a PSD review. The August 7, 1980 PSD regulations require that major modifications at existing *minor* stationary sources, as well as significant increases at existing *major* sources, must undergo a PSD review. Based on information provided by the Connecticut Department of Environmental Protection (CT DEP), it has been determined that Amtrack's proposal is not subject to a PSD review. Actual emissions at the existing source were defined, and it was determined that the existing source was minor because emissions were less than 250 Tons Per Year. Consequently, the net increase in emissions from the modified source would have to be greater than 250 tons per year for it to be subject to a PSD review. However, it was determined that the net emissions increase is less than 250 tons per year; hence, the non-applicability determination. The CT DEP was notified of this determination on March 21, 1985.

Under section 307(b)(1) of the Clean Air Act, judicial review of this PSD determination is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of today. Under section 307(b)(2) of the Act, this determination shall not be subject to later judicial review under civil or criminal proceedings for enforcement.

Copies of this determination are available for public inspection upon written request at the following location: State Air Programs Branch—Room 2311, U.S. EPA—Region I (APC), J.F. Kennedy Federal Building, Boston, MA 02203.

FOR FURTHER INFORMATION CONTACT: John Courcier, (617) 223-4876.

Dated: May 8, 1985.

Paul G. Keough,

Acting Regional Administrator—Region I.

[FR Doc. 85-12293 Filed 5-21-85; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Applications for Consolidated Hearing; David A. Rawley, Jr., et al.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant, city, and State	File No.
A. David A. Rawley, Jr.; Charlotte Amalie, Virgin Islands.	BPH-830922AD; MM Docket No 85-131.
B. The H and M Limited Partnership; Charlotte Amalie, Virgin Islands.	BPH-831125AA.
C. Reynald Charles tr/as Third Angel Corp.; Charlotte Amalie, Virgin Islands.	BPH-8430419IB.
D. Jimmy Diaz et al, d.b.a. Full Minority Media; Charlotte Amalie, Virgin Islands.	BPH-840425IA.
E. Thousand Islands Corporation; Charlotte Amalie, Virgin Islands.	BPH-840426IC.
F. SDP Enterprises, a limited partnership; Charlotte Amalie, Virgin Islands.	DBPH-840430IG.
G. Theodore A. Wilson; Charlotte Amalie, Virgin Islands.	BPH-840430IN.
H. Trans Caribbean Broadcasting Co.; Charlotte Amalie, Virgin Islands.	BPH-840430IO.

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety in a sample standardized Hearing Designation Order (HDO) which can be found at 48 FR 22428, May 18, 1983. The issue headings shown below correspond to issue headings contained in the referenced sample HDO. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading Applicant(s)

1. (See Appendix) H
2. (See Appendix) H
3. Comparative, All applicants
4. Ultimate, All applicants

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding may be obtained, by written or telephone request, from the Mass Media Bureau's Contact Representative, Room 242, 1919 M Street, NW., Washington, D.C. 20554. Telephone (202) 632-6334.

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

Appendix

Issue(s)

1. To determine with respect to the following applicant(s) whether, in light of the evidence adduced concerning the deficiency set forth above in paragraph 8 * the applicant(s) is financially qualified:

2. To determine whether or not H (TCB) has reasonable assurance of the availability of its proposed transmitter site.

Applicant(s)	Deficiency
TCB	No financial data or certification submitted.

[FR Doc. 85-12285 Filed 5-21-85; 8:45 am]

BILLING CODE 6712-01-M

Petitions for Reconsideration of March 8 Special Access Cost Order

On May 10, 1985, a copy of the Federal Communication Commission's May 3, 1985 Public Notice (Report No. 1513) was published in the **Federal Register**, 50 FR 19605. That listing included petitions for reconsideration of the Commissioin's *March 8 Special Access Cost Order* in CC Docket No. 83-1145, Phase I and Phase II, Part 1. The petitioners included Western Union Telegraph Co., Pacific Telephone and Telegraph, and ITT Communications Services, Inc. This notice states that oppositions to these petitions must be filed by May 28, 1985 and replies to the oppositions by June 7, 1985. We have discovered that a petition for reconsideration filed by Satellite Business Systems (SBS) was inadvertently omitted from the Public Notice of May 3. We find that because the SBS petition generally raises the same issues raised in the other three petitions, that it would be more efficient to include SBS's petition in the established pleading cycle.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-10529 Filed 5-21-85; 10:21 am]

BILLING CODE 6712-01-M

* Paragraph 8 reads as follows: The material submitted by the applicant(s) below does not demonstrate its financial qualifications. Accordingly, an issue will be specified concerning the following deficiency:

FEDERAL RESERVE SYSTEM

[Docket No. R-0515]

Policy Statement Regarding Risks on Large-Dollar Wire Transfer Systems

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Policy statement.

SUMMARY: In March, 1984, the Board requested public comment on several proposed methods of reducing the risks to depository institutions associated with their participation on large-dollar electronic funds transfer systems. After studying the public comments and recent data on the exposure of institutions using such systems, the Board has formulated a policy to reduce these risks. The policy relies in part on the efforts of depository institutions to reduce their own exposures through the use of bilateral net credit limits and sender net debit caps, and in part on the role of the Federal Reserve and other financial institution regulators in examining, monitoring, and counseling institutions.

Effective March 27, 1986, no large-dollar payment network will be eligible for Federal Reserve net settlement services unless it (1) requires each participant to establish bilateral net credit limits vis-a-vis each other participant on that network, (2) establishes a sender net debit cap that is reasonably designed to reduce the risks to participants on that network, (3) develops and implements a system that will reject or hold any payment that would breach either bilateral net credit limits or the network's sender net debit cap, and (4) agrees to provide transaction data to its Reserve Bank on request.

The Board also strongly encourages each institution that runs daylight overdrafts on Fedwire or participates on a private large-dollar wire network to adopt voluntarily by December 31, 1985, a cross-system sender net debit cap following the guidelines set out in an appendix to the Board's policy statement.

EFFECTIVE DATE: March 27, 1986.

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director (202-

452-3368); David B. Humphrey, Assistant Director (202-452-2557), Terrence Belton, Economist (202-452-2444), Division of Research and Statistics; Elliott C. McEntee, Associate Director (202-452-2231), Nancy R. Wesolowski, Operations Analyst (202-452-3437), Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney (202-452-2489), Legal Division; Jeffrey C. Marquardt, Economist (202-452-2360), Division of International Finance; Anthony G. Cornyn, Assistant Director (202-452-3354), Division of Banking Supervision and Regulation; or Joy W. O'Connell, TDD (202-452-3244).

SUPPLEMENTARY INFORMATION: The Federal Reserve Board has issued the following policy statement concerning reducing risks on large-dollar electronic funds transfer systems:

Reducing Risks on Large-Dollar Electronic Funds Transfer Systems

Over the past several years, the Board has become increasingly concerned about the risks that participation on large-dollar payment networks[1] present to the depository institutions that participate on them, to the banking system, and to other sectors of the economy. Because private wire networks operate by the transmission of payment messages throughout the day with settlement of net positions at the end of the day, the network is exposed to the possibility that a participant could be unwilling or unable to settle a large net debit position. A failure of one participant to settle could seriously jeopardize the financial positions of its net creditors on that network, with serious repercussions spreading from those participants to their creditors. Thus, an unexpected settlement failure could result in serious disruptions of money and financial markets.

On March 29, 1984, the Board requested public comment on possible components of a risk reduction policy, including both the goals that such a policy should seek to attain and several possible methods for controlling and reducing risk. 49 FR 13186 (Apr. 3, 1984). After considering the comments, together with recent data on the activities and exposures of institutions on large-dollar networks and the recommendations of its staff,[2] the Board has developed a risk reduction policy.

In fashioning this policy, the Board's first concern was reducing the possibility of a settlement failure. This is accomplished primarily through a reduction in the volume of intra-day credit exposures and by encouraging institutions to exercise better control over exposures that remain. Reduction and control of credit exposures are also important in attaining a second primary goal: containing the effects of a settlement failure should one occur.

The Board is well aware that large-dollar networks are an integral part of the payments and clearing mechanism and that it is of vital importance to keep the payments mechanism operating without significant disruption. Indeed, it is precisely because of the importance of avoiding such disruptions that the Board is seeking to reduce the risks of settlement failures that could cause these disruptions. The Board is also aware, however, that some intra-day credit may be necessary to keep the payments mechanism running smoothly and efficiently. While it is essential to reduce and control intra-day credit, this must be done in a manner that will minimize disruptions to the payments mechanism. The Board anticipates that in relying largely on the efforts of individual institutions to identify, control, and reduce their exposures, and by establishing guidelines for use by institutions, the goal of reducing and controlling risks will not unduly disrupt the smooth operation of the payments mechanism.

In establishing such a policy, the Board underlines that it is not condoning daylight overdrafts. While, as noted, some intra-day credit may be necessary, the Board anticipates that as a result of its policy, there will not be an increase in the number of institutions consistently relying on daylight overdrafts or other intra-day credit to conduct their business, and expects to see, over time, a reduction in both the volume of intra-day credit and the number of institutions with a pattern of substantial reliance on such practices. The policy presented below is purposely designed to minimize initial disruptions and permits the Board to monitor the impact of its policy on financial markets. The Board fully expects that it will, after review of the initial impact of its policies, be adopting guidelines designed to reduce further the volume and incidence of daylight overdrafts and other uses of intra-day credit. If institutions appear not to be cooperating with the spirit of the Board's current or future policies, the Board will consider its other options—including regulatory restraints.

The elements of the Board's risk reduction policy are set out below:

I. Bilateral Net Credit Limits

In its earlier statement announcing an interim risk-reduction policy, 49 FR at 13191, the Board stated that any large-dollar network obtaining net settlement services from a Federal Reserve Bank would have to require each of its participants to establish bilateral net credit limits vis-a-vis each other participant on that network. In setting bilateral net credit limits, each participant determines for itself the maximum dollar amount of net transfers (i.e., the value of receives in excess of the value of sends) that it is willing to accept from each other participant on a network. The Board believes that bilateral net credit limits reduce risk by enabling an institution to identify and control the exposure it could face in the event of a settlement failure. Accordingly, the Board has decided to continue this requirement and strengthen it.

After the effective date of this policy (March 27, 1986), no private large-dollar payment network will be eligible for Reserve Bank net settlement services unless it (1) requires each participant to establish bilateral net credit limits vis-a-vis each other participant on that network, and (2) establishes a system that will reject or hold any payment that would exceed such a limit. (Bilateral net credit limits do not apply to Fedwire since the Federal Reserve, under Regulation J provides irrevocable credit to the receiver when advice of credit is given for the transfer. Reserve Banks, however, may take action to reduce their credit exposure.

The federal bank regulators have agreed that examiners will, during regular examinations, review and comment on the procedures used by each institution in establishing, monitoring, reviewing, and modifying bilateral net credit limits, and ensure that institutions understand their potential exposures with each other participant over more than one network and in more than one market.

II. Sender Net Debit Caps

Bilateral net credit limits are not sufficient by themselves to reduce

[1] In a changing technological and regulatory environment, it is not possible or desirable to adopt an all inclusive and permanent definition of a "large-dollar payment network" for the purpose of Federal Reserve risk control policy. In determining whether any particular network or system is a "large-dollar" system, the Board will consider any of the following four factors: (1) The employment of multilateral netting arrangements, (2) the use of same-day settlement, (3) the routine processing of a significant number of individual payments larger than $50,000, and (4) the possibility that any one participant could be exposed to a net debit position at the time of settlement in excess of its capital.

[2] The staff recommendations are contained in a study, *Reducing Risk on Large Dollar Transfer Systems* (May, 1985). Copies of this study are available from each of the Federal Reserve Banks or the Secretary of the Board.

aggregate risk on large-dollar payment networks. The volume of daylight exposure that each institution is willing to accept from each other institution is likely to be quite large when aggregated across all receivers. Moreover, each institution is unaware of the credit made available to a given sender by other potential receivers. For this reason, the Board believes that bilateral net credit limits must be supplemented by a limit on the aggregate amount of risk that an institution can present to the payments system. Accordingly, the Board strongly urges that the board of directors of each institution either participating on a large-dollar network or incurring daylight overdrafts on Fedwire adopt a sender net debit cap (a ceiling or "cap" on the aggregate net debit position—the value of all sends in excess of the value of all receives—that it can incur during a given interval).

Sender net debit caps—expressed as multiples of capital—should be applied across all large-dollar systems, i.e., to the aggregate position of an institution at a moment in time on all large-dollar transfer systems combined. With this "cross-system" sender net debit cap, net debit positions on one system can be offset by credit positions on other systems.[3] In addition to the cross-system sender net debit cap, the Board has extended its interim policy on private network sender net debit caps. As of the effective date of this policy, each private network will, as a condition for access to the Federal Reserve net settlement service, be required to develop and impose on its participants a network sender net debit cap reasonably designed to reduce individual institution risk exposure on that network. In addition, each network will be required to develop and apply a mechanism for rejecting or holding those transfers that would cause an institution to exceed its cap.

In developing its policy toward cross-system sender net debit caps, the Board noted the views of commenters strongly urging that new regulations be avoided and that voluntary self-policing techniques be at least tried. In addition, the Board is uncertain about the impact of regulatory controls on the payments mechanism. Moreover, the Board is sensitive to the practical difficulties of selecting regulatory caps for thousands of depository institutions, each with differing abilities to deal with risk. At the same time, the Board is concerned that voluntary sender net debit caps might provide no discipline, end up treating similarly situated institutions differently, place no effective limit on an individual institution's risk exposure, and provide no remedy for the Federal Reserve should it find a particular cap excessive.

Consequently, the Board's policy calls for a voluntary cross-system sender net debit cap board on a specific set of guidelines and some degree of examiner oversight.[4] The Board's policy has no regulatory dimension except (1) potential responses to an actual level of aggregate daylight credit exposure at an individual institution deemed by the institution's examiner to be unsafe or unsound, (2) elimination of access to daylight overdrafts on Fedwire by institutions not engaging in the self-evaluation process, and (3) control of Fedwire overdrafts of individual institutions determined by a Reserve Bank to expose it to excessive risk. If events subsequently demonstrate that senior management and the boards of directors of depository institutions do not take the proposed guidelines and procedures seriously, the Board will reconsider its options, including the adoption of regulations designed to impose explicit limits on daylight credit exposure.

A. Determining Cap Category

The first step for an institution in establishing its cross-system sender net debit cap is to determine its own cap category by evaluating its creditworthiness, credit policies, and operational controls and procedures.[5] The guidelines to be used by each institution in establishing its cap category are detailed in the Appendix to this policy statement.

In applying these guidelines, each institution would be expected to maintain a confidential file for examiner review that includes (1) worksheets and supporting analysis developed in its self-evaluation of its own risk category, (2) copies of senior management reports to the institution's board of directors regarding that self-evaluation, and (3) copies of the minutes of the discussion of the board of directors concerning the institution's adoption of a cap category. The process of self-evaluation, with board of director review, should be conducted at least once in each six month period.

As part of its normal examination, the depository institution examiners will review the contents of the self-evaluation file.[6] The objective of this review will be to assure that the institution has seriously and diligently applied the guidelines, that the underlying analysis and methodology were reasonable, and that the resultant self-evaluation was generally not inconsistent with the examination report. Examiner comments, if any, would be expected to be forwarded to the board of directors of the institution. Consistent with the voluntary nature of the Board's policy with regard to sender net debit caps, however, it should be emphasized that the examiner cannot require a modification of the self-evaluation cap category unless the level of daylight credit used by the institution constitutes an unsafe or unsound banking practice.

B. Establishing Sender Net Debit Cap

The cap category resulting from the self-evaluation process should be used by each institution to establish its cross-system sender net debit cap. The cap levels, set as multiples of adjusted primary capital,[7] would be as follows:

Cap class	Dual sender net debit cap	
	Two week average[1]	Plus single day
High	2.0	3.0
Above average	1.5	2.5
Average	1.0	1.5
No cap	0.0	0.0

[3] As noted below, however, Reserve Banks will not permit daylight overdrafts on Fedwire to exceed the cross-system cap established by an institution; i.e., net credits on private wire systems will not be able to be used to increase the Fedwire cap. A similar arrangement will exist for private network participants where net credits on Fedwire and other private networks cannot be used to increase a participant's cap on a given private network.

[4] The Board acknowledges with appreciation that its policy draws heavily on the *Final Report of the Risk Control Task Force, Payments System Committee, Association of Reserve City Bankers*, prepared with the assistance of the Bank Administration Institute and Robert Morris Associates (October, 1984).

[5] This evaluation should be done on an individual institution basis—treating as separate entities each commercial bank, each Edge (and its branches), each thrift institution, etc. While the Board realizes that depository institution holding companies usually act as integrated entities and that performing the self-evaluation on an individual institution basis may result in some increased costs,[1] consolidation presents to the Federal Reseve and other financial institution regulators a number of operating and policy complexities that must be resolved. The Board will continue to review this issue, but notes that many of the benefits of consolidation can be obtained directly by intra-family wire transfers.

An exception is made in the case of U.S. agencies and branches of foreign banks. Since these entities have no existence separate from the foreign bank, all the U.S. offices of foreign banks (excluding U.S. chartered bank subsidiaries and U.S. chartered Edge subsidiaries) should be treated as a consolidated family relying on the foreign bank's capital.

[6] In the interim between examinations, examiners may contact an institution about its cap if statistical or supervisory reports or ad hoc information suggest that there may have been a change in the institution's position.

[7] See Section II-C on capital, *infra*.

An institution would be expected to avoid incurring cross-system net debits that, on average over a two week period, exceeded the two week average cap *and*, on any day, exceeded the single day cap. The two week average cap provides some flexibility for institutions and recognizes that fluctuation in payments can occur from day-to-day. The purpose of the higher single day cap is to limit excessive daylight overdrafts on any day, and to assure that institutions develop internal controls that focus on the exposures each day, as well as over time.

The two-week average overdraft volume to be measured against the cap is the average over a two-week reserve maintenance period of an institution's daily maximum net debit position across all network. In calculating the two week average, individual days on which an institution is in an aggregate net credit position across all systems throughout the day should be treated as if the institution was in a net position of zero. The number of days to be used in calculating the average should be the number of business days the institution's Reserve Bank is open during the reserve maintenance period.

It should be noted that the Board has purposely set the recommended caps to be associated with each catagory at relatively high levels so that institutions and their examiners can gain experience with caps while maintaining a margin of flexibility for most institutions. The Board will evaluate these caps continuously, and expects to have enough data on their impact to recommend new, lower cap levels by March, 1987. The Board may also recommend reducing the averaging period, and may ultimately recommend a single day cap only.

c. Capital

Sender net debit caps should be multiples of "adjusted primary capital." Primary capital includes common stock, perpetual-preferred stock, surplus, undivided profits, contingency and other capital reserves, qualifying mandatory convertible instruments, allowances for possible loan and lease losses (exclusive of any allocated transfer risk reserves),[8] and minority interests in equity accounts of consolidated subsidiaries, but excludes limited-life preferred stock. "Adjusted" primary capital is defined as the sum of these primary capital components less all intangible assets and deferred net losses on loans and other assets sold. Adjusted primary capital for thrift institutions would include any capital assistance provided by the Federal Deposit Insurance Corporation in the form of net worth certificates pursuant to 12 U.S.C. 1729(f) or 1823(i).

Any institution with negative adjusted primary capital will be permitted to incur daylight overdrafts on Fedwire only with the permission of its Reserve Bank, and all such overdrafts will have to be collateralized.

In some instances, further adjustments will be required. For example, virtually all Edge Act and agreement corporations are subsidiaries of depository institutions that may themselves use intra-day credit. The same capital would be double-counted if both the parent and the Edge Act or agreement corporation subsidary used such credit based on their own capital bases. Accordingly, if a parent elects to permit its Edge Act or agreement corporation subsidiary to use daylight credit, any adjusted primary capital attributable to its Edge Act or agreement corporation subsidiary that is reflected on the parent's balance sheet should be subtracted from the parent's capital. The parent could choose, however, not to permit its Edge Act or agreement corporation subsidiary to use intra-day credit, and use all of its (the parent's) capital for its own cap.

In determining cross-system sender net debit cap levels, U.S. branches and agencies of foreign banks should use the world-wide capital of the foreign bank establishing the branches and/or agencies, not that bank's parent. Further, the adjusted primary capital of any U.S. bank subsidiaries of the foreign bank should be subtracted from the foreign bank's adjusted primary capital to avoid double counting.

Determining world-wide capital for U.S. agencies and branches of foreign banks provides considerable definitional and measurement problems. Under current procedures, data are collected through the Y–7 report, which is submitted annually and is due four months after the close of a foreign banking organization's fiscal year. These procedures result in the Federal Reserve's foreign bank capital data being more than one year old at certain times in the reporting cycle. Without more current data, timely monitoring of U.S. agency or branch adherence to overdraft limitations would prove difficult.

In order to alleviate these problems, the Board has directed its staff to devise a reporting form that would allow the Federal Reserve to collect more timely information on the world-wide shareholder equity capital of foreign banks that use intra-day credit. To reduce reporting burden, the report would likely allow a foreign banking organization that had not experienced losses during a reporting period simply to warrant that fact rather than to provide more frequent quantitative capital information. Organizations that had experienced losses would be asked to provide updated equity capital data. Any proposed information collection procedure will be published for comment prior to implementation.

D. Additional Considerations

The contents of the self-evaluation cap category file will be considered confidential by the institution's examiner. Similarly, the actual cap level selected by the institution will be held confidential by the Federal Reserve and the institution's examiner. Finally, the Board notes that exceptional circumstances may require an institution to incur overdrafts in excess of its cap. Such a pattern of overdrafts should be discussed with the Reserve Bank, with specific plans developed to reduce the intra-day credit positions as soon as possible to a level within the institution's cap.

III. Other Components of the Board's Policy

A. Daylight Overdrafts on Fedwire

The Board's concern with risks on large-dollar payment systems began with its concern about daylight overdrafts on Fedwire. In response to this concern, the Board, in 1982, required Reserve Banks to counsel institutions that regularly incurred daylight overdrafts on Fedwire in excess of 50 per cent of capital.

The Board is still concerned with these overdrafts, and believes that it is appropriate to take effective steps to control risks to the Federal Reserve Banks by placing more effective limits on Fedwire daylight overdrafts. Therefore, beginning on March 27, 1986, the Board will establish a Fedwire cap for each depository institution. This cap will be equal to the voluntary cross-system cap adopted by the institution, reduced by the institution's actual net debits on other networks as determined in an after the fact measurement process. This cap will thus be monitored on an ex post basis. (Reserve Banks, however, will monitor an institution's Fedwire positions on a real-time basis when they believe that the institution is

[8] Allocated transfer risk reserves ("ATRR") are reserves against certain assets whose value has been found by the federal bank regulatory agencies to have been significantly impaired by protracted transfer risk problems. Such reserves are not considered capital by the agencies.

exposing the Reserve Bank to excessive risk. Real time monitors will permit Federal Reserve Banks to reject funds transfered by—and to pend or hold book-entry securities received for—the institution when such transactions expose the Reserve Bank to excessive risk.) The Fedwire cap will not be increased by the institution's net credits on other networks. Each Reserve Bank will, of course, retain the right to protect its risk exposure from individual institutions by reserving the right to reduce unilaterally Fedwire caps, impose collateralization or clearing balance requirements, hold or reject Fedwire transfers during the day until the institution has collected balances in its Federal Reserve account, and—in extreme cases—take the problem institution off-line or prohibit it from using Fedwire.

Institutions that incur Fedwire overdrafts for the first time will be subjected to a 50 per cent of capital limit pending completion of the self-evaluation procedure described above. Institutions that do not follow the self-evaluation procedure will not be permitted to incur overdrafts on Fedwire.[9]

B. Book-entry Securities Transfers

In formulating its daylight overdraft policies, the Board has always been concerned about the impact that overdraft restrictions could have on the U.S. government securities market and on the Board's ability to conduct monetary policy through open market operations. Accordingly the Board, pending development of procedures for collateralizing such overdrafts—or other procedures for reducing the Reserve Banks' risk exposure—had provisionally exempted from quantitative overdraft control those Fedwire daylight overdrafts resulting from the transfer of book-entry securities.[10]

In a related action (Docket No. R-0515A), the Board is today requesting comment on a series of proposals for treating Fedwire daylight overdrafts resulting from the transer of book-entry securities. Until the Board adopts a new policy in this area, book-entry overdrafts will remain unconstrained and separate from any sender caps adopted or placed on Fedwire funds transfers, except at problem institutions.

C. Automated Clearing Houses

When the Board first became concerned with risks on large-dollar payment systems, automated clearing houses (ACHs) were regarded as small-dollar systems. Recently, however, the ACHs have been evolving in such a way that they appear to be taking on many of the characteristics of larger-dollar transfer systems, and they therefore present many of the same risks.

Accordingly, the Board has directed its staff to undertake a study of ACH risk. The study will focus on (1) whether the ACH is an appropriate mechanism for making large-dollar payments, (2) what kind of controls should be implemented if ACH is increasingly used for large-dollar payments, and (3) how depository institutions now control the financial risk associated with ACH debit and credit transactions. As part of this study, the Board, in a related action, requesting public comment on a series of questions on ACH risk. (See Docket No. B-0515B.)

Until the Board's study of ACH risk is complete and the Board has formulated a new policy to deal with ACH risk, the Board is modifying its ex post monitoring or intra-day credit to (1) recognize the potential risks associated with ACH transactions processed by both the Federal Reserve and privately-operated ACHs, and (2) inhibit the use of ACHs to circumvent the risk reduction policies the Board has adopted for large-dollar funds transfer networks. Specifically, for purposes of ex post monitoring, gross debits resulting from the origination of credit transactions and the gross credits resulting from the receipt of credit transactions will be posted at the Reserve Bank's opening of business on the settlement date, and gross credits resulting from the origination of debit transactions and the gross debits resulting from the receipt of debit transactions will be posted at the Reserve Bank's close of business on the settlement date.[11] As a condition of obtaining net settlement services, privately-operated ACHs will be required to provide to the Federal Reserve the date necessary to include such transactions processed over their networks in the Federal Reserve's ex post monitoring system. In another separate action, the Board is requesting public comment on the parameters of this data collection. (See Docket No. R-0515D.) In addition, pending completion of the ACH study, the Board has suspended consideration of providing same-day ACH settlement service by Reserve Banks.

D. Net Settlement Services

While the Board has thus far been concerned mainly with risks on large-dollar funds transfer networks, the Federal Reserve has long provided net settlement services to a variety of other private sector clearing arrangements. In addition to large-dollar funds transfer networks, today these include check clearing houses, credit card processors, ACHs, and small-dollar funds transfer networks, such as automated teller machine (ATM) and point-of-sale (POS) networks.

Because the terms of the settlement arrangements vary and because there are questions regarding the risks that these arrangements entail, the Board has directed its staff to conduct a thorough review of net settlement risk. In conducting this study, the staff will address (1) whether the terms of net settlement arrangements should vary based on the type of transactions being settled, and (2) how depository institutions treat or should treat net settlement entries for the various types of net settlement arrangements.

To facilitate the staff's study, the Board is, in a related action (see Docket No. R-0515C), today requesting public comment on a series of questions on the net settlement service.

E. Edge Act and Agreement Corporations, U.S. Branches and Agencies of Foreign Banks, and New York Article XII Investment Companies[12]

There are special risks associated with the participation on large-dollar transfer systems of these institutions. Some of them are major participants in such networks, often making and receiving a large volume of payments on behalf of affiliates and their parent

[9] Under the self-policing policy adopted by the Board, an institution that does not adopt a cap for itself would be able to use without limit all credit available to it over any *private* network, unless use of such credit were found to constitute an unsafe or unsound banking practice by the institution's examiner. Such behavior, however, would not be consistent with the spirit of the Board's policy.

[10] Such overdrafts occur when the institution receiving book-entry securities has received more book-entry securities against payment at a point in time than it has sent. Since receipt of a book-entry security and Fedwire payment to the sender of securities are simultaneous, the sender of the security receives Fedwire payment regardless of the securities overdraft position of the receiver of the securities. The definition used for a book-entry securities overdraft means that such an overdraft could occur even while the receiver's funds account was in credit balance.

[11] This posting procedure is for ex post monitoring purposes and will in no way change when actual settlement entries are made or when ACH transactions become final.

[12] This section excludes discussion of foreign-owned U.S. banks, including U.S. banks that are either subsidiaries of foreign banks or of foreign bank holding companies. These entities have U.S. bank charters and capital in the U.S., and are treated identically to any other U.S. bank.

organizations. The size of their payment activities is generally quite large relative to their U.S. capital (or capital equivalent), and thus sender net debit caps would tend to constrain severely the ability of many of these institutions to participate directly in the U.S. dollar payments mechanism, forcing them to deal either through their U.S. parent (in the case of Edges) or through U.S. correspondents or affiliates (in the case of U.S. agencies, branches, Edge subsidiaries of foreign banks, and some New York investment companies).

In developing its policy for these institutions, the Board has sought to balance the goal of reducing and managing risk in the payments system, including risk to the Federal Reserve, with that of minimizing the adverse effects on the payments operations of these institutions. In addition, the principle of fair and equitable treatment embodied in the U.S. policy of national treatment for foreign banking organizations was given explicit consideration.

1. *Edge Act and Agreement Corporations.* Under current Board policy, all Fedwire overdrafts of Edge and agreement corporations must be fully collateralized. This policy reflects the lack of access of these institutions to the discount window and the possibility that the parent of an Edge or agreement corporation may be unable or unwilling to cover its subsidiary's overdraft on a timely basis.

The Board believes that Edge Act and agreement corporation subsidiaries of U.S. banks can, together with their parents, arrange their affairs in a way that would allow them to continue to service their customers at the same time that risk exposures are reduced. Specifically, the Board notes that the parent of an Edge or agreement corporation could fund its subsidiary during the day over Fedwire and/or the parent could substitute itself for its subsidiary on private networks. Indeed, data suggest that, in virtually all cases, the consolidated Edge and parent overdraft position would be within the cap limits of the parent if it were evaluated as an above average cap institution, even though the Edge's overdrafts are very large in relation to the Edge's own capital. This suggests that such an approach by the parent could both reduce systemic risk exposure and permit the Edge corporation to continue to service its customers.

With respect to Edge and agreement subsidiaries of foreign banks, the Board believes that because they lack access to the discount window and ready access to a U.S. affiliate that can provide support, these institutions should be treated in the same manner as their domestically-owned counterparts. The policy of national treatment also supports this conclusion.

Accordingly, the Board has determined that all Edge Act and agreement corporations will continue to be required to collateralize Fedwire daylight overdrafts, and strongly urges that each such corporation restrain its use of intra-day credit by establishing sender net debit caps based on its own capital in the same manner as any other domestic depository institution. In addition, the Board urges parents of Edge and agreement corporations to substitute themselves for their Edge or agreement subsidiaries on private large-dollar networks.

For purposes of sender net debit caps, the Board suggests that all branches of the same Edge or agreement corporation be consolidated. The consolidated entity's overdraft position will be monitored by the Reserve Bank of the Edge or agreement corporation's head office.[13] The monitoring Reserve Bank, in consultation with those Reserve Banks in which the Edge or agreement branches operate and the management of the consolidated entity, can either (1) determine that Edge or agreement branches outside its District will not be permitted to run Fedwire overdrafts, or (2) allocate part or all of the Edge or agreement corporation's Fedwire cap (and the responsibility of administering part or all of the collateral requirement) to a Reserve Bank in which one or more of the branches operate.

2. *U.S. Branches and Agencies of Foreign Banks.* As noted previously, the Board believes that U.S. branches and agencies of foreign banks should undergo the same self-evaluation process as domestic depository institutions, but that it be done on the basis of all U.S. branch and agency operations, rather than on a branch-by-branch, agency-by-agency basis. In setting a cross-system sender net debit cap, the Board believes that it is appropriate that branches and agencies develop a cap based on the world-wide capital of the foreign bank (less any adjusted primary capital attributable to subsidiary U.S. banks and Edge Act or agreement corporations reflected in the foreign bank's world-wide capital). The Board has reached this conclusion because public comments and other data indicate that private market participants view the intra-day credit risk associated with U.S. offices of foreign banks in terms of the world-wide creditworthiness of the entire foreign bank.

In assessing the Federal Reserve's own risk, however, the Board is still concerned about the lack of timely information filed with Reserve Banks, and the Federal Reserve's inability to monitor developments concerning each foreign bank's non-U.S. operations. Accordingly, the Board has determined that, only for purposes of determining the volume of a foreign bank family's uncollateralized Fedwire overdrafts, the multiples developed from the self-evaluation process (Section II–B, above) will be multiplied by the consolidated U.S. capital equivalency of all of its U.S. agencies and branches.[14] Any Fedwire overdrafts in excess of that amount will have to be collateralized. Any use of intra-day credit on private large-dollar networks will be treated as any other use of intra-day credit and, as noted above, the total cross-system cap of a foreign bank's U.S. agencies and branches will be based on the world-wide capital of the foreign bank (less the noted adjustments).

The cross-system sender net debit cap for families of branches and agencies of the same foreign bank will be monitored by the Reserve Bank which exercises the Federal Reserve's oversight responsibilities under the International Banking Act. The administering Reserve Bank can, in consultation with Reserve Banks in which other U.S. agencies and/or branches of the same foreign bank are located and the management of the foreign bank's U.S. operations, determine that branches and agencies outside its District either will not be permitted to incur Fedwire overdrafts or will allocate part or all of the foreign family's Fedwire cap (and the responsibility for administering part or all of the collateral requirement) to a Reserve Bank in which one or more of the foreign offices operate.[15]

[13] With the consent of the parties, a Reserve Bank other than that of an Edge head office can assume the management of these responsibilities.

[14] "Capital equivalency" will be defined as the greater of (1) the sum of the amount of capital (but not surplus) which would be required of a national bank being organized at each branch or agency location, or (2) the sum of 5 per cent of the total liabilities of each branch or agency, including acceptances, but excluding (A) accrued expenses and (B) amounts due and other liabilities to offices, branches, and subsidiaries of the foreign bank.

[15] As in the case of Edge and agreement corporations and their branches, with the approval of the designated administering Reserve Bank, a second Reserve Bank may assume the responsibility of managing and monitoring the cross-system sender net debit cap of particular foreign branch and agency families. This would often be the case when the payments activity and national administrative office of the foreign branch and agency family is located in one District, while the

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The Board believes that this approach will limit the Federal Reserve's risk while giving U.S. branches and agencies of foreign banks open access to the U.S. payments mechanism in keeping with the policy of national treatment.

3. *New York Investment Companies.* Investment companies chartered under Article XII of the New York Banking Law are not subject to reserve requirements and do not have access to the discount window. Because they cannot maintain accounts with the Federal Reserve, they cannot use Fedwire. Some are, however, active participants on private networks, and therefore introduce risk in the payments system much like other participants. Accordingly, the Board urges that investment companies that participate on private large-dollar networks establish for themselves a cross-system sender net debit cap using the procedures and guidelines the Board has established for depository institutions.

F. Bankers' Banks

Bankers' banks are exempt from reserve requirements and do not have regular access to the discount window. They do, however, have access to Federal Reserve payment services. To protect Reserve Banks from potential loss resulting from daylight overdrafts incurred by bankers' banks, the Board adopted, in 1982, a policy that bankers' banks should refrain from incurring overdrafts and post collateral to cover any overdrafts they do incur. Bankers' banks may voluntarily give up their exemption from reserve requirements, thus gaining access to the discount window and avoid having to post collateral.

The Board has determined to continued the present policy.

G. Monitoring

The Board believes that ex-post monitoring is consistant with the voluntary, flexible approach it has adopted. Under ex-post monitoring, an institution with a cross-system net debit position in excess of its cap will be contacted by a Federal Reserve Bank.[16] The Reserve Bank will counsel with such institutions, discussing ways to reduce their excess use of intra-day credit. No regulatory action will be taken, but the Reserve Bank may

- Advise the appropriate examiner, who may recommend supervisory action if the volume of cross-system overdrafts are deemed unsafe or unsound, and/or
- Take appropriate action to limit its own risk exposure on Fedwire.

A Federal Reserve Bank will apply real-time monitoring to an individual institution's Fedwire position when the Reserve Bank believes that it faces exessive risk exposure, e.g. for problem banks or from institutions with chronic overdrafts in excess of what the Reserve Bank thinks is prudent. In such a case, the Reserve Bank will control its risk exposures by monitoring the institution's position, rejecting Fedwire transfers of funds, and pending Fedwire book-entry securities transfers that would result in overdrafts in excess of a level the Reserve Bank judges to be prudent.

In order that Reserve Banks may properly monitor the use of intra-day credit, no future or existing large-dollar network will be permitted to settle on the books of a Reserve Bank unless its members authorize the network to provide position data to the Reserve Bank on request.

H. Avoidance of Risk Reduction Measures

In its March 29, 1984, policy statement, the Board stated that "use of Fedwire for the avoidance of Federal Reserve or private sector risk reduction measures is not appropriate." The Board adopted this policy to prevent institutions from participating in bilateral netting arrangements whereby they would exchange gross payment messages during that day and settle at the end of the day by using Fedwire to adjust net positions bilaterally. Such arrangements would be difficult for Reserve Banks to detect and would be outside of Federal Reserve and private-sector risk control measures. They still, however, present the same risks to the payments mechanism that other net settlement arrangements present because settlement failures are still possible, and such failures would have the same deleterious consequences as any other settlement failures.

The Board, therefore, reaffirms its policy that institutions may not use Fedwire or other payments networks as a method of avoiding risk reduction measures.

The Board realizes, however, that certain netting arrangements are not intended to avoid risk reduction measures. Indeed, they can themselves reduce risk. For example, institutions may net gross obligations prior to settlement, with each participant legally obligated only for the resultant net position. This arrangement reduces risk because it replaces gross obligations with the smaller net obligation, and failures to settle would almost always involve smaller exposures (and less systematic risk) than with bilateral net settlement. The Board's policy on limiting avoidance techniques is not intended to restrict this kind of netting arrangement.

I. Large-Dollar Payment System Advisory Group

During the course of their studies on large-dollar payment system risk, the Board and Reserve Bank staff have met with individual depository institutions, advisory groups, and trade associations to obtain information and assistance in understanding the risk issue and the implications of various risk reduction options. Such contacts and discussions have been invaluable. The Board also found invaluable the work of the Federal Advisory and Thrift Institution Advisory Councils' Committee on Payment System Risk, and the Payment System Committee of the Association of Reserve City Bankers. The Board has therefore decided to formalize this contact and, with the consultation of the Federal Advisory Council and the Thrift Institutions Advisory Council, will appoint knowledgeable representatives of depository institutions active in the large-dollar payments market to serve on a joint advisory committee with Board staff representatives.

When the Study Group is impaneled, the Board requests that it study:

- The need for settlement finality and/or payments finality to customer receivers on private wire networks;
- The costs and benefits of consolidation of holding company affiliates for purposes of determining sender net debit caps;
- the effectiveness of voluntary sender net debit caps in controlling and reducing risk exposure;
- the need for intra-day funding mechanisms, including a Federal Reserve overline facility and or other special Fedwire services;
- the best timing for reductions in cap levels;
- the need for a federal funds settlement window; and
- other matters of mutual interest.

J. Implementation Date

The Board believes that an implementation date of March 27, 1986,

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oversight responsibility under the Internaitonal Banking Act is in another District. If a second Reserve Bank assumes management responsibility, monitoring data will be forwarded to the designated administrator for use in the supervisory process.

[16] Even if the institution is not a state member bank, the Reserve Bank can make this contact because an overdraft is occurring on Fedwire or because the institution is in a net debit position on a wire system settling on the books of the Federal Reserve.

will provide ample time for depository institutions and the Federal Reserve to develop plans and procedures to implement the Board's policy. The Board stongly recommends that institutions establish their sender net debit caps no later than December 31, 1985, to enable the Federal Reserve Banks to provide institutions with a three month trial run of the new polices. During this interval the agencies may also consult with institutions that the former may believe have chosen inappropriate caps.

No implementation date is proposed for any change in Board policies regarding overdrafts arising from the transfer of book-entry securities, and transactions or net settlement services generally. Such policy changes, if any, and their effective date will be determined after further staff study and public comment.

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

William W. Wiles,

Secretary of the Board.

Appendix—Guidelines for Establishing Risk Categories

This appendix presents the Board's guidelines to be used by institutions in determing their own classifications for purposes of setting their own sender net debit caps. The Board policy recognizes that individual institutions may perceive that special or unusual circumstances not adequately captured in these guidelines may, in the view of the institution's management and board of directors, be consistent with a higher grade classification and higher sender net debit cap. Such a position should be fully supported by analysis and evidence included in the file for examiner review. Examiners will be critical if such special factors are not fully documented, and will be especially sensitive to evidence that special positive factors are being emphasized and adverse factors ignored or downplayed.

The guidelines address creditworthiness; operational controls, policies, and procedures; and credit policies and procedures. The last section suggests how the self-evaluation in each of these three areas is to be combined into an overall assessment, which is then to be the basis for determining a sender net debit cap.

I. Creditworthiness

Self-assessment of creditworthiness should begin by reference to an institution's most recent examination report and, where applicable, to peer group statistics contained in the most recent Uniform Bank Performance Report (UBPR) and to the most recent Bank Holding Company Performance Report (BHCPR). Additional data from other reports and analyses should, of course, be used.

Major emphasis should be placed on asset quality, capital, and earnings where an institution's relative standing can be determined based upon quantifiable measures. Liquidity and holding company strength should be added in as modifying factors which, if strongly positive or negative, could influence the overall assessment of creditworthiness. For each of the characteristics that become the primary determinants of the initial benchmark assessment of creditworthiness, each institution should rank itself using a scale from "A" to "D"—with "A" being best and "D" being worst.[1] The institution's files maintained for examiner review of cap determination should provide supporting analysis for the self-ranking assigned for each of the characteristics.

a. *Asset quality:* Asset quality should be graded A through D in relation to (a) the level, distribution, and severity of classified assets; (b) the level and composition of non-accrual and reduced rate assets; (c) the adequacy of valuation reserves; and (d) demonstrated ability to administer and correct problem credits. The self-analysis should take peer group satistics into consideration.[2] Obviously, adequate valuation reserves and a proven capacity to police and collect problem credits mitigate to some degree the weaknesses inherent in given level of classified assets. In evaluating asset quality, consideration should also be given to any undue degree of concentration of credits or investments, the nature and volume of credits specially mentioned or classified, lending policies, and the adequacy of credit administration procedures. Evaluations of asset quality significantly different from the last examination report should be highlighted and supported in the cap determination file.

b. *Capital:* In the self-evaluation of capital, insititutions should, as a starting point, note that the federal guidelines call for a minimum primary capital-to-asset ratio of 5.5 per cent for commercial banks. In assigning an A to D self-ranking for its capital position, adjustments should be made for the volume of risk assets; the level of off-balance sheet risk; the volume of classified assets; and bank growth experience, plans, prospects, and peer group capital levels. Asset quality should receive particular weight. Any institution that ranks its capital more than one grade above its asset quality has significant burden of proof to justify such a grade, and its cap file should contain specific documentation.

c. *Earnings:* Earnings should also be graded A to D with respect to (a) the ability to cover losses and provide for adequate capital, (b) earnings trends, (c) peer group comparisons, and (d) quality and composition of earnings. Consideration must also be given to the interrelationship that exist between the dividend payout ratio, the rate of growth of retained earnings, and the adequacy of bank capital. A dividend payout rate that is excessive in this context, would warrant a lower grade despite a level of earnings that might otherwise result in a more favorable appraisal. Quality is also an important factor in evaluating this dimension of an institution's performance. Consideration should be given to the adequacy of transfers to the valuation reserve and the extent to which extraordinary or nonrecurring items, securities transactions, and tax effects contribute to net income.

The self-grading for asset quality, capital, and earnings should be combined into a signle preliminary grade of creditworthiness based on an average of the three components. This preliminary grade would be affected by two final considerations, which are graded positive (+), neutral (0), or negative (−).

d. *Liquidity:* In most instances, an analysis of liquidity will indicate a stable funding base with a reasonable cushion of assets or untapped funding sources available to meet contingencies. In such instances, liquidity should be regarded as a neutral (0) factor in assessing creditworthiness. Evidence of frequent, unplanned borrowing from the Federal Reserve's discount window or deterioration in the normal funding base would be regarded as negative (−), and, depending upon the severity of the situation, the preliminary grade might be downgraded. Extremely liquid findings (+) could cause an upgrading of the preliminary rating but such findings would usually need to demonstrate asset liquidity as well as sound liability management practices.

e. *Holding company and affiliates:* The relative strength of other depository institutions within the holding company, the parent company itself, and nondepository institution subsidiaries within the company can also marginally affect the preliminary grade. In general, if the regulators have characterized the consolidated holding company as in satisfactory condition in its most recent inspection, the influence should be regarded as neutral (0). If it was regarded as less than satisfactory, the influence should be regarded as negative (−). Downgrading of the preliminary grade would be expected if significant losses were being incurred or anticipated at the parent or nondepository institution subsidiary level, if consolidated capital was materially less than that of the subsidiary institution(s), or if holding company debt service necessitated excessive dividends from the depository institution subsidiaries. If the parent had a demonstrated record of capital contributions and other support for the depository institution subsidiary, its influence would be regarded as positive (+) and could raise the preliminary grade upward.

These five factors become the initial and minimum benchmark for the self-assessment. Other considerations, such as major changes in management or pending litigation that is material, may be significant when evaluating an institution. Further, in using any ratio in the analysis of the first three factors, the limitations of using a single ratio or even a few ratios must be recognized. To the extent that other factors or mitigating circumstances are factored into the final grade on creditworthiness, the reasoning for special consideration should be clearly laid out for the examiner's review. Also, in a voluntary self-assessment program, management should recognize its own natural predisposition to identify and emphasize positive factors while downplaying adverse ones. To the extent

[1] A rating of "A" means "high" or "strong;" "B" means "above average;" "C" means "average;" and "D" means "unacceptable."

[2] In the case of classified assets, reference should be made to nonperforming assets of peer group institutions.

files do not document balanced analyses, examiners should be critical.

U.S. Branches and Agencies of Foreign Banks

U.S. branches and agencies of foreign banks pose special problems for assessing creditworthiness because they do not have a corporate identity in the United States separate from that of the world-wide institution. Conceptually, however, the same analytical approach is appropriate, although special considerations are necessary to address data limitations.

In many cases, branches and/or agencies belonging to a single family will be found in several different geographic regions and subject to different supervisory authorities. Because the strength of the foreign bank, including all of its parts, will largely determine the strength of each branch or agency in the United States, a single overall assessment is necessary. Thus, branches and agencies of foreign banks should assess creditworthiness on the basis of the entire family—excluding any subsidiary U.S. chartered banks or Edge corporations of the foreign bank—rather than on an individual branch or agency basis.

For capital and earnings, the same approach and standards used for domestic depository institutions are appropriate. In general, the analysis should be done using available data on the foreign parent. Branches and agencies may restate their data to identify undisclosed reserves that are functionally equivalent to capital and to adjust earnings to reflect additions to such reserves. To the extent that the self-assessment relies on these factors, the file availalbe to the examiner should provide supporting documentation.

For assessment of asset quality, additional difficulties are encountered. While information on the overall organization is clearly the data that should be used, asset quality information on the foreign bank or on the consolidated organization is generally not avilable to either the manager of U.S. operations or U.S. supervisory authorities. Instead, only U.S. asset quality information is available. Even then, organizations with multiple branches or agencies will typically have examinations of individual entities conducted on different dates and by different supervisors. Combining these results into a single meaningful composite of U.S. operations is therefore not easily accomplished. Recognizing these imperfections, the only practical approach available in most cases is to extrapolate for the overall family from whatever information is available in the U.S. operations.

Recognition should be given to the distortions that can arise when a single international credit becomes problematic and is booked entirely in or outside the U.S. for control purposes. In instances where it is booked in the U.S., the credit may unduly overstate the severity of asset problems in the U.S. by attributing it entirely to the U.S. when it should more properly be attributed to the overall family. Judgment is therefore clearly appropriate in assessing asset quality.

As in the case for domestic depository institutions, asset quality, capital, and earnings provide a benchmark for the assessment of creditworthiness of the branch or agency. Other factors, like liquidity or the effect of affiliates, should be factored in as appropriate. However, because the assessment has already included the strength of the foreign bank in measuring capital and earnings, extra care should be taken to avoid double counting the foreign bank in the assessment of its U.S. branches and agencies.

II. Operational Controls, Policies, and Procedures

Two district components require analysis in the operational area if an institution is to be able to monitor its payments systems risk effectively. These components are:

- monitoring of the position of the institution on *each* payments system on which it operates and *across* all systems as an overall net position; and
- monitoring of individual customers and the extent to which the institition extends credit by making funds available before they are collected, both when the institition is a sender and a receiver of funds.

Both components are important to any institition in its efforts to manage its payments system risk. The significance of monitoring the debit and credit flows to determine one's overall position and the position of individual customers does not decrease for smaller institutions. For both components, the business activity is first defined, areas of significant risk identified, and the adequacy of controls reviewed.

Factors such as automation or the size of the institution are not relevant except as they affect the ability to monitor risks. References to "real-time," therefore, address the timeliness of information, and not the degree of automation. Indeed, a manual system in a small institution that records every transaction may be far more effective as a real-time monitor than a fully automated and integrated system in a major operation that has yet to bring one area with substantial risk exposure in the institution into the monitored environment.

Based upon the analysis of the business activities and the indentification of existing monitoring capabilities, each component is graded from "A" to "C" indicating a range of "strong" to "satisfactory" to "unsatisfactory," using specific standards. These two separate ratings of overall activity and individual customers should then be combined into an overall rating of operational controls, policies, and procedures.

a. *Monitoring Institution Positions Relative to Net Debt Caps.* Before evaluating its wire transfer operations, each institution needs to define the magnitude and relative importance of each payment system in which it participates. The table below seeks to define the institutions's funds transfer environment.[3]

[3] To the extent that an institution uses other payments systems with same-day settlement, the list should be expanded to include them.

System	Average Daily Volume			
	Dollars sent	Percent of total	Dollars received	Percent of total
1. CashWire				
2. CHESS				
3. CHIPS				
4. Fedwire				
5. Other				
Total		100		100

For each system in which the institution participates, an acceptable level of risk exposure needs to be identified against which its position will be monitored. The monitoring of each system should then be identified as being: (1) On a real-time basis; (2) on a periodic basis and at what periodicity; or (3) not currently monitored or monitored only at the end of the day. Completing the following table summarizes the type of monitoring activity for each system:

INDIVIDUAL SYSTEM MONITORING CAPABILITY

System	Real Time	Periodic	(Frequency)	No Interim Monitoring
1. CashWire			( )	
2. CHESS			( )	
3. CHIPS			( )	
4. Fedwire			( )	
5. Other			( )	

For systems that are monitored, the extent of cross-system monitoring can then be determined. By identifying which systems used by the institution are monitored on a cross-system basis to determine a net exposure, an overall risk exposure can be obtained. As with the individual system, a summary table of cross-system monitoring capability can be completed like the one below.[4]

CROSS-SYSTEM MONITORING CAPABILITY

Systems Monitored Together	Real Time	Periodic	(Frequency)	No Interim Monitoring
— — — —			( )	
— — — —			( )	
— — — —			( )	

Based upon the cross-system monitoring capability and the volume of business handled by each system, a rating for the institution's controls for its cross-system exposure can be obtained as follows:

Rating for Monitoring Institution Positions

Strong

a. 95% of total dollars sent and received are monitored on a real-time basis or at 15 minute intervals or less *and*

b. a cross-system calculation of the institution's net debit/credit position is

[4] System may often be listed on more than one line. For example, a real-time cross-system monitor on Fedwire and CHIPS might be combined with a periodic monitoring on CHESS and CashWire to give a periodic cross-system monitor on all four systems.

computed and compared to established limits on a real-time basis or at 15 minute intervals or less.

Satisfactory

a. 80% of the total average daily dollar volume sent is monitored on a real-time basis or at 30 minute intervals or less; *and*

b. a cross-system calculation of the institution's net debit/credit position, utilizing these data is computed and compared to established limits on a real-time basis or at 30 minute intervals or less.

Unsatisfactory—Any other condition.

b. *Monitoring Customer Positions.* Each institution should have the capability of monitoring the effect of all significant transactions on the funds positions of customers as the transactions occur during the business day. At a minimum, the institution should be aware of the positions of customers that have a high-dollar volume of funds transfer activity in relation to each customer's funds position or to the institution's capital. Customer position should reflect the collected status of funds sent and received over payments systems, as well as the effect of other activities, such as loan advances, loan payments, and book transfers (transfers between customers on the institution's own books) which may result from instructions developed internally or received over message systems, such as BankWire or S.W.I.F.T. Some customers require frequent monitoring because the volume of their daily transactions is large. Others need to be monitored only as a result of particularly large and unusual transactions.

For customers that are significant users of the payments system, three questions are important:

	Yes	No
1. Has the institution isolated its customers which participate to a significant degree in funds transfer systems as either senders or receivers of funds?		
2. Can the institution monitor the positions of these customers taking into account the source of significant transactions?		
3. Does the monitoring system include the opening collected balance?		

In monitoring customers for compliance with intra-day overdraft position limits established by credit policy and/or in approving over-limit payments, transactions other than those being transmitted and received over payments systems need to be considered ass they directly affect the intra-day position. Among the transaction sources that should be considered are message systems such as BankWire, S.W.I.F.T., and Telex; internal book transfers; and the institution's own lending, investment, and check processing operations. While it may not be feasible or reasonable to monitor all transactions from all areas, material thresholds should be established by the institution as criteria for monitoring individual transactions or aggregate transactions for a single customer that could put the institution at risk. The files should clearly document the reasons for including or excluding other areas and justify threshold limits sets.

Once customers have been identified and individual transaction limits set, the institution's ability to monitor and control the funds positions of its customers can be determined. The following checklist identifies the adequacy of controls:

	Yes	No
1. Does the system for monitoring positions of customers cover:		
a. All significant sources generating customer account entries?		
b. Total transactions over an established dollar limit?		
c. Overdraft limits?		
d. Single transfer limits?		
2. Does the system halt any transaction in excess of established limits from further processing until appropriate action is taken?		
3. If documentation of action taken with regard to over-limit transactions reflects consistent exceptions attributed to a customer, is analysis of those accounts intensified?		
4. Are reviews of the funds transfer environment conducted by internal or external auditors at least annually? (These reviews should conform to the standards established by the Bank Administration Institute and the Federal Financial Institutions Examination Council)		

Institutions must be able to respond positively to all questions in this section on monitoring customer positions if they are honestly to evaluate their control as satisfactory or strong. These ratings should be obtained as follows:

Rating for Customer Monitoring System and Controls

1. *Strong*—Responses to all of the above are positive and comprehensive customer monitoring is in force *for both debits and credits* on a real-time basis or at intervals of 15 minutes or less.[5]

2. *Satisfactory*—Responses to all of the above are positive and comprehensive customer monitoring is in force for all debit transactions greater than or equal to the monitoring threshold on a real-time basis or at intervals of 30 minutes or less.

3. *Unsatisfactory*—Any other condition.

OVERALL RATING FOR OPERATIONAL CONTROLS, POLICIES, AND PROCEDURES

Monitoring Institution Positions	Monitoring Customer Positions and Controls	Overall Rating
Strong	Strong	Strong.
Strong	Satisfactory	Satisfactory.
Satisfactory	Strong	Satisfactory.
Satisfactory	Satisfactory	Satisfactory.
Either Rated Unsatisfactory		Unsatisfactory.

III. Credit Policies and Procedures

A simple two-way classification system for credit policies and procedures should be used. All institutions should have explicit, written credit policies and the necessary internal procedures in place to implement these policies. Failure to have such policies and procedures puts all participants in the payments system at risk, and should preclude a satisfactory overall rating and its associated debit cap limit regardless of the ratings for creditworthiness or monitoring capabilities.

The following checklist identifies the adequacy of credit policies and procedures:

	Yes	No
1. Does the institution have a written credit policy detailing normal and exception approval and reporting procedures for all loans and credit commitments, including daylight overdraft and bilateral limits and other special facilities?		
2. Are all facilities and exposures approved as part of acknowleged aggregate exposures to individual bank and commercial customers?		
3. Does the institution use monitoring systems which identify usage in excess of approved facilities and provide adequate information for review and evaluation of such usage on a timely basis?		
4. Does the institutions have exception identification and approval systems which are tailored to the speed, volume, and size of credit approvals required by its payment system generated exposures?		
5. Are the institution's review systems geared to single out and take action on deteriorating risk situations?		
6. Does senior management periodically review and take action on aggregate exposures over a finite limit?		
7. Are all controls and procedures reviewed and tested by the institution's internal auditors?		
8. Is adequate training available and required for operations, credit, and account officer staff responsible for monitoring the intra-day overdraft exposure system of the institution?		

In completing the checklists, negative responses should not be explained away in order to obtain a satisfactory self assessment except under extremely unusual circumstances. Institutions that attempt to explain shortcomings will be scrutinized very closely by the examiners.

IV. Overall Assessment

The three component evaluations can be combined into a single overall assessment using the following table:

Credit policies and procedures	Operational controls policies and procedures	Credit worthiness	Overall assessment
Satisfactory	Strong	A	High cap.
Do	do	B	Above average cap.
Do	do	C	Average cap.
Do	do	D	No cap.
Satisfactory	Satisfactory	A or B	Above average cap.
Do	do	C	Average cap.
Do	do	D	No cap.
Satisfactory	Unsatisfactory.	Any	No cap.
Unsatisfactory	Strong or Satisfactory.	Any	No cap.
Unsatisfactory	Unsatisfactory.	Any	No Cap.

In completing the assignment for U.S. branches and agencies of foreign banks that are part of a single family operating in more than one state, a single assessment for the

[5] If an institution monitors on a worst case basis, that is debits only, a strong rating may still be justified if the limits established are no higher than those appropriate for monitoring a net position.

family should be conducted. If more than one branch or agency has access to a large-payments system, the adequacy of operational controls for each access point should be assessed separately and combined into a single assessment. A single cap should then be determined and divided among the entities having access. The file documenting the assessment and its division among the separate entities should be available to examiners in the office through which the Federal Reserve exercises its oversight responsibilities under the International Bank Act.

[FR Doc. 85-12313 Filed 5-21-85; 8:45 am]
BILLING CODE 6210-01-M

[Docket No. R-0515B]

Request for Comments on Proposals Regarding Automated Clearing Houses

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: In a related action today (Docket No. R-0515), the Board issued a statement of its policy to reduce risks on large-dollar electronic funds transfer systems. The Board did not, however, resolve the issues of risks arising from automated clearing house (ACH) transactions. The Board is requesting, therefore, comment on issues relating to risks inherent in such transfers.

DATE: Comments must be received by August 15, 1985.

ADDRESS: Comments, which should refer to Docket No. R-0515B should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW, Washington, D.C. 20551, or delivered to room B-2223 between 8:45 A.M. and 5:15 P.M. Comments received may be inspected in room B-1122 between 8:45 A.M. and 5:15 P.M., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director (202-452-3368), David B. Humphrey, Assistant Director (202-452-2557), Terrence Belton, Economist (202-452-2444), Division of Research and Statistics; Elliott C. McEntee, Associate Director (202-452-2231), Florence M. Young, Adviser (202-452-3955), Nancy R. Wesolowski, Operations Analyst (202-452-3437), Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney (202-452-2489), Legal Division; Jeffrey C. Marquardt, Economist (202-452-2360), Division of International Finance; Anthony G. Cornyn, Assistant Director (202-452-3450), Division of Banking Supervision and Regulation; or Joy W. O'Connell, TDD (202-452-3244).

SUPPLEMENTARY INFORMATION: Over the past several years, the Board has become increasingly concerned with the risks that large-dollar payments systems present to depository institutions using them, to the banking system, and to other sectors of the economy. In March, 1984, the Board issued for public comment a series of proposals to reduce and control these risks. In a related action today (Docket No. R-0515), the Board issued a statement of the policy it has formulated to reduce these risks. The Board's policy, reflecting the need for flexibility and the desires of those who commented, relies heavily on the efforts of participants to identify, control, and reduce their own risks.

Since the automated clearing house (ACH) mechanism was designed in the early 1970s, it has been considered to be a substitute for recurring consumer payments that are typically made by paper check. All ACH payments are value dated, with settlement occurring one or two days after transactions are submitted to a Federal Reserve Bank or a privately-operated ACH. In addition, to encourage consumer acceptance, credit transactions,[1] such as salary and pension payments, are generally treated as irrevocable payments on the settlement date, that is, the credits are made available to the receiving depository institutions at the opening of business on the settlement date and cannot generally be revoked. In this respect, ACH credit transactions are like Fedwire transfers. Federal Reserve ACH debit transactions,[2] such as mortgage and insurance premium payments, are treated as provisional payments and, like checks, they may be returned if funds are not in the account. It should be noted that ACH participants appear to treat both ACH debit and credit transactions processed by privately operated ACHs like transactions processed by the Federal Reserve.

Because the ACH has been viewed as a small-dollar payment system, the issue of financial risk to ACH participants and operators had not been a serious concern. The characteristics of the ACH mechanism, however, are beginning to change. Improvements in automated systems have resulted in shorter processing times. Further, both the Federal Reserve and privately operated ACHs have been considering offering same-day ACH services with considerably more attractive deposit times than are presently available. Besides the improvements being made in processing times, the types of payments made through the ACH are changing. Corporations are now using the ACH to concentrate balances at lead banks, to fund accounts of geographically dispersed operating units, to repay loans, and to make vendor payments. These new uses for the ACH mechanism have contributed to the increasing number of large-dollar payments processed.

Currently, payments amounting to $1.0 million and more are regularly processed through the ACH. Based on a one-week survey conducted during January, 1985, approximately 900 ACH transactions amounting to $1.0 million or more were processed daily. While these transactions represented only about 0.1 percent of the daily average number of commercial ACH payments, they accounted for nearly 50 percent of the daily average dollar value of such ACH payments. The majority of these transactions were revocable debit transactions. Only 5 percent were credit transactions, and they accounted for about 3 percent of the daily average dollar value of commercial ACH payments.

Some of the changes that are being observed in the ACH have been encouraged by the Federal Reserve and ACH associations, because they improve the efficiency of the nation's payments mechanism. For example, the use of ACH cash concentration debits to accumulate funds at corporations' lead banks is more timely, more reliable, and less costly than the use of paper depository transfer checks. Similarly, the use of ACH corporate trade payments is expected to lead to significant operating efficiencies. Both cash concentration debits and corporate trade payments tend to be fairly high value payments.

The difference between the Federal Reserve's fees for ACH and Fedwire transactions also provides incentives for depository institutions to use the ACH for large-dollar transfers that are not time-critical. The Federal Reserve assesses depository institutions transaction fees of 1.0 cent and 1.8 cents to originate ACH intra- and interregional payments, respectively, and 55 cents to send a Fedwire. Fixed fees are also assesses to originators of ACH and Fedwire transactions. Therefore, the total cost of originating either type of payment varies across depository institutions based on

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[1] When credit transactions are sent through the ACH, funds are transferred from the originator to the receiver.

[2] When debit transactions are processed, funds are transferred to the originator from the receiver.

transaction volumes, but is typically much lower for ACH transactions.

Finally, the proposed ex post monitoring procedures for large-dollar funds transfer systems are likely to provide incentives for some depository institutions to use the ACH as a substitute for funds transferred over large-dollar networks. Specifically, the ex post monitoring procedures for daylight overdrafts measure only wire transfers of funds as they occur. All other "off-line" transactions, including check, ACH, and definitive securities, are netted and are posted ex post at either the opening or closing of business. To give depository institutions the greatest benefit or least disadvantage, if the sum of "off-line" transactions results in a net credit, the net credit is posted in the ex post monitoring system as though it occurred at the opening of business. If the sum results in a net debit, it is posted as though it occurred at the close of business. Therefore, if a depository institution repaid federal funds borrowings or originated other large-dollar credit payments over the ACH—all of which are irrevocable to the receiver—the debits to the originator's reserve account would be measured in the ex post monitoring system with other "off-line" transactions. If the net of these transactions were a debit, it would be posted at the end of the day, with no impact on the intra-day debit position of the sender. As a result, the procedures would enable depository institutions to circumvent the sender net debit caps placed on wire transfer systems.

Thus, it appears that the ACH may be evolving into a payments mechanism with many similarities to large-dollar funds transfer systems. The financial risks, however, are difficult to quantify. In cases where depository institutions make funds available to customers for ACH credit transactions before the payments are final, they are exposed to temporal risk because they may not be able to collect from the sender at the time of settlement. In addition, ACH participants may be exposed to risk in handling ACH debit transactions. While ACH debit transactions are treated as provisional payments by the Federal Reserve, it is not clear that originators of debit transactions always treat the funds received as provisional to their customers. If depository institutions treat the funds as final and make them available to their customers, they may not be able to recover the funds if the receiving institution returns the transaction. If a depository institution were unable to recover funds from a customer for a return of a large cash concentration debit, it could affect the institution's liquidity and its ability to settle for other payments or other settlement arrangements.

Because of the changes occurring in the ACH mechanism and the increasing use of the ACH for large-dollar payments, the Board believes that it should undertake a thorough review of ACH risk. Pending completion of the study, the Board has decided to postpone further consideration of same-day finality for ACH services. In addition, until this study is completed, the Board believes its ex post monitoring procedures to calculate depository institutions' intra-day net debit positions should be modified in order to (1) recognize the potential risks associated with ACH transactions processed by both the Federal Reserve and privately operated ACHs, and (2) inhibit the use of the ACH to circumvent risk reduction policies. Specifically, the Board plans to make the following modifications to its ex post monitoring procedures: (1) Post the gross debits resulting from the origination of ACH credit transactions and the gross credits resulting from the receipt of credit transactions at the opening of business on the settlement date, and (2) post the gross credits resulting from the origination of debit transactions and the gross debits resulting from the receipt of debit transaction at the close of business on the settlement date.[3] This procedure would result in posting the net of ACH credit transactions in the ex post monitoring system at the opening of business on the settlement date and in posting the net of ACH debit transactions at the close of business on the settlement date.

In order to assist the Board in its consideration of ACH risk, the public is requested to respond to the following questions:

1. Should the ACH be used for handling large-dollar payments?

(a) If it should not be, what controls should be implemented to limit its use to small-dollar payments? For example,

(1) Should restrictions on the dollar amount of ACH credit and/or debit transactions processed by the Federal Reserve and privately operated ACHs be imposed?

(i) Should restrictions be set for the gross dollar amounts of all transactions, the daily overage dollar amount of all transaction, the dollar value per deposit or file, the dollar value per batch, or the dollar value of individual transactions?

(ii) At what dollar value should the cut-off be?

(iii) Should implementation of procedures to limit large-dollar payments be a condition of the Federal Reserve's granting net settlement services to privately operated ACHs?

(2) Should restrictions be placed on the types of transactions processed through the ACH?

(i) Should returns of federal funds be prohibited?

(ii) Should corporate-to-corporate payments, which are frequently large-dollar payments, be prohibited?

(3) How effective would restrictions on dollar amounts and transaction types be?

(b) If the ACH should be used for large-dollar payments, what controls should be implemented?

(1) Should ACH transactions be included in monitoring institutions' sender net debit caps? If so, should ACH credit and debit transactions be treated differently?

(2) Should participants in privately operated ACHs be required to "guarantee" settlement? Should the "guarantee" apply to consumer/small-dollar payments only and/or to corporate/large-dollar payments, or both?

(3) Should controls be placed on large-dollar ACH transactions only, that is, transactions over $25,000, over $100,000, or $500,000?

2. Currently, funds provided to receivers of ACH credit transactions processed by Reserve Banks are generally treated as final payments at the opening of business on the settlement date. Funds provided to originators of ACH debit transactions processed by the Reserve Banks are posted on the settlement date but are considered provisional payments until the business day following the settlement date. Net settlement entries, reflecting the net of both debit and credit transactions, for privately operated ACHs are posted on the settlement date, but are generally considered provisional payments until the business day following the settlement date.

(a) How does your institution treat credits received as the result of originating debit transactions for customers? Are the funds treated as provisional or final payments? Are there differences in the treatment of retail and wholesale payments or in the treatment of small-dollar and large-dollar payments? Are holds placed on the funds?

(b) If your institution participates in a privately operated ACH, are funds

[3] This posting procedure is for *ex post* monitoring only and will in no way change the time that actual settlement entries are made or the time that ACH transactions become final.

treated as provisional or final payments to customers before the Federal Reserve net settlement entries become final? Are credit payments received for consumers and corporations treated differently?

(c) Should the Federal Reserve change the way it treats ACH credit transactions, that is, treat credit transactions as provisional until the business day following the settlement date rather than as final at the opening of business on the settlement date?

(d) If all ACH transactions, both debits and credits, were treated as provisional payments, how would use of the ACH be affected? Would your institution make any changes in the way it currently handles incoming ACH credit transactions, such as modifying funds availability policies?

(e) Should net settlement services provided to privately operated ACHs provide same-day or next-day finality for net settlement entries? If net settlement entries are considered provisional until the business day following settlement date, what risks if any would your institution face?

3. What is your institution's perception of the degree of ACH risk associated with cash concentration debits and disbursements, corporate trade payments, and so forth? Do you believe that there are different degrees of risk associated with debit versus credit transactions?

4. Does your institution monitor or limit the dollar amounts and/or types of ACH transactions that are originated for your customers?

5. How does your institution see the changes occuring in the ACH—such as the use of the ACH for large-dollar payments and the potential for same-day ACH—affecting the way it handles ACH transactions?

6. In order to determine whether the interim changes in the Board's ex post monitoring procedures should be adopted as final procedures, please indicate how the interim procedures would affect your institution's use of the ACH and its operating costs?

7. What alternative methods for controlling ACH risk should the Federal Reserve consider in its analysis?

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

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-12315 Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0515A]

Request for Comments on Proposals Regarding Book-Entry Securities Transfers

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: In a related action today (Docket No. R-0515), the Board issued a statement of its policy to reduce risks on large-dollar electronic funds transfer systems. The Board did not, however, resolve the issues of risks arising from the transfers of book-entry securities on Fedwire. The Board is requesting, therefore, comment on issues relating to risks inherent such transfers.

DATE: Comments must be received by August 15, 1985.

ADDRESS: Comments, which should refer to Docket No. R-0515A should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 A.M. and 5:15 P.M., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director (202-452-3368), David B. Humphrey, Assistant Director (202-452-2557), Terrence Belton, Economist (202-452-2444), Division of Research and Statistics; Elliott C. McEntee, Associate Director (202-452-2231), Florence M. Young, Adviser (202-452-3955), Nancy R. Wesolowski, Operations Analyst (202-452-3437), Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney (202-452-2489), Legal Division; Jeffrey C. Marquardt, Economist (202-452-2360), Division of International Finance; Anthony G. Cornyn, Assistant Director (202-452-3450), Division of Banking Supervision and Regulation; or Joy W. O'Connell, TDD (202-452-3244).

SUPPLEMENTARY INFORMATION: Over the past several years, the Board has become increasingly concerned with the risks that on large-dollar payments systems present to depository institutions using them, to the banking system, and to other sectors of the economy. In March, 1984, the Board issued for public comment a series of proposals to reduce and control these risks. In a related action today (Docket No. R-0515), the Board issued a statement of the policy it has formulated to reduce these risks. The Board's policy, reflecting the need for flexibility and the desires of those who commented, relies heavily on the efforts of participants to identify, control, and reduce their own risks.

In formulating its policies to reduce risks on large-dollar payments systems and control daylight overdrafts of Fedwire, the Board has always been concerned about the impact that overdraft restrictions could have on the U.S. government securities market. The smooth functioning of this maket is vital both to the conduct of monetary policy through Federal Reserve open market operations and to the efficient funding of the federal debt. Consequently the Board has thus far exempted from quatiative overdraft controls those Fedwire daylight overdrafts resulting from the transfer of book-entry securities.[1] The Board originally had hoped to develop a plan whereby such overdrafts would be collateralized with the underlying securities being transferred. It appears, however, that depository institutions might not be authorized to pledge all of these securities because of arrangements they may have with their customers. Moreover, operational considerations related to tracking the specific security that caused, and therefore secured, a particular overdraft amount rendered this process unworkable.

The Board has developed, and is requesting comment on, a proposal to control the risks associated with daylight overdrafts resulting from the transfer of book-entry securities. The plan would require institutions incurring book-entry related overdrafts to select one of three collateralization options:

Option 1. No Separate Collateral

Under this option, daylight overdrafts on Fedwire resulting from book-entry securities transactions would not be differentiated from other daylight overdrafts. Each institution's sender net debit cap would be applicable to the sum of their securities overdrafts and other ("funds") daylight overdrafts across all wire systems.

The Board expects that most of the over 1,000 institutions that make book-entry securities transfers would elect this option. Securities transfers represent a small portion of most

[1] Such overdrafts are defined to occur when the institution receiving book-entry securities has received more book-entry securities against payment at a point in time than it has sent. Since receipt of a book-entry security and Fedwire payment to the sender are simultaneous, the sender of the security receives Fedwire payment regardless of the securities overdraft position of the receiver of the securities. The definition used for a book-entry securities overdraft means that such an overdraft could occur even while the receiver's funds account was in credit balance.

institutions' business activity. Thus, there would be little benefit for these institutions in establishing the collateralization and tracking procedures associated with the other options.

Option 2. Stable Pool of Collateral

This option would allow institutions to establish a separate pool of collateral[2] held at the Reserve Bank to secure any daylight overdrafts arising from their book-entry securities business. Collateral in this pool would be pledged by the institution to the Federal Reserve, and the pledged securities or other assets in this account would not be eligible for transfer during the regular business day. Changes in the account could be made overnight. Securities overdrafts in excess of the value of the stable pool would be included with "funds" daylight exposures and covered by the net debit caps that apply to such exposures.

A separate pool of collateral would be useful to correspondent banks that engage in a sizeable securities transfer business but may not have the right to pledge customer book-entry securities being transferred, as required by option 3, below. These institutions generally separate their securities traffic and related funds transactions from other business activity, and their securities-related overdrafts would be too large to be accommodated within the caps that will apply to their other daylight exposures. Therefore, a separate securities collateral pool would be essential to controlling and managing their securities related risks.

Option 3. Pledge Account

Under this option, each institution would enter into an agreement with its Reserve Bank providing for the creation of a special book-entry securities account for deposit of securities that the institution would warrant it has authority to pledge to the Reserve Bank to secure daylight overdrafts. Consequently, each institution would have a minimum of two securities accounts—one to hold pledged securities ("Pledge Account") and one to hold securities ineligible for pledge to the Reserve Bank. The Reserve Bank would rely on the institution's warranty of authority to pledge, which would cover both securities owned by the institution and customer securities that the institution has a right to pledge by virtue of its intra-day credit agreements with its customers. It would be the institution's obligation to instruct customers to direct their senders to deliver eligible securities to the Pledge Account. It would also be the institution's responsibility to transfer ineligible securites out of the Pledge Account promptly upon learning of their ineligibility.

On the basis of this agreement, the Reserve Bank would permit the institution to incur a securities-related overdraft. To determine when an overdraft occurs, a separate dollar balance would be kept for securities transactions. At the beginning of each day, a separate securities dollar balance of zero ($0) would be established for each institution, and such balance would be recorded separately from other activity in the account while the securities wire is open. A securities-related overdraft would occur when the payments for securities received exceeds the dollar credits posted to the securities dollar balance. The occurrence of a securities-related overdraft will automatically trigger the pledge of securities deposited in the Pledge Account.

During the day, the institution may continue to run a securities-related overdraft provided that the Pledge Account contains securities of a value equal to the overdraft. If an incoming transfer of securities ineligible for pledge would increase the securities-related overdraft beyond the value of the collateral, a separate pool of non-transferrable collateral provided specifically for securities transfers could be used to secure the remaining exposure. Overdrafts above the sum of the pledged book-entry and definitive collateral pool would be included in "funds only" overdrafts subject to the institution's sender net debit cap. In this fashion, the entire securities-related daylight overdraft would either be secured by the pool of pledge-eligible securities, by a separate non-transferrable pool of collateral, or combined with "funds" daylight exposures.

Of the three options presented, this one relies most heavily on the quality of a financial institution's internal management and control. In contrast to the other two approaches, this option does ot result in any de-facto cap on daylight exposure; indeed, this approach can yield a result in which such exposures are limited only by the capacity of banks to collateralize their own credit extensions to dealers. This option also does little to require changes in market practices, such as the intra-day receipt/delivery matching process, that clearly exacerbate the level of intra-day risk exposure. In that regard, the Board proposes that institutions selecting this option be examined by the Federal Reserve and other bank supervisors to ensure that the collateralization process is property administered by participating banks. Proper administration should both protect the interests of third parties in securities, and encourage changes over time in market practices of large clearing banks in ways that will reduce Reserve Bank and systemic exposure. Such changes and careful supervision of depository institution management and control of the securities clearing business are necessary before the Federal Reserve, federal and state bank supervisors, market participants, and investors can be truly comfortable with this option.

This proposed option differs in a major way from an approach favored by the large clearing institutions. These institutions maintain that the value of the collateral in the Pledge Account will almost certainly not cover securities-related daylight overdraft amounts. This is because some portion of their daylight overdrafts arises out of transactions for trust accounts or involves securities that cannot be pledged to the Reserve Bank. The clearing banks maintain, however, that they should have enough collateral in the Pledge Account to secure about 90 percent of their securitries-related daylight overdraft, and have argued that option 3 should provide a percentage of unsecured credit of at least 10 percent for book-entry overdrafts. The purpose of this unsecured credit would be to provide flexibility to the large clearers, and to avoid as much as possible any mixing of their securities business with other funding activity. They do agree, however, that if collateral value in the Pledge Account fell below 90 percent of the overdraft, the remaining amounts would be covered by a separate pool of securities, or be combined with other funds exposures under the applicable net debit cap.

Another issue is whether it would be necessary to perform a market value check on the securities being transferred by book-entry. Under the current securities transfer process, there is no check that the cash debit associated with a securities transfer has any relationship to the market value of the securities. The transferring institution specifies the purchase price, but it can send securities against no payment, or conceivably, for an amount much greater than the value of the securities. The cash credit for securities being transferred is made simultaneously with the transfer at the purchase price and

[2] Such as collateral already on deposit at Reserve Banks to secure potential discount window advances.

the receiving institution is immediately debited for the same amount. This procedure dates from the origins of the book-entry process in the early 1960s. The Federal Reserve assumed the risk of ensuring that the cash credits given to the originators of securities transfers would be ultimately covered by the recipient who would be debited. Clearly, this process is in conflict with the current emphasis on daylight exposure measurement and control.

The Federal Reserve has not previously considered a market value check necessary, but has relied upon sending and receiving institutions to adjust under/and over-payments through the reversal process. However, the possibility that the purchase price and the value of securities being transferred could be seriously out of line provides an opportunity for the seller of securities to acquire, at least temporarily, cash in a fraudulent way. Moreover, this deficiency could seriously undermine the collateralization process recommended under option 3, since the Reserve Banks would have no assurance that collateral amounts held in the Pledge Accounts were actually worth the funds extended to the purchaser for them in the form of a daylight overdraft. Thus, the Board Proposes that the securities transfer system used by Reserve Banks be modified to include a reasonableness check between the purchase price and the market value of the securities being transferred. This may be difficult operationally and require market changes. However, this control deficiency will have to be addressed if the collateralization process is to be meaningful.

The Board requests comments from the public on all aspects of this proposal; specifically:

1. Will the choice among the three options proposed meet the needs of all institutions involved in the book-entry securities market? Will any type of institution or any particular institution be seriously disadvantaged by the collateralization proposal? If so, what further collateralization or other option(s) might be proposed, recognizing that the aim is to secure daylight exposures arising out of securities transfers to the greatest degree possible—or to include such exposure within an institution's sender net debit cap—with the least impact on the government securities markets? Will implementation of any of the proposals have any impact on the ability of market participants to turn items around? Will the proposals require any significant extension of the time that the securities wire must remain open?

2. What will it cost for an institution to implement the option it would likely choose (please specify the option)? Will the option chosen be costly to operate? If so, will this affect the efficiency of the U.S. government securities market?

3. Should institutions choosing option 3 ("Pledge Account") be allowed an amount of unsecured credit on any overdraft amount as has been indicated is needed by the large clearing institutions? If not, could such institutions supplement the Pledge Account with non-transferrable collateral up to 100 percent of their book-entry securities overdraft? If not, can the amount uncovered be included with all other daylight overdrafts and subject to net debit caps? What are the costs and market implications of these approaches?

4. If the Federal Reserve adopts the proposed market value check on the purchase price of securities being transfered, market participants may also have to adopt such a practice. Are such measures necessary? If so, how much would such a development effort cost?

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

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-12314 Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0515C]

Request for Comments on Net Settlement Arrangements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: In a related action today (Docket No. R-0515), the Board issued a statement of its policy to reduce risks on large-dollar electronic funds transfer systems. The Board did not, however, resolve the issues of risks arising from the provision of net settlement services to other than large-dollar transfer systems. The Board is requesting, therefore, comment on issues relating to risks inherent to such arrangements.

DATE: Comments must be received by August 15, 1985.

ADDRESS: Comments, which should refer to Docket No. R-0515C should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 A.M. and 5:15 P.M. Comments received may be inspected in room B-1122 between 8:45 A.M. and 5:15 P.M., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director (202-452-3368), David B. Humphrey, Assistant Director (202-452-2557), Terrence Belton, Economist (202-452-2444), Division of Research and Statistics; Elliott C. McEntee, Associate Director (202-452-2231), Florence M. Young, Adviser (202-452-3955), Nancy R. Wesolowski, Operations Analyst (202-452-3437), Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney (202-452-2489), Legal Division; Jeffrey C. Marquardt, Economist (202-452-2360), Division of International Finance; Anthony G. Cornyn, Assistant Director (202-452-3450), Division of Banking Supervision and Regulation; or Joy W. O'Connell, TDD (202-452-3244).

SUPPLEMENTARY INFORMATION: Over the past several years, the Board has become increasingly concerned with the risks that large-dollar payments systems present to depository institutions using them, to the banking system, and to other sectors of the economy. In March, 1984, the Board issued for public comment a series of proposals to reduce and control these risks. In a related action today (Docket No. R-0515), the Board issued a statement of the policy it has formulated to reduce these risks. The Board's policy, reflecting the need for flexibility and the desires of those who commented, relies heavily on the efforts of participants to identify, control, and reduce their own risks.

Currently, the Federal Reserve provides net settlement services to a variety of private sector clearing arrangements in addition to large-dollar funds transfer networks; *e.g.*, check clearing houses, credit card processors, automated clearing houses (ACHs), and small-dollar funds transfer networks, such as, automated teller machine (ATM) and point-of-sale (POS) networks.

The finality accorded net settlement entries varies. In most cases, net settlement entries that the Federal Reserve processes for large-dollar funds transfer networks are accorded same-day finality. Net settlement entries for some check clearing house arrangements are also treated as final on the business day they are received. Net settlement entries for ATM, POS, and some ACHs are considered provisional until the business day following the receipt of the settlement data.

From the perspective of the Federal Reserve, the potential for financial loss is greater when settlement entries are accorded same-day finality and lower when next-day finality is provided. This is because the risk of loss increases as the time the Reserve banks have to ensure that institutions possess sufficient balances to cover net debit positions is reduced. Conversely, for depository institutions participating in private clearing arrangements, financial risk declines as the time between the exchange of transaction data (or the settlement date in the case of the ACH) and the finality of settlement entries is reduced. Therefore, same day finality reduces temporal risk for participants in private clearing arrangements, shifting that risk to the Federal Reserve. As private sector, temporal risk is reduced, systemic risk is also reduced.

The second factor concerning the risk faced by depository institutions participating in private clearing arrangements is the treatment that they accord the transactions that are exchanged in these arrangements. If funds are made available to customers as the transaction data are received—a common practice for participants on funds transfer networks—or on a specified settlement date—in the case of participants in ACH networks—then the timing of finality for settlement entries directly affects the risk faced by the participating institutions. On the other hand, if the underlying transactions are treated as provisional payments to customers and funds are not made available immediately, the timing of finality of settlement entries may not substantially increase participating institutions' risk.

Because the Board is reconsidering certain aspects of risks associated with providing net settlement services, it is requesting public comment on the following issues:

1. Should the terms of net settlement arrangements vary based on the type of transactions being settled?

(a) If they should vary, should the differences be reflected in the finality accorded settlement entries (same-day or next-day) or be reflected on the controls imposed in the group of depository institutions requesting net settlement services?

(b) If they should vary, what types of settlement should be provided to:

- Privately operated ACHs?
- ATM networks?
- POS networks?
- Check clearing houses?
- Credit card processors?

2. If they should not vary, please explain why.

3. How do the terms of settlement arrangements affect the way your depository institution handles the following underlying transactions, that is, as final or provisional payments:

- ACH transactions?
- ATM transactions?
- POS transactions?
- Checks?
- Credit cards?

4. If the terms of net settlement arrangements do not affect the way your institution handles the underlying transactions, what factors are considered in determining the treatment accorded:

- ACH transactions?
- ATM transactions?
- POS transactions?
- Checks?
- Credit cards?

5. Should institutions participating in private clearing arrangements "guarantee" settlement or provide a means whereby settlement is assured, such as, through the use of insurance, indemnification, or collateral, in the event that one or more participants may be unable to settle? What type of "settlement guarantee" arrangement would be most effective?

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

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-12316, Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

[Docket No. R-0515D]

Request for Comment on Information Collection Request Directed to Automated Clearing Houses

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for comments.

SUMMARY: In related action today (Docket No. R-0515), the Board issued a statement of its policy to reduce risks on large-dollar electronic funds transfer systems. As part of this policy, the Board has required that automated clearinghouses (ACHs) obtaining net settlement services from the Federal Reserve must, among other things, provide the Federal Reserve with certain information. Accordingly, the Board is requesting comment on the parameters of this information collection request.

DATE: Comments must be received by June 17, 1985.

ADDRESS: Comments, which should refer to Docket No. R-0515D should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 20551, or delivered to room B-2223 between 8:45 A.M. and 5:15 P.M. Comments received may be inspected in room B-1122 between 8:45 A.M. and 5:15 P.M., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information, 12 CFR 261.6(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Mr. Robert Neal, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: Edward C. Ettin, Deputy Director (202-452-3368), David B. Humphrey, Assistant Director (202-452-2557), Division of Research and Statistics; Elliott C. McEntee, Associate Director (202-452-2231), Florence M. Young, Adviser (202-452-3955), Division of Federal Reserve Bank Operations; Joseph R. Alexander, Attorney (202-452-2489), Legal Division; or Joy W. O'Connell, TDD (202-452-3244).

A copy of the request for clearance (SF 83), supporting statement, instructions, and other documents that will be placed into OMB's public docket files once the collection is approved may be requested from the agency clearance officer, whose name appears below. Federal Reserve Board Clearance Officer: Ms. Cynthia Glassman, Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3829).

SUPPLEMENTARY INFORMATION: Over the past several years, the Board has become increasingly concerned about the risks that large-dollar payments systems present to depository institutions using them, to the banking system, and to other sectors of the economy. In a related action today (Docket No. R-0515), the Board issued a statement of the policy it has formulated to reduce these risks.

The Board's policy statement noted that its concern with risks on large-dollar payment systems did not originally encompass the risks posed by ACHs because the ACH was regarded as a small-dollar payments system. Recently, however, the ACH has been evolving in such a way that it appears to be taking on many of the characteristics of large-dollar systems and consequently presents many of the same risks. Accordingly, the Board has directed its staff to undertake a study of ACH risk and is requesting comment on various aspects of such risks. (See Docket No. R-0515B.)

Until the Board's study of ACH risk is complete and the Board has formulated a new policy to deal with such risk, the Board is modifying its procedures for ex post monitoring of intra-day credit exposures to (1) recognize the potential risks associated with ACH transactions processed by both the Federal Reserve and privately operated ACHs, and (2) inhibit the use of the ACH to circumvent the Board's risk reduction policies adopted today. Specifically, the Board intends that, for the purpose of ex post monitoring, gross debits resulting from the origination of credit transactions and gross credits resulting from the receipt of credit transactions will be posted at the Reserve Bank's opening of business on the settlement date, and gross credits resulting from the origination of debit transactions and the gross debits resulting from the receipt of debit transactions will be posted at the Reserve Bank's close of business on the settlement date.[1] This procedure would result in posting the net of ACH credit transactions in the ex post monitoring system at the opening of business on the settlement date and in posting the net of ACH debit transactions at the close of business on the settlement date.

The Board has also determined that privately operated ACHs will not be eligible to receive Federal Reserve net settlement services unless they agree to provide the Federal Reserve with the data necessary to include transactions processed over their networks in the ex post monitoring system. Under the new ex post monitoring proceeding, the information that will be required from each ACH will be the total dollar value for each ACH participant of the following elements: (1) Gross debits resulting from the origination of credit transactions, (2) gross credits resulting from the receipt of credit transactions, (3) gross credits resulting from the origination of debit transactions, and (4) gross debits resulting from the receipt of debit transactions. Beginning September 30, 1985, the information is to be provided to the Reserve Bank providing the net settlement service.

The Board requests comment on the following aspects of this information collection request:

1. Which of the following would be least costly or burdensome:

(a) to provide each of the four data elements for each participant regardless of the amount of each element?

(b) to provide for each participant only the value of the data element when it exceeds a specified amount, e.g., $5,000; $10,000; $25,000; $50,000; $100,000.

2. Given the Board's objectives, is there any way in which it could obtain this information in any less costly or burdensome manner for the purposes of ex post monitoring?

In accordance with section 3507 of the Paperwork Reduction Act of 1980, 44 U.S.C. section 3507, and the regulations issued thereunder, 5 CFR 1320.12, these information collection requests will be submitted to the Board for review under delegated authority from the Office of Management and Budget after consideration of the comments received during the 30 day comment period.

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

William W. Wiles,

Secretary of the Board.

[FR Doc. 85-12317 Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

[1] This posting procedure is for ex post monitoring purposes only and will in no way change when actual settlement entries are made and when ACH transactions become final. Generally, funds provided to receivers of ACH credit transactions processed by Reserve Banks are treated as final payments at the opening of business on the settlement date. Funds provided to originators of ACH debit transactions processed by the Reserve Banks are posted on the settlement date, but are considered provisional payments until the business day following the settlement date.

[Docket No. R-0546; BGFRS-21]

Privacy Act; Privacy Act Extract Program

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Report of a Proposed New System of Records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974 (5 U.S.C. 552a) the Board of Governors of the Federal Reserve System gives public notice of its intention to establish a new system of records: BGFRS21: FRB—Supervisory Tracking and Reference System. The proposed new system of records will enable the Board of Governors' staff to track more effectively the progress of matters that have been referred to law enforcement agencies by the Federal Reserve Banks, State chartered commercial banks that are members of the Federal Reserve System, and other financial institutions supervised by the Board.

DATE: Public comments are invited on this notice and must be received not later than July 16, 1985.

ADDRESS: Comments on the proposed new system of records should be addressed to William W. Wiles, Secretary of the Board, Constitution Avenue at 20th Street, NW., Washington, D.C. 20551. All material should be in writing and should contain the docket number R-0546. All written documents will be available for public inspection from 8:45 a.m. to 5:15 p.m., at the Office of the Secretary, Public Information Office, Room B-1122, at the above address.

FOR FURTHER INFORMATION CONTACT: Herbert A. Biern, Assistant Director, Division of Banking Supervision and Regulation, (202) 452-2620; Susan Meyers, Securities Regulation Analyst, Division of Banking Supervision and Regulation, (202) 452-2781; Mary Ellen A. Brown, Assistant to the General Counsel, Legal Division (202) 452-3608; or Joy D. O'Connell, TDD (202) 452-3244).

SUPPLEMENTARY INFORMATION: Recently, the five federal financial supevisory agencies and the United States Department of Justice organized a joint interagency group to study criminal misconduct and other irregularities occurring at financial institution. Among the first tasks of the interagency group was to review the recommendations of the recent Congressional committee that held hearings on bank failures, criminal activity, and other actions that threatened the safety or soundness of financial institutions; the appointment of agency staff liaisons; and the development of a uniform report format for the reporting of incidents or indicators of misconduct or violations of statutes or regulations.

In conjunction with the Board's participation in the interagency group, the Board's staff is developing both new report forms for referring these types of misconduct to federal law enforcement authorities, and attendant recordkeeping procedures and systems. Staff members have been assigned to monitor and coordinate these referrals, including referrals of transactions involving insider abuse and bank officer and employee defalcations. As part of this monitoring process, the staff has developed a new recordkeeping system that will, among other things, permit Board enforcement personnel to track more effectively the referrals to law enforcement agencies made by the Federal Reserve Banks, state chartered commercial banks that are members of the Federal Reserve System, and other financial institutions supervised by the Board. The new system of records will assist in the coordination of appropriate administrative proceedings, and civil or criminal actions against financial institutions and persons associated with them.

The proposed new system of records consists of information that will enable

the Board to track more effectively the progress of banking irregularities that have been referred to law enforcement agencies for investigation or prosecution. The information will also be used to warn Federal Reserve Banks of certain institutions or individuals who have been involved in wrongdoing in connection with financial institutions where there is reason to believe that such individuals or institutions may be acting on an interstate or nationwide basis as part of a scheme to defraud or otherwise harm financial institutions. It is essential to the safety and soundness of the banking system that the Federal Reserve Banks be alerted to the possibility of criminal misconduct by such parties should such persons become involved in or attempt to enter the banking business. The proposed new system of records, therefore, will enhance the Board's supervisory responsibilities for banks and bank holding companies by providing early warning of potential supervisory problems involving persons connected with bank-related crimes. The new system will also allow Board staff to monitor criminal investigations and coordinate their supervisory actions with law enforcement authorities.

Certain information contained in the new system is proposed to be exempted from disclosure, under the authority of 5 U.S.C. 552a(k)(2), as described more fully in the report of the proposed new system of records.

A report of this new system or records was filed with the President of the Senate, the Speaker of the House of Representatives, and the Director of the Office of Management and Budget on May 16, 1985. This new system of records will become effective on July 16, 1985, without further notice, unless the Board publishes a notice to the contrary in the **Federal Register.**

By order of the Board of Governors, May 16, 1985.

William W. Wiles,

Secretary of the Board.

BGFRS-21

SYSTEM NAME:

FRB–Supervisory Tracking and Reference System.

SYSTEM LOCATION:

Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Directors, officers, employees, agents and persons participating in the conduct of the affairs of entities regulated by the Board of Governors of the Federal Reserve System who have been involved in suspected criminal activity and referred to law enforcement officials, and other individuals who have been involved in irregularities, violations of law or unsafe or unsound practices referenced in documents received by the Board in the course of exercising its supervisory functions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Inter- and intra-agency correspondence, memoranda and reports. May contain references to federal or state criminal law enforcement reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

a. 12 U.S.C. 248(a)(1)—Authorizes the Board to examine all state chartered commercial banks that are members of the Federal Reserve System.

b. 12 U.S.C. 1844—Authorizes the Board to examine and otherwise regulate bank holding companies.

c. 12 U.S.C. 661—Authorizes the Board to regulate Edge Act corporations.

d. 15 U.S.C. 78g, 78h and 78w—Authorizes the Board to examine/inspect lenders who extend securities credit (i.e., banks, broker-dealers and "G-lenders").

e. 15 U.S.C. 78q–1(d)(3)(A)(ii)—Authorizes the Board to examine transfer agents.

f. 15 U.S.C. 78o–4(b)(2)(E), 78o–4(c)(7)(A)—Authorizes the Board to examine or inspect municipal securities dealers.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

a. In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statutue or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether federal or state, charged with the responsibility of investigating such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. Such disclosures will be consistent with the Right to Financial Privacy Act (12 U.S.C. 3401 *et seq.*).

b. In the event of litigation, certain records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence in the course of discovery.

c. Disclosure may be made to the financial institution affected by a discovered irregularity.

d. Disclosure may be made to another federal or state financial supervisory agency if the individual involved has notified that agency of his/her intent to acquire controlling interest in a bank or bank holding company; or has filed an application to merge with another financial institution; or has applied for a bank charter, or to form a bank holding company, or to acquire a bank or banks, or to engage directly or indirectly in certain nonbanking activities; or has or will become associated with a financial institution under that agency's supervision; or has engaged in activities which may pose a threat to the well being of a financial institution under the financial supervisory agency's jurisdiction.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records will be maintained in electronic data processing systems and in paper and card files.

RETRIEVABILITY:

Computer output, file folders, and card files are retrievable by indexes of data fields, including name of financial institution, Federal Reserve Bank District, subject individual's name, and perhaps control form numbers.

SAFEGUARDS:

Paper records and word processing discs are stored in lockable metal file cabinets. Other computer-stored information will be protected by appropriate security coding methods. Only a very limited number of authorized personnel who have a legitimate need for the information may gain access to the records.

RETENTION AND DISPOSAL:

Records are maintained indefinitely.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Director (Cease and Desist Program), Division of Banking Supervision & Regulation, Board of Governors of the Federal Reserve System, 20th & C Streets, N.W., Washington, D.C. 20551, (202) 452–3000.

NOTIFICATION PROCEDURES:

A person requesting notice as to whether this system of records contains information pertaining to him or her should write to the Division of Banking Supervision and Regulation, at the address below, enclosing his or her full name, current address, and a notarized

statement attesting to the individual's identity. Simultaneously with requesting notification of inclusion in the System of Records, the individual may request record access as described in the following section on "Record Access Procedures."

Assistant Director (Cease and Desist Program), Division of Banking Supervision & Regulation, Board of Governors of the Federal Reserve System, 20th & C Streets, N.W., Washington, D.C. 20551.

RECORD ACCESS PROCEDURES:

Individuals who, through notification procedures set out above, have established that the system of records contains information pertaining to them, may request access to those records by writing to the Division of Banking Supervision and Regulation at the address given above. If access to such information by a subject individual is deemed consistent with the purposes for which this system of records has been established then the individual will be notified by the Board as to the time and place for access to the records. The Board will also notify individuals when access is denied.

CONTESTING RECORD PROCEDURES:

Individuals who seek to contest records in this system of records should: contact the Division of Banking Supervision and Regulation at the address given above, reasonably identify the records, specify the information being contested, the rationale for the challenge, and supply the information requested to be substituted.

RECORD SOURCE CATEGORIES:

Information received by the Board from various sources, including, *inter alia*, law enforcement and other agency personnel involved in sending inquiries to the Board, documents received by the Board in the course of executing the Board's supervisory responsibilities, and reports and forms filed by individuals to whom the records pertain.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to subsection (k)(2) of the Privacy Act and the Board's regulation relating thereto (12 CFR 261a.13(a)(2)), all portions of this system of records are designated as exempt from certain provisions of the Privacy Act as investigatory material compiled for law enforcement purposes.

Report of a Proposed New System of Records, BGFRS–21

A. Name of Proposed New System of Records

BGFRS–21, FRB—Supervisory Tracking and Reference System.

B. Introduction

This report has been prepared in compliance with 5 U.S.C. 552a(o) and the guidelines established by OMB Circular A–108.

C. Background and Purpose

1. *Background:* The Board of Governors of the Federal Reserve System and the Federal Reserve Banks, under delegated authority, take formal enforcement actions directly against individuals who are current or former officers, directors or persons participating in the conduct of the affairs of state chartered commercial banks that are members of the Federal Reserve System, bank holding companies and nonbank subsidiaries thereof, when the practices or violations of such individuals warrant these actions. Formal enforcement actions include: the issuance of cease and desist orders under section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. 1818(b)) and temporary cease and desist orders under section 8(c) of the Federal Deposit Insurance Act (12 U.S.C. 1818(c)); the execution of written agreements; the issuance of suspension, removal and prohibition orders under section 8(e) of the Federal Deposit Insurance Act, (12 U.S.C. 1818(e)); and the payment of civil money penalty fines pursuant to the several statutes authorizing the Board's assessment of penalties.

The number of enforcement actions directly involving individuals has been increasing sharply. In 1984, the Board and the Federal Reserve Banks completed 80 enforcement actions. These actions involved a total of 51 individuals—with some individuals being involved with more than one action. The year 1985 began with 47 enforcement cases pending, and these actions already involve 50 individuals.

2. *Purpose.* In order to ensure the each Federal Reserve Bank is fully informed regarding formal enforcement actions completed or pending against individuals, the Board plans to report these enforcement activities on a regular basis and distribute these reports to the Federal Reserve Banks. These reports, which are *solely for internal System use,* will be updated periodically. Each report will identify the individual, the type of action with which the individual is involved, and the type of financial institution involved, and will indicate whether an enforcement action is completed or is pending.

Each Federal Reserve Bank is expected to develop internal procedures designed to ensure that staff members responsible for such matters as applications and notices regarding changes in bank control will be fully informed regarding the identity of persons subject to formal enforcement actions undertaken by the Federal Reserve System.

The Board also expects to expand this report format to include certain information relating to criminal referrals in instances where such referrals involve insider abuse and officers and directors of financial institutions that are subject to the Board's jurisdiction.

Documents referencing individuals affiliated with banks or other institutions supervised by the Federal Reserve System, who have been involved in suspected criminal activities or other irregular activities, will be collected and maintained in this proposed new system of records for the purpose of preparing these periodic reports.

The proposed new system will also enable Board staff to track more effectively the progress of matters that have been referred to law enforcement agencies by the Board and Federal Reserve Banks and to coordinate appropriate administrative and criminal actions against problem financial institutions and persons associated with them.

D. Number of individuals in the New System

The number of individuals in the proposed new system will vary. As the Board proposes to maintain these records indifinitely, the number of individuals will increase over time. At the present time, the proposed new system will contain information about individuals who were or are the subjects of Federal Reserve System enforcement actions or who have been referred to law enforcement agencies as suspected criminal offenders, from about 1980 to the present date, totalling probably a few hundred individuals.

E. Applicability of Various Federal Statutes

1. *Paper work Reduction Act.* This proposed new system of records is not covered by the Paperwork Reduction Act, 44 U.S.C. 3501–3520, or regulations issued by the Office of Management and Budget under the Act, 5 CFR Part 1320, because it is not a "collection of information" within the meaning of

either the Act or the regulations. The Act defines the term "collection of information" to mean "the soliciting of facts or opinions by an agency through the use of written report forms, application forms, schedules, questionnaires, reporting or recordkeeping requirements, or other similar methods * * *" 44 U.S.C. 3502(4). The definition in the Office of Management and Budget regulations is similar, although somewhat more detailed. 5 CFR 1320.7(c).

Information maintained in the proposed new system will be compiled substantially from information obtained during the examination process. The Board and the other four federal financial supervisory agencies have taken the position that the examination process is not subject to the Paperwork Reduction Act because of the exemption in Office of Management and Budget rules for on-site inspections. 5 CFR 1320.7(k)(3).

2. *First Amendment Rights.* No information in the proposed new system will describe how an individual exercises rights guaranteed by the First Amendment.

F. Statutory Authority to Maintain this System

1. 12 U.S.C. 248(a)(1)—Authorizes the Board to examine all state chartered commercial banks that are members of the Federal Reserve System;

2. 12 U.S.C. 1844—Authorizes the Board to examine and otherwise regulate bank holding companies;

3. 12 U.S.C. 611—Authorizes the Board to regulate Edge Act corporations;

4. 15 U.S.C. 78g, 78h and 78w—Authorizes the Board to examine/inspect lenders who extend securities credit (*i.e.*, banks, broker-dealers, etc.);

5. 15 U.S.C. 78q–1(d)(3)(A)(ii)—Authorizes the Board to examine transfer agents; and

6. 15 U.S.C. 78o–4(b)(2)(E), 78o–4(c)(7)(A)—Authorizes the Board to examine or inspect municipal securities dealers.

G. An evaluation of the Probable or Potential Effects of This System of Records on the Rights of Individuals to Privacy and on the Preservation of Certain Constitutional Principles

1. *Effect on the Private or other Personal or Property Rights of Individuals.* The Board proposes to establish this system in accordance with the principles and requirements of the Privacy Act. The Board anticipates no adverse effects on the privacy or personal rights of individuals.

The Board will collect, use and disseminate information as the Privacy Act prescribes. The Board will take precautionary measures to minimize the risks of unauthorized access to these records and the potential harm to individual privacy or other personal or property rights of individuals. (See Section H. below)

This proposed new system of records is central to fulfilling the Board's responsibility to assure the safety and soundness of banks and other entities supervised by the Board, by providing a mechanism to track more effectively the progress of banking irregularities that have been referred to law enforcement authorities for investigation or prosecution and formal enforcement actions involving officers, directors, employees and agents in their individual capacities. The information will also be used to warn Federal Reserve Banks of certain institutions or individuals who are alleged to have been involved in criminal wrongdoing, or other irregularities in connection with financial institutions, where there is reason to believe that such individuals or institutions may be acting on an interstate or nationwide basis as part of a scheme to defraud or otherwise harm financial institutions. It is essential to the safety and soundness of the banking system that the Federal Reserve Banks be alerted to the possibility of misconduct, especially criminal misconduct, by such persons if they become involved in or attempt to enter the banking business. The new system of records will enhance the Board's supervisory functions by providing early warning of potential supervisory problems involving persons linked to bank-related misconduct. The new system of records will also allow Board staff to monitor investigations and to coordinate supervisory actions with law enforcement authorities.

This system will be maintained only for the purpose of enhancing the Federal Reserve System's supervisory authority. The system will not be used in whole or in part to make any determination about benefits or other rights of any individual.

2. *Effects of Disclosure of Information.* Only such information as is necessary to assist the Federal Reserve System in executing its supervisory responsibilities will be collected and maintained in this proposed new system of records. Intra-Federal Reserve System disclosures will be made (to Federal Reserve Banks), and disclosures may be made also to other federal or state financial supervisory agencies; to a financial institution (*e.g.*, bank) affected by a discovered irregularity; or, in the event of litigation, to the appropriate court, magistrate or administrative tribunal, or pursuant to discovery. Disclosures will be made in full accordance with provisions of the Privacy Act of 1974, (5 U.S.C. 552a), and the Right to Financial Privacy Act of 1978. (12 U.S.C. 3401 *et seq.*). Moreover, the establishment of the safeguards discussed in section H. below should ensure the security and confidentiality of information maintained in this new system.

For these reasons, the Board anticipates no untoward effect resulting from the disclosure of information maintained in this new system.

3. *Effects on the Preservation of the Constitutional Principles of Federalism and Separation of Powers.* The Board anticipates that the proposed new system will have no effect on these principles.

H. Measures Taken to Minimize the Risk of Unauthorized Access

Both physical and automated safeguards will be utilized to protect records from unauthorized access. Paper records and word processing disks will be stored in locked metal cabinets. Computer-stored information will be protected by appropriate security coding methods. Only a very limited number of authorized personnel who have a legitimate need for the information will be able to gain access to these records.

I. Supporting Documentation

1. **Federal Register** *Notice.* An advance copy of the **Federal Register** Notice is attached.

2. *Board Rules.* No change in existing Board rules is required for this proposed new system of records, since the Board has promulgated a rule exempting information in systems of records, 12 CFR 261a.13.

3. *Exemption Requested.* Pursuant to 5 U.S.C. 552a(k)(2), the proposed system of records may contain records which are exempt from certain provisions of the Privacy Act of 1974. These records will consist of investigatory material. The exemption under 5 U.S.C. 552a(k)(2) is claimed for this system because it will contain investigatory material pertaining to the enforcement of criminal laws and/or compiled for the purpose of enforcing laws administered by the Board in its financial institutions supervisory capacity. Provisions of the Privacy Act of 1974 from which exemptions are claimed under 5 U.S.C. 552a(k)(2) are as follows:

5 U.S.C. 552a(c)(3)
5 U.S.C. 552a(d) (1), (2), (3) and (4)
5 U.S.C. 552a(e)(1)
5 U.S.C. 552a(e)(4) (G), (H), (I)
5 U.S.C. 552a(f)

4. *Reasons why the proposed new System of Records is to be Exempted from Certain Provisions of the Privacy Act of 1974.* (a) 5 U.S.C. 552a(c)(3) requires that an agency make accountings of disclosures of records available to individuals named in the records at the request of such individuals. These accountings must state the date, nature and purpose of each disclosure of the record and the name and address of the recipient. The application of this provision would alert subjects of an investigation or criminal referral to the existence of the investigation or referral and that such persons are the subjects of the investigation or referral. Since release of such information would provide the subjects with significant information concerning the nature of the investigation or referral, it could result in flight of the suspect(s) the altering or destruction of the evidence, improper influencing or intimidation of witnesses, and other activities that could impede or compromise an investigation.

(b) *5 U.S.C. 552a, (d) (1), (2), (3), and (4); (e)(4) (G) and (H); and (f)* relate to an individual's right to be notified of the existence of records pertaining to such individual; requirements for identifying an individual who requests access to records; and agency procedures relating to access to records and the content of information contained in such records.

Exemption from these requirements is being claimed for the following reasons: To notify an individual at the individual's request of the existence of records in an investigative file pertaining to such individual or to grant access to such an investigative file could (i) interfere with investigative and enforcement proceedings; (ii) constitute an unwarranted invasion of the personal privacy of others; (iv) disclose the identity of confidential sources; (v) reveal confidential information supplied by these sources; or (vi) disclose investigative techniques and procedures.

(c) *5 U.S.C. 552a(e)(4)(I)* requires the publication of the categories of sources of records in each system of records. The application of this provision could disclose investigative techniques and procedures and cause sources to refrain from giving such information because of fear of reprisal, or fear of breach of a promise of anonymity and confidentiality—consequences that would compromise the ability to conduct investigations, and to identify, detect, and apprehend violators.

(d) *5 U.S.C. 552a(e)(1)* requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or Executive Order. An exemption from this section of the Act is needed because:

(i) It is not possible to detect relevance or necessity of specific information in the early stages of a criminal or other investigation.

(ii) Relevance and necessity are questions of judgment and timing. What appears relevant and necessary when collected may ultimately be determined to be unnecessary. It is only after the information is evaluated that its relevance can be established.

(iii) In any investigation the Board may obtain information concerning violations of laws other than those within the scope of its jurisdiction. In the interest of effective law enforcement, the Board should retain this information as it may aid in establishing patterns of criminal activity, and provide leads for those law enforcement agencies charged with enforcing other segments of criminal or civil law.

(iv) In interviewing persons, or obtaining other forms of evidence during an investigation, information may be supplied to the investigator which relates to matters incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated.

5. *Documents Exempted.* Exemption will be claimed for certain records only where authorized and appropriate under the above provisions.

6. *Computer Matching.* The proposed new system of records requires no computer matching report, as no matching programs will be undertaken utilizing information from the proposed new system of records with either federal or non-federal agencies.

[FR. Doc. 85-12320 Filed 5-17-85; 8:45 am]
BILLING CODE 6210-01-M

City Banc 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 requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than June 12, 1985.

A. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *City Banc Corporation,* Childersburg, Alabama; to become a bank holding company by acquiring 80 percent of the voting shares of City Bank of Childersburg, Childersburg, Alabama.

2. *Sequatchie County Bancorp, Inc.,* Dunlap, Tennessee; to become a bank holding company by acquiring 100 percent of the voting shares of Sequatchie County Bank, Dunlap, Tennessee.

B. Federal Reserve Bank of Chicago (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Cascade Bancorporation, Inc.,* Cascade, Wisconsin; to become a bank holding company by acquiring 97.5 percent of the voting shares of State Bank of Cascade, Cascade, Wisconsin.

2. *The Marine Corporation,* Milwaukee, Wisconsin; to acquire 100 percent of the voting shares of Firstar Corporation, Appleton, Wisconsin, thereby indirectly acquiring Firstar Bank, N.A., Appleton; Firstar Bank Seymour, N.A., Seymour; Firstar Bank Clintonville, N.A., Clintonville; Firstar Bank Freedom, Freedom; Firstar Bank DePere, DePere; Firstar Bank Larsen, Larsen; Firstar Bank Campbellsport, Campbellsport; and Firstar Bank Oshkosh, N.A., Oshkosh, all located in Wisconsin.

C. Federal Reserve Bank of St. Louis (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Warrick Financial Corporation,* Boonville, Indiana; to become a bank holding company by acquiring 100 percent of the voting shares of Warrick National Bank of Boonville, Boonville, Indiana.

Board of Governors of the Federal Reserve System, May 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12318 Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

Horizon Bancorp; Application To Engage de Novo in Nonbanking Activities

The company list in this notice has 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 225.12(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. 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 effect, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this quesiton 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 disputed, 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 June 7, 1985.

A. Federal Reserve Bank of New York (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Horizon Bancorp*, Morristown, New Jersey; to engage *de novo* through its subsidiary, Horizon State Bank of New York; New York, New York, in consumer and mortgage lending; deposit-taking, including demand deposits; the issuance and sale of U.S. savings bonds, money orders and travelers checks; securities brokerage; and dealing in U.S. Treasury securities. The subsidiary will not engage in commercial lending. These activities will serve the New York City, New York, metropolitan area.

Board of Governors of the Federal Reserve System, May 15, 1985.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 85-12319 Filed 5-21-85; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and and Drug Administration

[Docket No. 85F-0165]

Boots Co. PLC; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a petition has been filed by the Boots Co. PLC proposing that the food additive regulations be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a preservative in adhesives in food-packaging applications.

FOR FURTHER INFORMATION CONTACT: Patricia J. McLaughlin, Center for Food Safety and Applied Nutrition (HFF-334), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 5B3836) has been filed by the Boots Co. PLC, 1, Thane Rd., Bldg. D6, Beeston, Nottingham NG2 3AA, England, proposing that § 175.105 *Adhesives* (21 CFR 175.105) be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a preservative in adhesives in food-packaging applications.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c) (April 26, 1985; 50 FR 16636).

Dated: May 18, 1985.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 85-12289 Filed 5-21-85; 8:45 am]

BILLING CODE 4160-01-M

Social Security Administration

Title II Research Grant: Availability of Grant Funds

Summary

The Acting Commissioner of Social Security announces that applications will be accepted for a research grant which is authorized under sections 1110 and 702 of the Social Security Act as amended. This announcement describes the nature of the grant activity and grantee requirements, and gives notice of the anticipated availability of grant funds for Fiscal Year (FY) 1985 in support of the proposed activity.

Program Purpose

This research effort is intended to add to existing knowledge and to improve methods and techniques for the management, administration, and effectiveness of Social Security Administration (SSA) programs.

Program Goal

The research is expected to analyze the likely trends in the occupational structure of the national economy and establish a method of relating changing job demands to determinations of disability and to methods of rehabilitation.

Project Purpose

This project grant is intended to encourage research in technological trends that affect jobs in the national economy. A need exists to understand better the way in which changes in technology are affecting the physical and mental demands of jobs and their traning requirements to the extent that such changes affect a person's ability to resume past work after a long interruption, or to transfer his/her skills and experience to other work. The project should involve a multi-disciplinary approach which includes analyses of trends in capital investment in technology, of industry-wide impact of technology on changes in the distribution of job types and duties for specific occupational classes, and of the ways in which job requirements are related to the physical and mental capabilities of individuals.

Also, the project should include investigation of methods of defining and

denoting technological changes that significantly affect the requirements of jobs in the national economy, and methods of establishing a reference system for denoting such changes in industries and occupations. The effects of technological change should be related to worker attributes as well as to occupational requirements. The informational system should have the capability of describing the impact of technology on such occupational features as tools, machines, materials, products, processes, services, skills, physical requirements, entry requirements, and training time. It should provide systematic information on how each of these characteristics are affected by technology over time and the patterns of contraction and expansion of entire occupational and industrial sectors. A method of continuous or periodic modification and verification of the information should be developed.

In order to insure the usefulness of the information, the industry and occupational data should be keyed to the *STandard Industrial Classification* (SIC) and *Dictionary of Occupational Titles* (DOT) classification schemes, which are used by vocational rehabilitation counselors, disability determination personnel, and placement specialists to determine the extent of occupational opportunity that exists for an individual, considering his or her vocational qualifications and limitations. It may be necessary to modify or annotate these classifications to provide indicators of change and continuity.

Availability and Duration of Funding

SSA anticipates awarding one grant not to exceed $250,000. The grant award will provide funding support for up to 12 months in duration.

The Application Process

1. Availability of application forms. Application kits which contain the prescribed application forms are available from Social Security Administration OMBP, Division of Contracts and Grants Management, Grants Management Branch, Dogwood West Building, Frist Floor, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207. Telephone (301) 594–0284, Lawrence H. Pullen, Chief Grants Management Branch.

When requesting an application kit, the applicant should refer to this announcement to insure receipt of the proper application.

2. Additional information. For questions concerning project development, please contact Russ Brown, Social Security Administration, Office of Disability, Division of Disability Studies, Room 2232 Annex Building, 6401 Security Boulevard, Baltimore, Maryland 21235. Telephone (301) 594–0310.

3. Grant application submission. In order to be considered for funding, the grant application must be submitted on the standard forms provided by the Division of Contracts and Grants Management. The application shall be executed by an individual authorized to act for an applicant agency and to assume for the agency the obligations imposed by the terms and conditions of the grant award.

As part of the project title (page 1 of the application form SSA–96, item 7) the applicant must clearly indicate the application submitted is in response to this announcement and must include the date of the publication.

4. Grantee share of the project costs. The grant recipient receiving assistance to conduct this project is expected to contribute towards the project costs for each year that funding is requested. Generally, 5 percent of the total costs is considered acceptable. No grant will be awarded that covers 100 percent of the project's costs.

5. Application consideration. Applications are initially screened for their relevance to this announcement. If judged irrelevant, the applications are returned to the applicants. Relevant applications are reviewed and evaluated by a review panel of not less than three persons. A written assessment of each application is made.

Eligible Applicants

Any State of local government, of profit organization, and public or private nonprofit organization or agency (including an educational institution) may apply. Individuals are not eligible to apply.

Profit making organizations may apply. However, no grants funds may be paid as profit to any grant recipient. Profit is considered any amount in excess of the allowable costs incurred by the grant recipient.

Application Approval

Following the selection of an application for funding, SSA plans to issue the grant award in August 1985. The official award document is the Notice of Grant Award. It will provide the amount of funds awarded, the purpose of the award, the budget period for which support is given, and the total grantee participation.

Criteria for Review and Evaluation of Application

Competing applications will be reviewed and evaluated against the following criteria:

1. Do the qualifications of the project personnel indicate they are capable of competently performing their assigned tasks? Is the project's organization (i.e., who will be responsible for what portions of the project and the lines of authority within the organization), appropriate for the proposed research? (20 points)

2. Does the applicant organization have adequate facilities and resources to plan, conduct, and complete the project? (20 points)

3. Is the design of the project adequate and feasible for the proposed research as indicated by the appropriateness of the work statement and the technical approach to the area of inquiry, which includes clarity of goals, use of scientifically valid methods and data, and the scheduling of tasks and milestones? (30 points)

4. Is the budget detailed with justifications and explanations for the requested amounts? Are the costs reasonable and adequately described? Is the procedure planned in an effective manner (in a cost-benefit sense)? (10 points)

5. How closely do the project objectives fit those of the announcement? Is the schedule of tasks for completing the various phases of the project appropriate? (20 points)

Closing Dates

The closing date for receipt of applications in response to this announcement will be July 22, 1985.

Applications may be mailed or personally delivered to: Social Security Administration, OMBP, Division of Contracts and Grants Management, Grants Management Branch, Dogwood West Building, First Floor, 1848 Gwynn Oak Avenue, Baltimore, Maryland 21207.

Hand delivered applications are accepted during normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday, on or prior to the established closing dates.

An application will be considered to be received on time if sent on or before the closing date as evidenced by a legible U.S. Postal Service postmark or a legibly dated receipt from a commercial carrier. Private metered postmarks will not be considered acceptable as proof of timely mailing. Applications submitted by any means other than through the U.S. Postal Service or commercial

carrier shall be considered as acceptable only if physically received at the above address before close of business on the deadline date.

Executive Order 12372—Intergovernmental Review of Federal Programs

These grant activities are not covered by the requirements of Executive Order 12372 relating to the Federal policy for consulting with State and local elected officials in proposed Federal financial assistance.

(Catalog of Federal Domestic Assistance Program No. 13.812—Assistance Payment Research)

Dated: May 9, 1985.

Martha A. McSteen,

Acting Commissioner of Social Security.

[FR Doc. 85-12298 Filed 5-21-85; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[1076-02]

Fort Peck Irrigation Project, MT; Annual Operation and Maintenance Charges and Related Information

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Public notice.

SUMMARY: This notice sets forth changes to the operation and maintenance charges and related information applicable to presently assessable lands located within the Fort Peck Irrigation Project, Montana. The annual assessment rate for operation and maintenance is being changed from $12.00 per acre to $13.30 per acre for the assessable area under constructed works on the Frazer and Wiota units to properly reflect the actual cost for labor, materials, equipment, and services.

EFFECTIVE DATE: This notice shall be effective on and retroactive to April 15, 1985.

FOR FURTHER INFORMATION CONTACT: David L. Allison, Bureau of Indian Affairs, Fort Peck Agency, Box 637, Poplar, Montana 59255. Telephone: 406-768-5311, Extension 240.

SUPPLEMENTARY INFORMATION: This notice is issued pursuant to 25 CFR 171.1 under the authority delegated to the Assistant Secretary for Indian Affairs by the Secretary of the Interior in 209 DMB. This authority is vested in the Secretary of Interior by 5 U.S.C. 301 and 25 U.S.C. 2 and 385. The current operation and maintenance change was established by notice published in the **Federal Register** April 7, 1983, (48 FR 15189). A public notice declaring the intent to raise the operation and maintenance assessment rate to not more than $13.30 per acre was published in two local newspaper and placed in several of the Post Offices and other public buildings throughout the reservation. The Land Operations Officer presented the need to raise the Irrigation operation and maintenance rate at a meeting with the Fort Peck Water Users and the Fort Peck Water Users Association on December 20, 1984, and the Fort Peck Tribal Executive Board on January 15, 1985. Interested persons were given 30 days from the posting date of the Public Notice to submit written comments regarding the proposed operation and maintenance rate. This 30 day period ended April 15, 1985. No written comments were received from any water user during the 30 day period.

The Fort Peck Water Users Association voted not to increase the operation and maintenance rate. In consideration of the water users action, the Superintendent of the Fort Peck Agency requested a meeting with the Fort Peck Water User Executive Committee. As a result of that meeting, an Equipment Operator position was dropped from the proposed budget. The Superintendent advised the Water Users Executive Committee that he would do so with the understanding that the position would be included in the 1986 Operation and Maintenance Budget. On April 15, 1985, the operation and maintenance rate was set at $13.30 per acre.

The following payment and entitlement criteria will be maintained in project files, and will not be republished each year except for changes or as reminders. Payment of the annual basic assessment entitles the water user to 2 Acre-feet of water per acre assessed. Any additional water delivered shall be charged for at the rate of $5.00 per each additional Acre-foot, or final fraction thereof in excess over the basic 2 Acre-feet.

Water users shall make application for each deliver of water at the project office, or with the ditch rider at least 48 hours before requested delivery time to allow adjustment of such times and schedules to fit required system adjustments and contacts between water users and project personnel.

Payment

(a) The basic annual assessment fixed shall become due and payable on April 1 of each calendar year. Charges for excess water delivered during any irrigation season shall be included in the bill for the ensuing season, except in cases of excess water delivery to Lessees on Indian lands where payment is required in advance of delivery.

(b) No water shall be delivered to any lands until all charges shall have been paid in accordance with provisions and exceptions contained in Part 191 of the Code of Federal Regulations.

(c) To all charges assessed against lands in non-Indian ownership and Indian lands under lease to non-Indian Lessees which are not paid on or about July 1 of each year shall be added a penalty of one half per cent per month or fraction thereof from the due date, April 1, so long as the the delinquency continues.

Joseph A. Gourneau

Area Director.

[FR Doc. 85-12263 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[Serial Nos. I-04411, I-2205]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Corps of Engineers proposes that two withdrawals for the Saylor Creek Bombing and Gunnery Range, totaling 102,746 acres, continue for an additional 50 years, which is the estimated time the lands will continue to be used to accomplish the mission of the Air Force. The lands would remain closed to surface entry and mining but would be open to mineral leasing to the extent compatible with military operations and subject to approval of the Air Force.

DATE: Comments should be received on or before August 20, 1985.

ADDRESS: Comments should be sent to: State Director, Bureau of Land Management, 3380 American Terrace, Boise, Idaho 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208-334-1597.

The Corps of Engineers proposes that the existing land withdrawals made by Public Land Orders 1027 and 4902 of November 2, 1954, and September 16, 1970, respectively, be continued for a period of 50 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land is located in the following-described townships:

Boise Meridian

Tps. 7, 8 and 9 S., Rs. 7 and 8 E.

The area involved totals 102,746 acres, more or less, in Owyhee County.

The purpose of the withdrawal is to provide an area that can be used for air-to-ground weapons training for the Air Force, National Guard and Navy. The withdrawal presently segregates the land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. No change is proposed in the purpose of the withdrawal, but its segregative effect would be modified to allow mineral leasing where compatible with military operations.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the **Federal Regisfer.** The existing withdrawal will continue until such final determination is made.

Dated: May 14, 1985

William E. Ireland, *Chief,*

Realty Operations Section.

[FR Doc. 85-12265 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-GG-M

Montana; Lewiston District Advisory Council; Meeting

AGENCY: Bureau of Land Management, Lewistown District Advisory Council, Interior.

ACTION: Notice of meeting.

SUMMARY: The Lewistown District Advisory Council will meet June 20 and 21, 1985. The agenda will be:

June 20

1:00 p.m.—Council Organization
1:15 p.m.—Willow Creek Watershed Plan
2:15 p.m.—Off-Road Vehicle Management
3:00 p.m.—Land Exchanges
3:45 p.m.—Allotment Management Plans
4:15 p.m.—Blackleaf Oil and Gas Development EIS

June 21

9:30 a.m.—Float on portion of Upper Missouri National Wild and Scenic River. Participants will leave from launch site at Judith Landing Campground at 9:30 a.m. There will be no space available for members of the public.

Approximately 3:30 p.m.—Reconvene in Lewistown for discussion of issues related to management of the Wild and Scenic River.

Public comment will be sought during the meeting.

DATE: June 20, 1985, 1:00 p.m. to 5:00 p.m.

ADDRESS: BLM District Office, Airport Road, Lewistown, Montana.

FOR FURTHER INFORMATION CONTACT: Glenn W. Freeman, District Manager, Bureau of Land Management, Lewistown, Montana 59457.

SUPPLEMENTARY INFORMATION: The Lewistown Advisory Council is authorized under section 309 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1739). The Council advises the District Manager concerning the planning for the management of the public lands administered within the Lewistown District.

Dated: May 14, 1985.

Glenn W. Freeman,

District Manager.

[FR Doc. 85-12266 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-DN

Nevada; Las Vegas District Grazing Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Las Vegas District Grazing Advisory Board will be held Thursday, June 20, 1985. The meeting will be in the Las Vegas BLM District Office conference room at 4764 West Vegas Drive and will begin at 10:00 a.m.

The agenda will be as follows: (1) Reading and Approval of the Minutes for the Preceeding Meeting; (2) Review and Set Priorities for 1986 Range Improvement Projects; (3) Coordinated Resource Management Planning, Monitoring, and Program Implementation Progress Review; (4) Chemical Vegetative Type Conversion—Requirements and Review; (5) BLM/USFS Land Interchange; (6) Grazing Fee Study Report Review; (7) Other Range Matters; (8) Public Comments; (9) Arrangements for the next District Grazing Advisory Board Meeting.

The meeting is open to the public. Interested persons may make oral comments to the board during the public comment period on the day of the meeting or they may file written statements for the board's consideration before or during the meeting. Anyone wishing to make an oral statement to the board must notify the District Manager, Bureau of Land Management, 4765 West Vegas Drive (P.O. Box 26569), Las Vegas, Nevada 89126, by May 20, 1985. Depending on the number of persons wishing to make an oral statement, the District Manager may establish a per-person time limit. Summary minutes of the board meeting will be maintained at the Las Vegas District Office. The minutes will be available for public inspection during regular office hours (7:30 a.m. to 4:15 p.m.) within 30 days after the meeting.

Dated: May 8, 1985.

Kemp Conn,

District Manger.

[FR Doc. 85-12264 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-HC-M

[N-19741, N-39502]

Order Providing for Opening of Public Lands; Nevada

May 15, 1985.

In an exchange of lands made under the provisions of Section 206 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2756, 43 U.S.C. 1716, the following lands have been reconveyed to the United States:

Mount Diablo Meridian

T. 14 N., R. 19 E.,
Sec. 16, SE¼NW¼, E½SW¼;
Sec. 21, NE¼NW¼;
Sec. 28, SW¼NW¼;
Sec. 29, S½N½, W½SW¼, NW¼SE¼.

The area described contains 440 acres in Douglas County.

Upon acceptance of title to such lands, they became part of the Toiyabe National Forest and are subject to all the laws, rules, and regulations applicable thereto.

At 9 a.m., on June 21, 1985, the lands shall be open to such forms of disposition as may by law be made of national forest lands.

Inquiries concerning the lands should be addressed to the Forest Supervisor, Toiyabe National Forest, 1200 Franklin Way, Sparks, Nevada 89431.

Lacel E. Bland,

Acting Deputy State Director, Operations.

[FR Doc. 85-12262 Filed 5-21-85; 8:45 am]

BILLING CODE 4310-84-M

[Serial No. I-04790]

Idaho; Proposed Continuation of Withdrawal

AGENCY: Bureau of Land Mangement, Interior.

ACTION: Notice.

SUMMARY: The Corps of Engineers proposes that 5,137.78 acres withdrawn for the Albeni Falls Flood Control Project continue for an additional 100 years, which is the estimated remaining life of the project with which the withdrawal is associated. The lands would remain closed to surface entry and mining but would be open to mineral leasing, subject to Corps approval.

DATE: Comments should be received on or before August 20, 1985.

ADDRESS: Comments should be sent to: State Director, Bureau of Land Management, 3380 Americana Terrace, Boise, ID 83706.

FOR FURTHER INFORMATION CONTACT: William E. Ireland, Idaho State Office, 208–334–1597.

The Corps of Engineers proposes that the existing land withdrawal made by Public Land Order No. 1703 of August 8, 1958, as amended, be continued for a period of 100 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714. The land adjoins the shores of Pond Orielle Lake and the Clark Fork and Pond Orielle Rivers and is located within the following-described townships:

Boise Meridian

T. 55 N., Rs 1 and 2 E.
T. 56 N., Rs 1 and 2 E.
T. 53 N., Rs 1 and 2 W.
T. 54 N., Rs 1 and 2 W.
T. 55 N., Rs 1 and 2 W.
T. 56 N., Rs 1 and 4 W.

The area involved totals 5,137.78 acres in Bonner and Kootenai Counties.

The purpose of the withdrawal is to allow the Corps to exercise control of surface occupancy for flood control purposes. The withdrawal presently segregates the land from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. No change is proposed in the purpose of the withdrawal, but its segregative effect would be modified to allow mineral leasing, subject to Corps approval.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the address indicated above.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued and if so, for how long. The final determination on the continuation of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: May 10, 1985.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 85–12309 Filed 5–21–85; 8:45 am]

BILLING CODE 4310-GG-M

North Fork Well, Park County, Worland BLM District, WY; Availability of Record of Decision

AGENCY. Bureau of Land Management, Interior.

ACTION: Notice of Availability of Final Environmental Impact Statement.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is hereby given that the Bureau of Land Management, U.S. Department of the Interior, has issued a decision on the final environmental impact statement (EIS) on the North Fork Well in Park County, Wyoming, and has made copies of the Record of Decision available to the public.

The final EIS analyzed the environmental impact that would result from drilling the proposed exploratory North Fork Well and alternatives. Alternative I, the proposed action, was selected and seven mitigation measures were specified as a condition of approval.

ADDRESSES: A copy of the Record of Decision can be obtained from Team Leader, Bureau of Land Management, P.O. Box 119, Worland, Wyoming 82401.

Copies of the Record of Decision are available at the following locations: BLM District Officer (Worland); Cody BLM Area Office (Cody).

Chester E. Conard,

District Manager.

[FR Doc. 85–12308 Filed 5–21–85; 8:45 am]

BILLING CODE 4310-22-M

Fish and Wildlife Service

Availability of the Final Environmental Assessment Natural Gas Exploration and Production Activities on the D'Arbonne National Wildlife Refuge, Ouachita and Union Parishes, LA

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Final Environmental Assessment *"Natural Gas Exploration and Production Activities on the D'Arbonne National Wildlife Refuge, Ouachita and Union Parishes, Louisiana"* is available for public distribution. The Service determined that the special conditions relating to the exploration and production of natural gas on the refuge that are included in the Preferred Action are reasonable and necessary to minimize adverse impacts of such activities on fish and wildlife and other surface resources. These special conditions do not constitute a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(c) of the National Environmental Policy Act of 1969; therefore, a Finding of No Significant Impact decision was made.

DATES: The EA will be available to the public on May 20, 1985 .

ADDRESS: Requests for the EA should be addressed to: Regional Director, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Kenneth M. Butts, Chief, Branch of Planning and Coordination, U.S. Fish and Wildlife Service, 75 Spring Street, SW., Atlanta, Georgia 30303; Commercial (404) 221–3543 or FTS 242–3543.

Dated: May 16, 1985.

James W. Pulliam, Jr.,

Regional Director, U.S. Fish and Wildlife Service.

[FR Doc. 85–12283 Filed 5–21–85; 8:45 am]

BILLING CODE 4310-55-M

Minerals Management Service

[OCS Sale 89]

St. George Basin, Sale 89; Request for Information

AGENCY: Minerals Management Service, Interior.

ACTION: Request for Information—Focusing on Promising Acreage in the St. George Basin, Sale 89.

SUMMARY: The Department of the Interior is continuing its effort to focus on promising areas in leasing offshore oil and gas resources. Elsewhere in this publication the proposed Notice of Sale for Sale 89, St. George Basin, is printed. Further information is requested from potential bidders regarding this proposed sale area so the sale may be focused on those blocks for which industry indicates interest and priority for leasing. We are requesting information that may lead to a decision in the final Notice of Sale to defer additional blocks from the sale. Respondents are invited to indicate

areas which we should consider for leasing or deferral.

Potential bidders are also requested to provide indications of areas within the proposed Sale 89 area which are of low or no interest for leasing at this time. We are particularly interested in comments on areas located on Official Protraction Diagrams NO 2–4, NO 3–3, NO 3–5, NN 2–4, and NN 2–6, but comments need not be limited to these diagrams. Although individual information sent regarding areas of interest is considered to be privileged and proprietary information, the names of persons or entities indicating interest or submitting information and comments will be of public record.

Send Information To: Responses should be directed to Robert J. Brock, Regional Supervisor, Leasing and Environment, Alaska Outer Continental Shelf (OCS) Region, P.O. Box 101159, Anchorage, Alaska 99510, and are due within 60 days following publication of this notice.

FOR FURTHER INFORMATION CONTACT: Robert J. Brock, Regional Supervisor, Leasing and Environment, Alaska OCS Region at (907) 261–4045 or Chris Oynes, Chief, Offshore Leasing Management Division, Minerals Management Service, at (202) 343–6906.

Dated: May 15, 1985.

John B. Rigg,

Acting Director, Minerals Management Service.

Approved:

J. Steven Griles,

Deputy Assistant Secretary—Land and Minerals Management.

[FR Doc 84–12341 Filed 5–21–85; 8:45 am]

BILLING CODE 4310–MR–M

National Park Service

Boundary Adjustment of Chiricahua National Monument

By virtue of section 301(3) of Pub. L. 96–625, 92 Stat. 3473, approximately four hundred and forty acres have been added to Chiricahua National Monument. The revised boundaries of Chiricahua National Monument reflecting this additional 440 acres is depicted on the map entitled "Boundary Map, Chiricahua National Monument, Arizona", numbered 145–8009 and dated November 10, 1978 retained by the National Park Service, Western Regional Office, P.O. Box 36063 San Francisco, California 94102 and the Office of the National Park Serivce, Department of the Interior, P.O. Box 37127, Washington, D.C. 20013–7127. For further information contact: Ed Haberlin, Chief, Division of Land Resources, Western Region, National Park Service, Box 36063, 450 Golden Gate Ave., San Francisco, California 94102.

Howard H. Chapman,

Regional Director, Western Region.

[FR Doc. 85–12335 Filed 5–21–85; 8:45 am]

BILLING CODE 4310–70–M

Intention To Negotiate Concession Contract; City Tavern

Pursuant to the provisions of section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with City Tavern authorizing it to continue to provide Food services for the public at Independence National Historical Park, Philadelphia for a period of five (5) years from January 1, 1986, through December 31, 1990.

This contract has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contact which expires by limitation of time on December 31, 1985, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. As defined in 36 CFR, (51.5).

The Secretary will consider and evaluate all proposals received as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Superintendent, Independence National Historical Park, Philadelphia, PA 19106, for information as to the requirements of the proposed contract.

Dated: April 26, 1985.

Don H. Castleberry,

Regional Director, Mid-Atlantic Region, National Park Service.

[FR Doc. 85–12336 Filed 5–21–85; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–197]

Certain Compound Action Metal Cutting Snips and Components Thereof; Commission Decision Not to Review Initial Determination Terminating Respondent on the Basis of a Consent Order: Issuance of Consent Order

AGENCY: International Trade Commission.

ACTION: Nonreview of initial determination (Order No. 12) terminating respondent U.S. General Supply Corporation as a respondent to the above-captioned investigation on the basis of a consent order.

SUMMARY: On February 28, 1985, Complainant Cooper Industries, Inc., respondent U.S. General Supply Corp. (U.S. General) and the Commission investigative attorney filed a joint motion ot terminate this investigation as to respondent U.S. General on the basis of a consent order. On April 8, 1985, the presiding administrative law judge issued an ID granting the motion.

FOR FURTHER INFORMATION CONTACT: Charles Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–1626.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and 19 CFR 210.51 and 211.20.

The Commission has received neither a petition for review of the I.D. nor comments from Government agencies or the public.

Termination of the investigation as to respondent U.S. General on the basis of the consent order furthers the public interest by conserving Commission resources and those of the parties involved.

Copies of the administrative law judge's initial determination 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.

By order of the Commission.

Issued: May 10, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12333 Filed 5-21-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-213]

Certain Fluidized Bed Combustion System; Commission Decision Not To Review Initial Determination Amending Notice of Investigation

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting complainant's motion to amend the notice of investigation.

SUMMARY: The U.S. International Trade Commission has determined not to review an initial determination (ID) granting complainant Wormser Engineering, Inc.'s (Wormser), motion to amend the notice of investigation in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Catherine R. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0189.

SUPPLEMENTARY INFORMATION: On March 7, 1985, complainant Wormser filed a motion to amend the complaint and notice of investigation in the above-captioned investigation. Motion No. 213-4. Wormser supplemented its motion on March 27, 1985. The Commission investigative attorney (IA) supported the supplemented motion and Respondents ASEA STAL AB and ASEA STAL, Inc. opposed the motion in part. On April 15, 1985, the administrative law judge (ALJ) issued an ID granting Wormser's motion to amend the notice of investigation. Order No. 6. The ALJ also found that because the notice of investigation defines the scope of the investigation after institution, it was unnecessary to amend the complaint. *Id.* On April 25, 1985, respondents ASEA STAL AB and ASEA STAL Inc. filed a petition for review of that ID. The IA and Wormser opposed the petition.

The ALJ found that Wormser had shown good cause for amendment of the notice of investigation and that respondents would not be prejudiced by the proposed amendment. Amending the notice of investigation as proposed will more precisely indicate the scope of the investigation and will further the public interest by conserving Commission resources and those of the parties.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and §§ 210.51 and 210.53 of the Commission's rules. 49 FR 46,123; to be codified at 19 CFR 210.51 and 210.53.

Copies of the ALJ's order 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.

By order of the Commission.

Issued: May 15, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12331 Filed 5-21-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-191 and 195 (Final)]

Oil Country Tubular Goods From Argentina and Spain

Determinations

On the basis of the record [1] developed in investigation No. 731-TA-191 (Final), the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Argentina of oil country tubular goods, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

On the basis of the record [1] developed in investigation No. 731-TA-195 (Final), the Commission determines pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured [2] by reason of imports from Spain of oil country tubular goods, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which have been found by the Department of Commerce to be sold at LTFV. Because Commerce made an affirmative final critical circumstances determination, the Commission is required to make an additional finding. Pursuant to section 735(b)(4)(a), the Commission determines,[3] that there is material injury by reason of massive imports of the LTFV merchandise over a short period of time to the extent that it is necessary to impose the duty retroactively to prevent such injury from recurring.

Background

The Commission instituted these investigations effective January 16, 1985, following a preliminary determination by the Department of Commerce that imports of oil country tubular goods from Argentina and Spain were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 21, 1985 (50 FR 7239). The hearing was held in Washington, DC, on April 4, 1985, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on May 13, 1985. The views of the Commission are contained in USITC Publication 1694 (May 1985), entitled "Oil Country Tubular Goods from Argentina and Spain: Determinations of the Commission in Investigations Nos. 731-TA-191 and 195 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By order of the Commission.

Issued: May 13, 1985.

Kenneth R. Mason,

Secretary.

[FR Doc. 85-12332 Filed 5-21-85; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-222]

Certain Automotive Visor/Illuminated Mirror Packages and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S.

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[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[3] Vice Chairman Liebeler and Commissioner Lodwick dissenting.

International Trade Commission on April 15, 1985, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Prince Corporation, Windcrest Drive, Holland, Michigan 49423. Corrections to the complaint were filed on April 23, 1985 and May 3, 1985. A supplement to the complaint was filed on May 1, 1985. The complaint as supplemented alleges unfair methods of competition and unfair acts in the importation of automotive visor/illuminated mirror packages and components thereof into the United States, or in their sale, by reason of alleged (1) induced and contributory infringement of claims 1–13 of U.S. Letters Patent 4,227,241 by all respondents; and (2) induced and contributory infringement of claim 15 of U.S. Letters Patent 4,000,404 by respondents Cobbs Manufacturing Company, Allied Accessories & Auto Parts Company, and Rally Accessories Incorporated. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complaint requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Gertler, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–0115.

SUPPLEMENTARY INFORMATION:

Authority

The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure. (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on May 15, 1985, ORDERED THAT—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain automotive visor/illuminated mirror packages and components thereof into the United States, or in their sale, by reason of alleged (1) induced and contributory infringement of claims 1–13 of U.S. Letters Patent 4,227,241 by all respondents; and (2) induced and contributory infringement of claim 15 of U.S. Letters Patent 4,000,404 by respondents Cobbs Manufacturing Company, Allied Accessories & Auto Parts Company, and Rally Accessories Incorporated, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—

Prince Corporation, Windcrest Drive, Holland, Michigan 49423

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Allied Accessories & Auto Parts Company, d/b/a Magnum Accessories Company, 1551 East Lincoln, Madison Heights, Michigan 48071

Cobbs Manufacturing Company, 420 East Grand, Des Moines, Iowa 50309

Custom Accessories, Inc., 3700 West Pratt, Lincolnwood, Illinois 60645

Rally Accessories Inc., 4775 N.W. 132nd Street, Miami, Florida 33054

Walgreen Company Inc., 200 Wilmot Road, Deerfield, Illinois 60015

(c) Jeffrey L. Gertler, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street, N.W., Room 125, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with § 210.21, of the Commission's Rules of Practice and Procedure (19 CFR § 210.21, as amended, 49 FR 46123). Pursuant to §§ 201.16(d) (19CFR 201.16(d), as amended, 49 FR 32571) and 210.21(a) of the rules, such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202–523–0471.

Issued: May 17, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–12328 Filed 5–21–85; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–249 (Preliminary) and 731–TA–262 Through 265 (Preliminary)]

Iron Construction Castings From Brazil, Canada, India, and the People's Republic of China

AGENCY: International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701–TA–249 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of iron construction castings,[1] provide for in item 657.09 of the Tariff Schedules of the United States (TSUS), which are alleged to be subsidized by the Government of Brazil.

The Commission also gives notice of the institution of preliminary antidumping investigations Nos. 731–TA–262 through 265 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine

[1] For purposes of these investigations, "iron construction castings" include manhole covers, rings, and frames, catch basin grates and frames, cleanout covers and frames, and valve, service, and meter boxes used either for drainage or access purposes for public utility, water, and sanitary systems. These articles must be of cast iron, not alloyed, and not malleable.

whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil, Canada, India, and the People's Republic of China of iron construction castings,[1] provided for in item 657.09 of the TSUS, which are alleged to be sold in the United States at less than fair value.

As provided in sections 703(a) and 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations within 45 days, or in these cases by June 27, 1985. For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, Part 207, Subparts A and B (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: May 13, 1985.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202–523–0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on May 13, 1985, by counsel on behalf of the Municipal Castings Fair Trade Council, a trade association representing 15 domestic producers of iron construction castings. The petitioners reportedly account for over 85 percent of total domestic production of the subject iron construction castings.

Participation in the investigations

Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairwoman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service list

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) of the rules (19 CFR 201.16(c), as amended by 49 FR 32569, Aug. 15, 1984), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m. on June 5, 1985, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202–523–0104) not later than June 3, 1985, to arrange for their appearance. Parties in support of the imposition of antidumping and/or countervailing duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written submissions

Any person may submit to the Commission on or before June 7, 1985, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). 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 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: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

Issued: May 16, 1985.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 85–12329 Filed 5–21–85; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30439]

Gulf & Mississippi Railroad Corp.; Purchase (Portion); Exemption; Illinois Central Gulf Railroad Company

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption—Supplemental Decision.

SUMMARY: The Interstate Commerce Commission supplements its prior decision served January 2, 1985, by exempting from the requirements of prior approval under 49 U.S.C. 10901, (A) the acquisition by Gulf & Mississippi Railroad Corporation (G&M) of trackage rights from Illinois Central Gulf Railroad Company (ICG): (1) Between milepost 132 and milepost 138.8 at Meridian, MS; (2) between milepost 4.7 and the Alabama State Docks at Mobile, AL; and (3) from a point approximately 2,000 feet north of Ruslor Junction to a connection with the Corinth and Counce Railroad Company at a point approximately three miles south of Ruslor Junction near Corinth, MS, and a point at milepost 2.3; and (B) the acquisition by G&M of trackage rights through the assignment by ICG to G&M of ICG's existing trackage rights over 23.6 miles of Southern Railway Company track extending between Middleton, TN, and Corinth, MS.

DATES: This exemption is effective on May 21, 1985. Petitions to reopen must be filed by June 11, 1985.

ADDRESSES: Send pleadings referring to Finance Docket No. 30439 to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Betty J. Christian, Steptoe & Johnson, 1330 Connecticut Ave., NW., Washington, DC 20036

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

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

Decided: May 13, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85-12258 Filed 5-21-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-39 (Sub-7X)]

St. Louis Southwestern Railway Co.; Abandonment Exemption in New Madrid County, MO

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Exemption.

SUMMARY: The Interstate Commerce Commission exempts from requirements of 49 U.S.C. 10903, *et seq.*, the abandonment of 10.23 miles of track between Malden (milepost 57.27) and Gideon (milepost 67.50) in New Madrid County, MO, subject to standard labor protective conditions.

DATES: This exemption will be effective on June 21, 1985. Petitions to stay must be filed by June 3, 1985, and petitions for reconsideration must be filed by June 11, 1985.

ADDRESSES: Send pleadings referring to Docket No. AB-39 (Sub-No. 7X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423

(2) Gary A. Laakso, Southern Pacific Building, One Market Plaza, San Francisco, CA 94105

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

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

Decided: April 30, 1985.

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

James H. Bayne,

Secretary.

[FR Doc. 85-12259 Filed 5-21-85; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 174)]

Chicago and Northwestern Transportation Co.; Abandonment; in Blackhawk County, IA; Findings

The Commission has issued a certificate authorizing the Chicago and Northwestern Transportation Company to abandon its 7.3-mile rail line between Cedar Falls Junction (milepost 0.0) and Cedar Falls (milepost 7.3) in Blackhawk County, IA. The abandonment certificate will become effective 30 days after this publication unless the Commission also finds that: (1) A financially responsible person has offered financial assistance (through subsidy or purchase) to enable the rail service to be continued; and (2) it is likely that the assistance would fully compensate the railroad.

Any financial assistance offer must be filed with the Commission and the applicant no later than 10 days from publication of this Notice. The following notation shall be typed in bold face on the lower left-hand corner of the envelope containing the offer: "Rail Section, AB-OFA". Any offer previously made must be remade within this 10-day period.

Information and procedures regarding financial assistance for continued rail service are contained in 49 U.S.C. 10905 and 49 CFR Part 1152.

James H. Bayne,

Secretary.

[FR Doc. 85-12384 Filed 5-21-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

James A. Brown, M.D., Revocation of Registration

On January 22, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) issued an Order to Show Cause to James A. Brown, M.D. of St. Joseph's Professional Building, 2000 Crawford at Gray #1510, Houston, Texas 77002, proposing to revoke Dr. Brown's DEA Certificate of Registration AB9257557 and to deny any pending applications for registration as a practitioner under 21 U.S.C. 823(f). Dr. Brown received the Order to Show Cause on January 30, 1985, but failed to respond within 30 days of its receipt as set forth in the Order to Show Cause. Therefore, the Acting Administrator finds that Dr. Brown has waived his opportunity for a hearing. 21 CFR 1301.54(d). Accordingly, the Acting Administrator hereby issues his final order in this matter based on his review of the investigative file. 21 CFR 1301.54(e).

The Acting Administrator found that Dr. Brown prescribed large quantities of Ionamin, Fastin, Desoxyn, biphetamine, Valium and Tuinal without first performing a physical examination. There was no legitimate Medical justification for these prescriptions. Consequently, on September 13, 1983, in the 263rd District Court of Harris County, Texas, Dr. Brown was convicted, after a plea of nolo contendere, of illegal dispensation of drugs. This was a felony offense relating to controlled substances. Therefore, there is a lawful basis for the revocation of Dr. Brown's DEA Certificate of Registration. 21 U.S.C. 824(a)(2).

The Acting Administrator further found that on February 24, 1984, the Texas State Board of Medical Examiners revoked and cancelled Dr. Brown's license to practice medicine within the State of Texas, effective March 12, 1984. Dr. Brown no longer has authority to possess, dispense, administer, prescribe or otherwise handle controlled substances in the State of Texas. DEA has consistently held that termination of a registrant's state authority to handle controlled substances requires DEA to revoke the registrant's DEA Certificate of Registration. *George P. Gotsis, M.D.*, Docket No. 83-19, 49 FR 33750 (1984); *Kenneth E. Wilson, D.D.S.*, 46 FR 25018 (1918); *James Waymon Mitchell, M.D.*, Docket No. 79-16, 44 FR 71466 (1979). Therefore, under 21 U.S.C. 824(a)(3) there is a further ground for revocation of Dr. Brown's registration.

The Acting Administrator did not consider a letter dated April 15, 1985, from an attorney representing Dr. Brown. This letter was received long after the 30 days the regulations prescribe for response to an Order to Show Cause 21 CFR 1301.54(a). The Order to Show Cause clearly cited this regulation and the 30 day response time.

Since Dr. Brown did not offer evidence of any mitigating circumstances, the Acting Administrator has no choice but to revoke Dr. Brown's registration. Accordingly, the Acting Administrator of the Drug Enforcement Administration pursuant to the authority vested in him by 21 U.S.C. 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AB9257557 previously issued to James A. Brown.

M.D. be, and it hereby is, revoked. Any pending applications for registration are hereby denied. This order is effective immediately.

Dated: May 16, 1985.

John C. Lawn,
Acting Administrator.

[FR Doc. 85-12301 Filed 5-21-85; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 85-4]

Jeff Grand Medical Group, Los Angeles, CA; Hearing

Notice is hereby given that on December 17, 1984, the Drug Enforcement Administration, Department of Justice, issued to Jeff Grand Medical Group an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, PJ0146933, for registration as a Narcotic Treatment Program under 21 U.S.C. 823(g).

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, June 4, 1985, in the U.S. Bankruptcy Court Courtroom, Room 8549, Federal Building, 300 North Los Angeles Street, Los Angeles, California.

Dated: May 16, 1985.

John C. Lawn,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-12303 Filed 5-21-85; 8:45 am]
BILLING CODE 4410-09-M

[Docket No. 85-7]

Phoenix Lynwood Clinic, Lynwood, CA; Hearing

Notice is hereby given that on January 11, 1985, the Drug Enforcement Administration, Department of Justice, issued to Phoenix Lynwood Clinic an Order To Show Cause as to why the Drug Enforcement Administration should not revoke its DEA Certificate of Registration, PPO201789, as a Narcotic Treatment Program under 21 U.S.C. 823(g).

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, June 6, 1985, in the U.S. Bankruptcy Court Courtroom, Room 8549, Federal Building, 300 North Los Angeles Street, Los Angeles, California.

Dated: May 16, 1985.

John C. Lawn,
Acting Administrator, Drug Enforcement Administration.

[FR Doc. 85-12302 Filed 5-21-85; 8:45 am]
BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance; Braemoor Garment et al.

Petitions have been filed with the Secretary of Labor under section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221 (a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other person showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than June 3, 1985.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later June 3, 1985.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 13th day of May 1985.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Braemoor Garment (ILGWU)	Pleasanton, KS	5/2/85	4/30/85	TA-W-15,990	Outerwear, ladies.
Brookvale Mfg Co., Inc. (ACTWNU)	Vernon, PA	5/6/85	4/29/85	TA-W-15,991	Coats, sportcoats, suit coats, men's.
Diamond International Corp. (UBCJA)	Marysville, CA	5/7/85	5/2/85	TA-W-15,992	Lumber and wood products.
Durant Electronics Inc. (company)	Durant, OK	5/9/85	5/6/85	TA-W-15,993	Plastic toys.
Flexible Corp., (workers)	Loudonville, OH	5/5/85	4/18/85	TA-W-15,994	Transit buses.
Morrison Machine Co. (Mechanics, Educational Society of Amer.)	Patterson, NJ	5/6/85	5/6/85	TA-W-15,995	Paper and textile finishing machines.
Robertshaw Controls Co., New Stanton Div. (workers)	Hillsboro, OH	5/3/85	4/29/85	TA-W-15,996	Heater building and coil winding machines.
Standard Metals Corp. (workers)	Silverton, CO	5/1/85	4/27/85	TA-W-15,997	Mine gold, silver, lead, copper, zinc.
Stanley Tool (company)	Newark, NJ	5/6/85	4/10/85	TA-W-15,998	Hammers.
Sylco Corp. (workers)	Sylva, NC	5/7/85	5/2/85	TA-W-15,999	Blanket sleepers-infants and childrens.
Truitt Brother, Inc. (workers)	Belfast, ME	5/6/85	4/30/85	TA-W-16,000	Shoes, boots, dress, men's.
United Pants Co., Inc. (ACTWU)	Swoyersville, PA	5/1/85	4/25/85	TA-W-16,001	Sportcoats, suit coats, men's blazers, ladies.
W. Kotkes & Son (workers)	Lynchburg, VA	5/7/85	5/2/85	TA-W-16,002	Uniforms, nurses.
Wilson-Jones Co. (Teamsters)	Elizabeth, NJ	5/8/85	4/30/85	TA-W-16,003	Office supplies.

[FR Doc. 85-12228 Filed 5-21-85; 8:45 am]
BILLING CODE 4510-30-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-369 and 50-370]

Duke Power Co.; Consideration of Issuance of Amendments to Facility Operating Licenses and Proposed No Significant Hazards; Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-9 and NPF-17, issued to Duke Power Company (the licensee), for operation of the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

The proposed amendments would incorporate into the McGuire Unit 2 license authority to receive, possess and store irradiated Oconee fuel assemblies under the same conditions as are presently authorized by the McGuire Unit 1 license. The conditions upon which the authority to possess, receive and store irradiated Oconee fuel, as contained in the McGuire Unit 1 license, would not be changed, except for inclusion of Unit 2. The amendments would not increase the inventory of Oconee fuel that may be received at the McGuire site, but would provide for storage of that inventory at either of the two identical McGuire units. These changes were requested in the licensee's application for amendment dated April 3, 1985 as supplemented May 14, 1985.

Before issuance of the proposed license amendments, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

On October 27, 1981, the Commission issued Amendment No. 8 to Facility Operating License NPF-9 to set forth license conditions and change Technical Specifications to authorize the licensee to receive, possess and store at McGuire Unit 1 up to 300 irradiated fuel assemblies generated at the Oconee Nuclear Station. On September 24, 1984, the Commission issued Amendment No. 35 to NPF-9 and Amendment No. 16 to NPF-17 (Unit 2) to change the Technical Specifications to permit an expansion of the spent fuel pool storage capacity at each unit by reracking each spent fuel pool with two-region poisoned racks. The Safety Evaluation Report supporting Amendments 35 and 16 concluded that, subject to certain conditions, irradiated fuel from McGuire (Westinghouse standard or optimized fuel assembly design) or Oconee (Babcock and Wilcox 15 x 15 design) may be stored safely in the reracked spent fuel pools. That SER also concluded that the NRC's evaluation of the licensee's capacity expansion submittal had not changed the conclusions in SER Supplement No. 2 related to the storing of Oconee fuel at McGuire. The licensee has recently completed construction installation of the rerack design in the McGuire Unit 2 spent fuel pool and now seeks authority to receive, possess, and store Oconee irradiated fuel assemblies at McGuire Nuclear Station, in either or both spent fuel pools, subject to similar conditions established for Unit 1 as set forth by NPF-9 Amendment 8. The proposed amendments would not (1) increase the total number of Oconee irradiated fuel assemblies received for storage at the McGuire site relative to the number (300) currently authorized for Unit 1, nor (2) authorize transfer of Oconee irradiated fuel from one McGuire unit's spent fuel pool to the other.

The spent fuel pools and the systems and equipment for handling spent fuel are identical at each McGuire unit. Because of identical designs, supporting systems and structures, common site, and common emergency, health physics, security and safety procedures, no adverse changes in the safety issues associated with possession, receipt, and storage of irradiated Oconee fuel assemblies at McGuire would be associated with these amendments.

The foregoing reviews, and particularly the fact that the design of the Unit 2 spent fuel pool is identical to that of Unit 1 and that there would be no increase in the inventory of Oconee fuel for the McGuire site relative to that amount previously authorized for McGuire Unit 1, indicate that the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety. Accordingly, the Commission proposes to determine that these changes do not involve significant hazards considerations.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attn: Docketing and Service Branch.

By June 21, 1985, the licensee may file a request for a hearing with respect to issuance of the amendments to the subject facility operating licenses and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for

leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

The Commission hereby provides notice that this proceeding is on an application for license amendments falling within the scope of section 134 of the Nuclear Waste Policy Act of 1982 (NWPA), 42 U.S.C. 10154. Under section 134 of the NWPA, the Commission, at the request of any petitioner or party to the proceeding, is required to employ hybrid hearing procedures with respect to "any matter which the Commission determines to be in controversy among the parties." Section 134 procedures provide for oral argument on those issues "determined to be in controversy", preceded by discovery under the Rules of Practice, and the designation, following argument, of only those factual issues that involve a genuine and substantial dispute, together with any remaining questions of law to be resolved at an adjudicatory hearing. Actual adjudicatory hearings are to be held only on those issues found to meet the criteria of section 134 and set for hearing after oral argument on the proposed issues. However, if no petitioner or party requests the use of the hybrid hearing procedures, then the usual 10 CFR Part 2 procedures apply.

(At this time, the Commission does not have effective regulations implementing section 134 of the NWPA although it has published proposed rules. See Hybrid Hearing Procedures for Expansion of Onsite Spent Fuel Storage Capacity at Civilian Nuclear Power Reactors, 48 FR 54499 (December 5, 1983).)

Subject to the above requirements, and any limitations in the order granting leave to intervene, those permitted to intervene become parties to the proceeding, have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, D.C., by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Elinor G. Adensam: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Bethesda, Maryland, this 16th day of May 1985.

Elinor G. Adensam,

Chief, Licensing Branch No. 4, Division of Licensing.

[FR Doc. 85-12339 Filed 5-21-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-187]

Northrop Corp.; Proposed Issuance of Order Authorizing Disposition of Component Parts and Terminating Facility License

The U. S. Nuclear Regulatory Commission (Commission) is considering issuance of Orders authorizing Northrop Corporation (licensee) to dispose of the component parts of the research reactor in their possession, in accordance with the licensee's application dated January 14, 1984, and terminating the Facility Operating License No. R-90.

The first of these would be issued following the Commission's review and approval to the licensee's detailed plan for decontamination of the facility and disposal of the radioactive components, or some alternate disposition plan for the facility. This Order would authorize implementation of the approved plan. Following completion of the authorized activities and verification by the Commission that acceptable radioactive contamination levels have been achieved, the Commission would issue a second Order terminating the facility

license and any further NRC jurisdiction over the facility. Prior to issuance of each Order, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations.

By June 21, 1985, the licensee may file a request for a hearing with respect to issuance of the subject Orders and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate Order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any Order which may be entered on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the action under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the Order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325-6000 (in Missouri (800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Cecil O. Thomas: (Petitioner's name and telephone number); (date petition was mailed); (Northrop Corporation); and publication date and page number of the **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Mr. John Southworth, attorney for the licensee, Northrop Corporation, 1840 Century Park East, Century City, Los Angeles, California 90067-2199, Research and Technology Center, Northrop Corporation, One Research Park, Palos Verdes, California 90274.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer of the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the licensee's application dated January 14, 1984, as supplemented March 27, 1985, which is available for public inspection at the Commission's Public Document Room 1717 H Street, NW., Washington, D.C.

Dated at Bethesda, Maryland, this 15th day of May, 1985.

For the Nuclear Regulatory Commission.

Cecil O. Thomas,

Chief, Standardization and Special Projects Branch, Division of Licensing.

[FR Doc. 85-12338 Filed 5-21-85; 8:45 am]

BILLING CODE 7590-01-M

POSTAL RATE COMMISSION

[Docket No. C85-1; Order No. 609]

Order Addressing Advo-System, Inc.'s Motion for Reconsideration of Order No. 608 and its Request for Certain Other Commission Action

Issued: May 14, 1985.

This order addresses Advo-System, Inc.'s (Advo's) May 6th motion asking the Commission to reconsider Order No. 608 [1] and (1) lift the stay of proceedings in this docket; (2) determine that the complaint is justified and should be set for hearing; (3) convene a settlement conference; and (4) establish a procedural schedule for hearings.

We turn first to Advo's suggestion that a settlement conference be convened. As the parties know, the Commission generally encourages settlement efforts among the parties and believes they would be desirable in this instance, where there are a limited number of intervenors and a well-focused complaint. Accordingly, the Commission encourages the parties to attempt to reach agreement on a proposal that could be submitted for the Commission's consideration. At a minimum, we expect the settlement discussions to lead to presentation of any feasible stipulations of fact, and a clear statement of the issues that would have to be addressed if a hearing is held. As in the past, we designate Stephen A. Gold, Director of the Office of the Consumer Advocate, as coordinator of the proceedings and ask him to handle the necessary arrangements.[2] At this time we also

[1] Order No. 606 granted a stay of proceedings in Docket No. C85-1 until June 4, 1985.

[2] We note that our hearing room is available May 29th, the date Advo suggested in its motion, but we leave it to the parties to agree on the time and date most suitable for them, subject to the June 6 report requirement.

direct the settlement coordinator to file a report with the Commission on June 6th setting forth the status of the settlement proceedings and, if possible, any stipulations of fact, or statement of the issues agreed upon by some or all of the parties.

In Order No. 608, the Commission found it was premature to determine whether the complaint is justified and should be set for a hearing. Advo asks us to make the determination now. We decline to do so at this time, but we will schedule a prehearing conference on June 18, 1985, to discuss the results of the settlement conference and any needed further proceedings.

In light of the above, we see no need to lift the stay initially imposed in Order No. 608.

It is ordered:

(1) The parties are authorized to engage in settlement conference proceedings in Docket No. C85–1;

(2) Stephen A. Gold, Director of the Office of the Consumer Advocate, is appointed settlement coordinator;

(3) The settlement coordinator is to file, on June 6th, a report on the status of the settlement proceedings and, if available, stipulations of fact and a statement of the issues.

(4) A prehearing conference is scheduled for June 18, 1985, at 9:30 a.m. in the Commission hearing room.

By the Commission.

Charles L. Clapp,

Secretary.

[FR Doc. 85–12268 Filed 5–21–85; 8:45 am]

BILLING CODE 7715–01–M

RAILROAD RETIREMENT BOARD

Privacy Act of 1974; Proposed Changes to Systems of Records

AGENCY: Railroad Retirement Board.

ACTION: Notice of proposed changes to systems of records.

SUMMARY: The purpose of this document is to give notice of a proposed routine use to be added to two of the RRB's systems of records.

DATES: The systems of records for which the new routine use is proposed shall be amended as proposed without further notice 30 calendar days from the date of this publication unless comments are received before this date which would result in a contrary determination.

ADDRESS: Send comments to Beatrice Ezerski, Secretary to the Board, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: LeRoy Blommaert, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611, Telephone 312–751–4548.

SUPPLEMENTARY INFORMATION: Proposed routine use "c" to system of records RRB–25, Research Matter Recorded for Survivor Beneficiaries Under the Railroad Retirement Act, would permit the RRB to furnish benefits data to the Veterans Administration regarding persons who, it is determined, are both RRB and VA beneficiaries for the purpose of assisting the VA in the administration of its income dependent benefit programs. It is intended that this routine use would encompass disclosures pursuant to a matching program agreed to by both the VA and the RRB. As the "matching agency," the RRB, in compliance with the provisions of the OMB Revised Supplemental Guidance for Conducting Matching Programs, published a matching program report in the **Federal Register** at 50 FR 16029 (April 23, 1985).

It is the position of the RRB that the use of benefit data from one social insurance system to determine eligibility or continued eligibility for, or the correct amount of, benefits under another social insurance system is compatible with the original use of the information.

The same routine use is proposed for system of records RRB–26, research Master Record for Retired Railroad Employees and Their Dependents.

System of records RRB–25 and system of records RRB–26 were both last published in their entirety at 42 FR 47483 (September 20, 1977).

The proposed action is not within the purview of the provisions of 5 U.S.C. 552(0) which required the submission of a new or altered system report.

Dated: May 15, 1985.

By authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

A new paragraph "c" is added to RRB–25 to read as follows:

RRB–25

SYSTEM NAME:

Research Master Record for Survivor Beneficiaries Under the Railroad Retirement Act—RRB.

* * * * *

ROUTINE ISSUES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

c. Benefit data regarding persons who, it is determined, are both RRB and VA beneficiaries may be furnished to the Veterans Administration for the purpose of assisting the VA in the administration of its income dependent benefit programs.

* * * * *

A new paragraph "c" is added to RRB–26 to read as follows:

RRB–26

SYSTEM NAME:

Research Master Record for Retired Railroad Employees and Their Dependents—RRB.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED BY THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

c. Benefit data regarding persons who, it is determined, are both RRB and VA beneficiaries may be furnished to the Veterans Administration for the purpose of assisting the VA in the administration of its income dependent benefit programs.

[FR Doc. 85–12304 Filed 5–21–85; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2124.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs and Information Services, 450 Fifth Street, NW., Washington, D.C. 20549.

New

Form N–7

File No. 270–299

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), Securities and Exchange Commission has submitted for clearance proposed Form N–7, a new form for registration of unit investment trusts under the Securities Act of 1933 and the Investment Company Act of 1940.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

May 14, 1985.

[FR Doc. 85–12353 Filed 5–21–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC-14522; 811-2566]

Companion Income Fund, Inc.; Notice of Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

May 16, 1985.

Notice is hereby given that Companion Income Fund, Inc. ("Applicant"), 900 Cottage Grove Road, Bloomfield, Connecticut 06002, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 15, 1985, pursuant to section 8(f) of the Act, and Rule 8f-1 thereunder, for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the pertinent statutory provisions.

Organized under the laws of the State of Maryland on November 29, 1984, Applicant registered under the Act on March 17, 1985, and filed a registration statement on Form N-8B-1 pursuant to section 8(b) of the Act on that date, as well. On the same day, Applicant filed a registration statement on Form S-5 under the Securities Act of 1933, declared effective August 13, 1975, registering 2,500.00 shares of capital stock (per value $1.00 per share) for sale to the public.

Applicant further states that in April, 1984, Connecticut General Life Insurance Company ("Connecticut General"); CG Variable Annuity Accounts I and II ("VAA-I" and "VAA-II"), registered unit investment trusts for which shares of Applicant have been used as a funding medium; and CIGNA Securities, Inc. ("CIGNA"), the principal underwriter of VAA-I and VAA-II; Investors Life Income Company of North America ("Investors Life"), CIGNA Separate Account 1 ("CIGNA Account"), a registered unit investment trust under the Act, and INA Security Corporation, the principal underwriter of the CIGNA Account; The Guardian Insurance & Annuity Company, Inc. ("Guardian"), The Guardian Separate Account A, a registered unit investment trust under the Act, and Guardian Investor Services Corporation and Value Line Securities, Inc., the principal underwriters for the Guardian Account, initiated an exchange offer whereby holders of variable annuity contracts by VAA-I and VAA-II could exchange their variable annuity contracts for variable annuity contracts issued either by Investors Life, Connecticut General's affiliate, or by Guardian. This exchange offer was concluded on August 15, 1984.

It is further stated that contractholders whose variable annuity funds had been invested in Applicant's shares, and who did not exchange their contracts were asked in a separate proxy solicitation dated October 12, 1984, to approve the substitution of shares of Companion Funds, Inc. ("Companion")—theretofore the funding vehicle for contractholders selecting the "Growth Divisions" of VAA-I and VAA-II—for shares of Applicant as the funding medium for their variable annuity contracts. A majority vote in favor of this proposal was obtained on or about November 30, 1984; and by letter dated December 3, 1984, all remaining VAA-I and VAA-II contractholders were notified of the result of the vote, and that all of Applicant's assets had been transferred to Companion.

As of november 30, 1984, applicant states that there were 446,074 of its shares outstanding, representing ownership of aggregate net assets of $3,366,853, or $7.55 per share. Applicant represents that no sale of its assets occurred as part of the aforementioned transfer of its assets, and that no brokerage commissions were paid in connection with this transaction. Applicant further states that it has been named as a co-defendant in a suit brought in the United States District Court, District of Connecticut, by Applicant's former treasurer, who alleges improper termination of employment in violation of the Age Discrimination Act. Applicant represents that its investment adviser, and co-defendant, CIGNA Investment Management Company, has indemnified Applicant from any liability which may result from this litigation.

Applicant states that it anticipates filing articles of dissolution with the State of Maryland, as well as an application for withdrawal as a foreign corporation with the State of Connecticut. Applicant is, accordingly, not now engaged, nor does it propose to engage, in any business activities other than those necessary for the winding-up of its affairs.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 10, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission order a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegate authority.

John Wheeler,

Secretary.

[FR Doc. 85-12350 Filed 5-21-85; 8:45 am]

BILLING CODE 8010-01-M

[File No. 22-13792]

Application and Opportunity for Hearing; General Mills, Inc.

May 15, 1985.

Notice is hereby given that General Mills, Inc. has filed an application pursuant to clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939 (hereinafter sometimes referred to as the "Act") for a finding by the Commission that the successor trusteeship of Citibank, N.A. ("Citibank") under the indenture of the Company dated as of February 15, 1974 (the "1974 Indenture") is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the indenture of the Company dated as of October 15, 1970 (the "1970 Indenture"), as successor trustee under the indenture of the Company dated as of March 1, 1979 (the "1979 Indenture") or as successor trustee under the 1974 Indenture. The 1974 Indenture, the 1970 Indenture and the 1979 Indenture were heretofore qualified under the Act.

Section 310(b) of the Act provides in part that if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest it shall within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, with certain exceptions, that a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of subsection (1), there may be excluded from the operation of this

provision another indenture under which other securities of the issuer are outstanding, if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing thereon, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

In support of its application the Company alleges that:

1. The Company has outstanding, as of March 15, 1985, $44,744,000 aggregate principal amount of its 8⅞% Sinking Fund Debentures due October 15, 1995 (the "8⅞% Debentures") issued under the 1970 Indenture between the Company and Citibank. The 8⅞% Debentures were registered under the Securities Act of 1933, as amended (the "Securities Act") (File No. 2–38523), and the 1970 Indenture was qualified under the Act (File No. 22–6307).

2. The Company has outstanding, as of March 15, 1985, $113,250,000 aggregate principal amount of its 9⅜% Sinking Fund Debentures due March 1, 2009 (the "9⅜% Debentures") issued under the 1979 Indenture between the Company and Morgan Guaranty Trust Company of New York ("Morgan Guaranty"). The 9⅜% Debentures were registered under the Securities Act (File No. 22–63732), and the 1979 Indenture was qualified under the Act (File No. 22–9873). By order dated February 20, 1985, the Commission granted an order finding that the successor trusteeship of Citibank under the 1979 Indenture and the trusteeship of Citibank under the 1970 Indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the 1970 Indenture or as successor trustee under the 1979 Indenture. Citibank was subsequently appointed as successor trustee under the 1979 Indenture.

3. The Company has outstanding, as of March 15, 1985, $48,506,000 aggregate principal amount of its 8% Sinking Fund Debenture due February 15, 1999 (the "8% Debentures") issued under the 1974 Indenture between the Company and Bankers Trust Company. The 8% Debentures were registered under the Securities Act (File No. 2–50154), and the 1974 Indenture was qualified under the Act (File No. 22–7792).

4. By letter dated February 1, 1985, Bankers Trust Company gave written notice to the Company of its intention to resign as trustee under the 1974 Indenture. The Company has requested Citibank to accept appointment as successor trustee under the 1974 Indenture.

5. Section 7.08 of the 1970 Indenture provides in part as follows;

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08. It shall, within ninety days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10. * * *

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securities * * * of the Company are outstanding * * * provided that there shall be excluded from the operation of this paragraph the Indenture dated as of August 1, 1965 under which the Company's 4⅝% Sinking Fund Debentures due August 1, 1990 are outstanding, and any other indenture or indentures under which other securities * * * of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture of indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

Citibank has resigned as trustee under the Company's Indenture dated as of August 1, 1965.

6. Section 7.08 of the 1979 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10. * * *

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if

(1) the Trustee is trustee under another indenture under which any other securites * * * provided that there shall be excluded from the operation of this paragraph any idenure or indentures under which other securities * * * of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other idenure or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one of such indentures.

7. Section 7.08 of the 1974 Indenture provides in part as follows:

(a) If the Trustee has or shall acquire any conflicting interest, as defined in this Section 7.08, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign in the manner and with the effect specified in Section 7.10. * * *

(c) For the purposes of this Section 7.08 the Trustee shall be deemed to have a conflicting interest if—

(1) the Trustee is trustee under another indenture under which any other securities * * * of the Company are outstanding * * * provided that there shall be excluded from the operation of this paragraph * * * any * * * indenture or indentures under

which other securities * * * of the Company are outstanding if (i) this Indenture and such other indenture or indentures are wholly unsecured and such other indenture or indentures are hereafter qualified under the Trust Indenture Act of 1939, unless the Securities and Exchange Commission shall have found and declared by order pursuant to subsection (b) of Section 305 or subsection (c) of Section 307 of the Trust Indenture Act of 1939 that differences exist between the provisions of this Indenture and the provisions of such other indenture or indentures which are so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under this Indenture or such other Indenture or indentures, or (ii) the Company shall have sustained the burden of proving, on application to the Securities and Exchange Commission and after opportunity for hearing thereon, that trusteeship under this Indenture and such other indenture or indentures is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify the Trustee from acting as such under one such indentures.

8. The Company has placed certain U.S. government obligations and 8⅞% Debentures in trust under an Escrow Trust Agreement dated as of November 23, 1983 with Continental Illinois National Bank and Trust Company of Chicago to secure payment of the principal and interest on the 8⅞% Debentures issued under the 1970 Indenture. The Company has placed certain U.S. government obligations in trust under an Escrow Trust Agreement dated as of November 21, 1984 with Continental Illinois National Bank and Trust Company of Chicago to secure payment of the principal and interest on the 8% Debentures issued under the 1974 Indenture. The Company has not placed any U.S. government obligations or other securities in trust to secure payment of the principal and interest on the 9–⅜% Debentures issued under the 1979 Indenture.

9. Acceptance by Citibank of the appointment as successor trustee under the 1974 Indenture may involve Citibank in a conflict of interest within the meaning of Section 7.08 of the 1970 Indenture and the 1979 Indenture with respect to the 1974 Indenture.

10. Acceptance by Citibank of the appointment as successor trustee under 1974 Indenture may involve Citibank in a conflict of interest within the meaning of Section 7.08 of the 1974 Indenture with respect to the 1970 Indenture and the 1979 Indenture.

11. Since payments of principal and intrest on the 8⅞% Debentures issued under the 1970 Indenture are secured by a separate group of specific obligations owned by a separate trust established exclusively for the benefit of the holders of the 8⅞% Debentures issued under the 1970 Indenture, and payments of principal and interest on the 8% Debentures issued under the 1974 Indenture are secured by a separate group of specific obligations owned by a separate trust established exclusively for the benefit of the holders of the 8% Debentures issued under the 1974 Indenture, should Citibank have occasion to proceed against the security held in either of these trusts, such action would not affect the other issue of Debentures or the 8% Debentures issued under the 1974 Debenture. The only other material differences between the provisions of the 1970 Indenture, the 1979 Indenture and the 1974 Indenture, and between the rights of holders of the 8⅞% Debentures, relate to the aggregate principal amounts, dates of issue, maturity and interest payment dates, interest rates, redemption and sinking fund provisions, Trustee's reports, restrictions on transferability and other provisions of a similar nature. Any such differences and any other differences in the provisions of the 1970 Indenture, the 1979 Indenture and the 1974 Indenture are unlikely to cause any conflict of interest between the respective trusteeships of Citibank under said Indentures.

12. The Company is not in default under the 1970 Indenture, the 1979 Indenture or the 1974 Indenture.

13. Such differences as exist between the 1970 Indenture, the 1979 Indenture and the 1974 Indenture are not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify Citibank from acting as trustee under the 1970 Indenture, as successor trustee under the 1979 Indenture or as successor trustee under the 1974 Indenture.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the offices of the Commission at 450 Fifth Street, NW., Washington, D.C. 20549.

Notice is further given that an order granting the application may be issued by the Commission at any time on or after June 10, 1985, unless prior thereto a hearing upon the application is ordered by the Commission, as provided in clause (ii) of section 310(b)(1) of the Act. Any interested person may, not later than June 10, 1985 at 5:30 P.M., Eastern Standard Time, in writing, submit to the Commission his or her views or any additional facts bearing upon 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 a hearing, the reasons for such request, and the issues of fact and law raised by the application which he or she desires to controvert.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12352 Filed 5-21-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14520; File No. 812-6037]

Application and Opportunity for Hearing; North American Security Life Insurance Company et al.

May 16, 1985.

Notice is hereby given that the North American Security Life Insurance Company ("the Company"), NASL Variable Account ("Account"), of 129 South Street, Boston, MA 02111 and NASL Financial Services, Inc., of 166 South River Road, Bedford, New Hampshire 03102 (collectively, "Applicants"), filed an application on February 1, 1985, and amendments thereto on May 6, 1985 and May 15, 1985 for an order pursuant to section 6(c) of the Act granting exemptions from the provisions of sections 26(a) and 27(c)(2) of the Act to the extent necessary to permit the transactions described in the application. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and are referred to the Act for a statement of the relevant provisions.

The Company is a stock life insurance company organized under the laws of the State of Delaware. The Company is the sponsor-depositor for the Account. The Account is a segregated investment "separate account" of the Company established in connection with the proposed issuance of certain flexible payment individual deferred variable annuity contracts ("Contracts"). The Account is registered under the Act as a

unit investment trust. NASL Financial Services, Inc., a registered broker-dealer, is the principal underwriter of the Contracts. Assets of the Account will be invested in shares of NASL Series Fund, Inc. (the "Fund"), a Maryland corporation registered under the Act as a diversified open-end management investment company. The Fund is a "series company" whose capital stock is currently divided into three separate classes consisting of an equity class, a bond class, and a money market class. Shares of the Fund will be held under an open account arrangement without the issuance of any stock certificates. Net payments made on the contract will be allocated to one or more of the Account subaccounts that invests solely in a particular class of Fund shares.

Applicants state that the Company assumes mortality and expense risks under the Contracts (including the risk that the surrender charges will be insufficient to cover distribution expenses). The Company assumes a mortality risk by virtue of annuity rates incorporated into the Contracts which cannot be changed. It assumes an expense risk in that the annual administration fee (which is $30, guaranteed for the life of the contract, and is designed to reimburse the Company for actual expenses, without profit) may be insufficient to cover actual expenses. To compensate for these risks, the Company will make a daily charge of 1.30% on an annual basis, of the value of the Account's assets which will be added to the Company's general funds. The charge is allocable 0.80% for mortality risks and 0.50% for expense risks.

Applicants state that the Company does not impose an initial sales charge on purchase payments. If a Contract is partially or totally surrendered prior to the maturity date, however, a contingent deferred sales load is deducted as a means for the Company to recover its sales expenses. Applicants state that the charge, guaranteed for the life of the Contract, is five percent of the lesser of (1) the amount surrendered, or (2) the total of all purchase payments made within 60 months immediately preceding the date of surrender. Applicants acknowledge that the surrender charge will be insufficient to cover all distribution expenses. However, any deficiency, they state, will be met from the Company's general corporate funds which may include amounts derived from the mortality and expense risk charge. Applicants request relief from sections 26(a) and 27(c)(2) to the extent necessary to permit the deduction of the mortality and expense risk charge.

Applicants assert that the mortality and expense risk charge meets the standard set forth in section 6(c) because it is reasonable in amount as determined by industry practice with respect to comparable annuity products. The Company states that this representation is based upon an analysis made by a consultant retained by the Company of publicly available information about selected similar industry products, taking into consideration such factors as current charges for other than mortality and expense risks, the existence of charge guarantees and guaranteed annuity purchase rates. The Company represents that as a further condition for this relief, it will maintain at its principal office and make available to the Commission, a memorandum setting forth in detail the products analyzed and the methodology used and results of the comparative survey made to support this representation.

The Company also represents that it has concluded that there is a reasonable likelihood that the possible use of the asset charge for distribution expenses has a reasonable likelihood of benefiting the Account and the contract owners. As a further condition of relief, Applicants represent that a memorandum, setting forth the basis for this representation, will be maintained at the Company's principal Office and available to the Commission. Applicants also represent that as a condition of this relief, the Account will invest only in funds which undertake to have a board of directors with a disinterested majority formulate and approve any plan under Rule 12b-1 of the Act to finance distribution expenses.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 10, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interests, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon the Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12348 Filed 5-21-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14521; 811-3321]

Stewardship Money Fund, Inc.; Application for an Order Declaring That Applicant Has Ceased To Be an Investment Company

May 16, 1985.

Notice is hereby given that Stewardship Money Fund, Inc. ("Applicant"), 104 East Jackson Street, Bolivar, Missouri 65613, registered under the Investment Company Act of 1940 ("Act") as an open-end, diversified, management investment company, filed an application on April 30, 1985, pursuant to section 8(f) of the Act, and Rule 8f-1 thereunder, for an order declaring that Applicant has ceased to be an investment company as defined in the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the pertinent statutory provisions.

Applicant, a Maryland corporation, registered under the Act on November 5, 1981, and filed a registration statement pursuant to Section 8(b) of the Act on March 29, 1982. This registration statement provided for authorized capital in the amount of 100,000,000 shares of common stock, all of a single class, with a par value of $.001 per share. The registration statement was declared effective April 27, 1982, the date of Applicant's initial public offering of shares.

Applicant represents that on February 28, 1985, Applicant's board of directors unanimously approved a Plan of Complete Dissolution and Liquidation ("Plan"), recommending that the Plan be submitted for the approval of the shareholders at a special meeting scheduled for April 5, 1985. At such special meeting, approximately 98 percent of the holders of record of the outstanding shares of Applicant voted in favor of the Plan. Pursuant to the Plan, Applicant filed Articles of Dissolution in the State of Maryland on April 30, 1985, and was liquidated as of that date. Accordingly, distributions in complete liquidation of the interests of each of Applicant's securityholders as of April 30, 1985, has been made. As of that date, Applicant had 20 securityholders, and

15,830.58 shares of common stock outstanding, each representing a net asset value of $1.00.

Applicant states further that it has incurred $5,269 in liquidation fees and expenses, exclusive of legal fees. All but $2,000 of that amount has been paid in full as of April 30, 1985. The amount of legal fees incurred in connection with the liquidation is being disputed by the parties, but Applicant's investment adviser, Stewardship Financial Group, Ltd. ("Adviser"), has agreed to continue to pay all of Applicant's liabilities and expenses through the completion of the liquidation and termination of existence of Applicant. The Adviser, it is stated, has also waived payment of all reimbursements to it pursuant to the terms of the advisory agreement, as well as all fees due it for services rendered during the period January 1, 1985 through April 30, 1985. Applicant states that it has retained no assets, nor is it party to any litigation, or administrative proceeding.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than June 10, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-12349 Filed 5-21-85; 8:45 am]

BILLING CODE 8010-01-M

SMALL BUSINESS ADMINISTRATION

[Designation of Disaster Loan Area No. 6258; Amdt. 1]

North Dakota; Declaration of Disaster Loan Area

The above numbered Designation (50 FR 2640) is hereby amended to include the Counties of Adams and Sheridan. All other information remains the same; i.e., the termination date for filing applications is the close of business on October 10, 1985, under presently existing regulations. This time period is subject to change in accordance with the requirements of the Federal budget.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 15, 1985.

Robert A. Turnbull,

Acting Administrator.

[FR Doc. 85-12270 Filed 5-21-85; 8:45 am]

BILLING CODE 8025-01-M

Presidential Advisory Committee on Small and Minority Business Ownership; Public Meeting

The Presidential Advisory Committee on Small and Minority Business Ownership, located in Washington, D.C., will hold a public meeting at 9:00 a.m. until 5:00 p.m., Monday, June 3, 1985, in the Auditorium of the Mountain Bell Telephone Company Building, 1005 17th Street, Denver, Colorado 80202, to conduct such business as may be presented by the Committee members. The meeting will be open to the interested public, however, space is limited.

Persons wishing to obtain further information should contact Mrs. Maurine Fisher, Office of Private Industry Programs, Small Business Administration, Room 602, 1441 L Street, NW., Washington, D.C. 20416, telephone (202) 653-6851.

Dated: May 14, 1985.

Jean M. Nowak,

Director, Office of Advisory Councils.

[FR Doc. 85-12271 Filed 5-21-85; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Change of Name of Approved Trustee

Notice is hereby given that effective October 15, 1984, Mercantile National Bank at Dallas, Dallas, Texas, changed its name to MBank Dallas, N.A.

Dated: May 16, 1985.

By Order of the Maritime Administrator.

Murray A. Bloom,

Acting Secretary.

[FR Doc. 85-12253 Filed 5-21-85; 8:45 am]

BILLING CODE 4910-81-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Department Circular—Public Debt Series—No. 15-85]

Treasury Notes of May 31, 1987; Series V-1987

May 16, 1985.

1. Invitation for Tenders

1.1. The Secretary of the Treasury, under the authority of Chapter 31 of Title 31, United States Code, invites tenders for approximately $9,000,000,000 of United States securities, designated Treasury Notes of May 31, 1987, Series V-1987 (CUSIP No. 912827 SF 0), hereafter referred to as Notes. The Notes will be sold at auction, with bidding on the basis of yield. Payment will be required at the price equivalent of the yield of each accepted bid. The interest rate on the Notes and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of the Notes may be issued to Government accounts and Federal Reserve Banks for their own account in exchange for maturing Treasury securities. Additional amounts of the Notes may also be issued at the average price to Federal Reserve Banks, as agents for foreign and international monetary authorities.

2. Description of Securities

2.1. The Notes will be dated May 31, 1985, and will accrue interest from that date, payable on a semiannual basis on November 30, 1985, and each subsequent 6 months on May 3 and November 30 through the date that the principal becomes payable. They will mature May 31, 1987, and will not be subject to call for redemption prior to maturity. In the event any payment date is a Saturday, Sunday, or other nonbusiness day, the amount due will be payable (without additional interest) on the next-succeeding business day.

2.2 The Notes are subject to all taxes imposed under the Internal Revenue Code of 1954. The Notes are exempt from all taxation now or hereafter imposed on the obligation or interest thereof by any State, any possession of the United States, or any local taxing authority, except as provided in 31 U.S.C. 3124.

2.3. The Notes will be acceptable to secure deposits of Federal public monies. They will not be acceptable in payment of Federal taxes.

2.4. Notes in registered definitive form will be issued in denominations of $5,000, $10,000, $100,000, and $1,000,000.

Notes in book-entry form will be issued in multiples of those amounts. Notes will not be issued in bearer form.

2.5. Denominational exchanges of registered definitive Notes, exchanges of Notes between registered definitive and book-entry forms, and transfers will be permitted.

2.6. The Department of the Treasury's general regulations governing United States securities apply to the Notes offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. Sale Procedures

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20239, prior to 1:00 p.m., Eastern Daylight Saving time, Wednesday, May 22, 1985. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, May 21, 1985, and received no later than Friday, May 31, 1985.

3.2. The par amount of Notes bid for must be stated on each tender. The minimum bid is $5,000, and larger bids must be in multiples of the amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.10%. Fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield.

3.3. A single bidder, as defined in Treasury's single bidder guidelines, shall not submit noncompetitive tenders totaling more than $1,000,000. A noncompetitive bidder may not have entered into an agreement, nor make an agreement to purchase or sell or otherwise dispose of any noncompetitive awards of this issue prior to the deadline for receipt for tenders.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as dealers who make primary markets in Government securities and are on the list of reporting dealers published by the Federal Reserve Bank of New York, may submit tenders for accounts of customers if the names of the customers and the amount for each customer are furnished. Others are permitted to submit tenders only for their own account.

3.5. Tenders for their own account will be received without deposit from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from all others must be accompanied by full payment for the amount of Notes applied for, or by a guarantee from a commercial bank or a primary dealer of 5 percent of the par amount applied for.

3.6. Immediately after the deadline for receipt of tenders, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full, and then competitive tenders will be accepted, starting with those at the lowest yields, through successively higher yields to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, and interest rate will be established, at ⅛ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 99.500. That stated rate of interest will be paid on all of the Notes. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Those submitting noncompetitive tenders will pay the price equivalent to the weighted average yield of accepted competitive tenders. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the price equivalent to the weighted average yield of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance of their bids. Those submitting noncompetitive tenders will be notified only if the tender is not accepted in full, or when the price at the average yield is over par.

4. Reservations

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of Notes specified in section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this section is final.

5. Payment and Delivery

5.1. Settlement for the Notes allotted must be made at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Settlement on Notes allotted to institutional investors and to others whose tenders are accompanied by a guarantee as provided in section 3.5. must be made or completed on or before Friday, May 31, 1985. Payment in full must accompany tenders submitted by all others investors. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes, or bonds maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received from institutional investors no later than Wednesday, May 29, 1985. In addition, Treasury Tax and Loan Note Option Depositaries may make payment for the Notes allotted for their own accounts and for accounts of customers by credit to their Treasury Tax and Loan Note Accounts on or before Friday, May 31, 1985. When payment has been submitted with the tender and the purchase price of the Notes allotted is over par, settlement for the premium must be completed timely, as specified above. When payment has been submitted with the tender and the purchase price is under par, the discount will be remitted to the bidder.

5.2. In every case where full payment has not been completed on time, an amount of up to 5 percent of the par amount of Notes allotted shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered definitive securities tendered in payment for the Notes allotted are not required to be assigned if the new Notes are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrended. When the new Notes are to be registered in names and forms different from those in the

inscriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for (Notes offered by this circular) in the name of (name and taxpayer identifying number)". Specific instructions for the issuance and delivery of the new Notes, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment must be delivered at the expense and risk of the holder.

5.4. Registered definitive Notes will not be issued if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (e.g., an individual's social security number or an employer identification number) is not furnished. Delivery of the Notes in registered definitive form will be made after the requested form of registration has been validated, the registered interest account has been established, and the Notes have been inscribed.

6. General Provisions

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized, as directed by the Secretary of the Treasury, to receive tenders, to make allotments, to issue such notices as may be necessary, to receive payment for, to issue and deliver the Notes on full-paid allotments, and to maintain, service, and make payment on the Notes.

6.2. The Secretary of the Treasury may at any time supplement or amend provisions of this circular if such supplements or amendments do not adversely affect existing rights of holders of the Notes. Public announcement of such changes will be promptly provided.

6.3. The Notes issued under this circular shall be obligations of the United States, and, therefore, the faith of the United States Government is pledged to pay, in legal tender, principal and interest on the Notes.

Carole Jones Dineen,

Fiscal Assistant Secretary.

[FR Doc. 85-12236 Filed 5-21-85; 8:45 am]

BILLING CODE 4810-40-M

VETERANS ADMINISTRATION

Advisory Committee on Readjustment Problems of Vietnam Veterans; Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) that the Advisory Committee on Readjustment Problems of Vietnam Veterans has been renewed by the Administrator of Veterans Affairs for a two year period beginning May 10, 1985 to May 10, 1987.

Dated: May 14, 1985.

By direction of the Administrator.

Rosa Maria Fontanez,

Committee Management Officer.

[FR Doc. 85-12555 Filed 5-21-85; 8:45 am]

BILLING CODE 8320-01-M

Agency Forms Under OMB Review

AGENCY: Veterans Administration.

ACTION: Notice.

The Veterans Administration has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). This document contains reinstatements and lists the following information: (1) The Department or Staff Office issuing the form; (2) The title of the form; (3) The agency form number, if applicable; (4) How often the form must be filled out; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to fill out the form; and (8) An indication of whether section 3504(h) of Pub. L. 96-511 applies.

ADDRESSES: Copies of the forms and supporting documents may be obtained from Patricia Viers, Agency Clearance Officer (732), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420, (202) 389-2146. Comments and questions about the items on the list should be directed to the VA's OMB Desk Officer, Dick Eisinger, Office of Management and Budget, 726 Jackson Place, NW., Washington, D.C. 20503, (202) 395-7316.

DATES: Comments on the information collection should be directed to the OMB Desk Officer within 60 days of this notice.

Dated: May 16, 1985.

By direction of the Administrator.

Everett Alvarez, Jr.,

Deputy Administrator.

Reinstatements

1. Department of Veterans Benefits
2. Equal Opportunity Compliance Review Report
3. VA Form 27-8734
4. 10% annually
5. State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, and Small businesses or organizations
6. 496 responses
7. 496 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Supplement to Equal Opportunity Compliance Review Report
3. VA Form 27-8734a
4. 10% annually
5. Individuals or households
6. 744 responses
7. 744 hours
8. Not applicable

* * * * *

1. Department of Veterans Benefits
2. Self-Evaluation Supplement to Equal Opportunity Compliance Review Report
3. VA Form 27-8734b
4. One percent annually
5. State or local governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, and small businesses or organizations
6. 50 responses
7. 25 hours
8. Not applicable

[FR Doc. 85-12254 Filed 5-21-85; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 99
Wednesday, May 22, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:10 p.m. on Thursday, May 16, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to:

(A)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in Bank of Newcastle, Newcastle, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, May 16, 1985; (2) accept the bid for the transaction submitted by Allied Oklahoma Bank, National Association, Oklahoma City, Oklahoma; and (3) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B)(1) receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in The Energy Bank, National Association, Dallas, Texas, which was closed by the Deputy Comptroller of the Currency on Thursday, May 16, 1985; (2) accept the bid for the transaction submitted by The Oaks Bank & Trust Company, Dallas, Texas, a newly-chartered State nonmember bank subsidiary of Prestonwood Bancshares, Inc., Dallas, Texas; (3) approve the applications of The Oaks Bank & Trust Company, Dallas, Texas, for Federal deposit insurance and for consent to purchase certain assets of and to assume the liability to pay deposits made in The Energy Bank, National Association, Dallas, Texas; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction; and

(C) consider a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act [name and location of bank authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(4), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(4), (c)(8), and (c)(9)(A)(ii))].

In calling the meeting, the Board determined, on motion of Chairman William M. Isaac, seconded by Director Irvine H. Sprague (Appointive), concurred in by Director H. Joe Selby (Acting 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)(4), (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)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: May 17, 1985.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 85-12400 Filed 5-20-85; 12:20 p.m.]

BILLING CODE 6714-01-M

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FEDERAL TRADE COMMISSION

TIME AND DATES: 10:00 a.m., Friday, May 24, 1985.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue, NW., Washington, DC. 20580.

STATUS: Open.

MATTER TO BE CONSIDERED: Discussion of Industry Plans for Compliance with Comprehensive Smoking Education Act.

CONTACT PERSON FOR MORE INFORMATION: Susan B. Ticknor, Office of Public Affairs: (202) 532-1892, Recorded Message: (202) 523-3806.

Emily H. Rock,

Secretary.

[FR Doc. 85-12401 Filed 5-20-85; 12:31 pm]

BILLING CODE 6750-01-M

3

INTERNATIONAL TRADE COMMISSION

USITC SE-85-20B

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [Will be published May 15, 1985].

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2:00 p.m., Wednesday, May 15, 1985.

CHANGES IN THE MEETING: Change of time for Commission meeting from 2:00 p.m. to 11:00 a.m.

In conformity with 19 C.F.R. 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, and Rohr determined that Commission business requires the change in time of the meeting, affirmed that no earlier announcement of the change to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, *Secretary,* (200) 523-0161.

[FR Doc. 85-12334 Filed 5-17-85; 4:35 pm]

BILLING CODE 7020-02-M

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NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 20, 27, June 3, and 10, 1985.

PLACE: Commissioners' Conference Room, 1717 H Street, NW., Washington, D.C.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 20

Tuesday, May 21

2:30 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 and 7)

Wednesday, May 22

2:00 p.m.
Oral Presentations by Participants on Lifting Immediate Effectiveness of 1979 Shutdown Orders for TMI-1 (Public Meeting)

Thursday May 23

10:00 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) a. Severe Accident Policy Statement (tentative)

Week of May 27—Tentative

Wednesday, May 29

2:00 p.m.

Vote on Lifting Immediate Effectiveness of 1979 Shutdown Orders for TMI–1/ Discussion if Necessary (Public Meeting)

Thursday, May 30

9:30 a.m.
Discussion of Pending Investigation (Closed—Ex. 5 and 7)
10:30 a.m.
Discussion/Possible Vote on Full Power Operating License for Palo Verde–1 (Public Meeting)
2:00 p.m.
Discussion on Shoreham Adjudication Matter (Closed—Ex. 10) (tentative)
3:30 p.m.
affirmation Meeting (Public Meeting) (if needed)

Week of June 3—Tentative

Monday, June 3

1:30 p.m.
Discussion of Pending Investigations (Closed—Ex. 5 and 7)
2:30 p.m.
Discussion/Possible Vote on Full Power Operating License for Wolf Creek (Public Meeting)

Tuesday, June 4

2:00 p.m.
Discussion/Possible Vote on Review of Alab–800 and Related Matters (Shoreham) (Public Meeting)

Thursday, June 6

Affirmation Meeting (Public Meeting) (if needed)

Week of June 10—Tentative

Monday, June 10

10:00 a.m.
Briefing by Representatives of INPO Accrediting Board (Public Meeting)
2:00 p.m.
Discussion/Possible Vote on Final Rule on Backfitting (Public Meeting)

Tuesday, June 11

2:00 p.m.
Discussion on Management-Organization and Internal Personnel Matters (Closed—Ex. 2 and 6)

Wednesday, June 12

10:00 a.m.
Continuation of 5/16 Briefing on Mid-Year Budget and Program Review (Public Meeting)

Thursday, June 13

10:00 a.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING)—(202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Julia Corrado (202) 634–1410.

Julia Corrado

Office of the Secretary.

May 16, 1985.

[FR Doc. 85–12340 Filed 5–17–85; 4:52 p.m.

BILLING CODE 7590–01–M

federal register

Wednesday
May 22, 1985

Part II

Department of Transportation

Coast Guard

46 CFR Parts 30, 151, and 153
Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

46 CFR Parts 30, 151, and 153

[CGD 81-078]

Safety Rules for Self-Propelled Vessels Carrying Hazardous Liquids

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the rules for self-propelled vessels carrying hazardous liquids. It adds to and revises the lists of cargoes regulated under parts 30, 151, and 153, and includes carriage requirements for these new cargoes. In part 153 it corrects editorial errors, clarifies provisions that are confusing, deletes provisions that are impractical, reduces certain requirements, and adds several new requirements. In general, the changes agree with standards adopted by the International Maritime Organization (IMO), formerly the Inter-Governmental Maritime Consultative Organization or IMCO, in the IMO Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IMO Chemical Code), Resolution A.212.

DATE: This amendment is effective on July 22, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert M. Query, Office of Merchant Marine Safety (G-MTH-1/12), U.S. Coast Guard Headquarters, Washington, D.C. 20593 (202-426-1217).

SUPPLEMENTARY INFORMATION: Interested persons were given until July 1, 1983 to submit written comments to the Coast Guard concerning the proposal. A discussion of the comments received is contained in the following paragraphs.

Drafting information

The principal persons involved in drafting this rule are: Mr. Robert M. Query, Project Manager, Office of Merchant Marine Safety and Mr. Michael N. Mervin, Project Attorney, Office of the Chief Counsel.

Comments on Specific Sections

Eight comments on the notice of proposed rulemaking were received. Of these, seven objected to the requirement in § 153.436 on limiting the temperature of heat transfer fluids. The eighth questioned several material of construction restrictions. These comments are discussed under the section headings they affect.

Authority citation: The authority citations for Parts 30, 151, and 153 are revised to show the recodification of title 46 of the U.S. Code.

Section 30.25-1 Cargoes carried in vessels certificated under the rules of this subchapter; and Table 151.01-10(d) Cargoes to be regulated by Subchapter D. The tables in § 30.25-1 and 151.01-10(d) contain identical listings of flammable and combustible cargoes which must be transported in vessels certificated under Subchapter D. The Coast Guard evaluated and classified several new cargoes as flammable or combustible liquids regulated under Subchapter D and is adding these to the tables. Also, these tables are revised to correct misspellings of cargo names and misprints in the *Code of Federal Regulations.*

Iso-Propyl ether was removed from the table in § 30.25-1 by a final rule that appeared in the **Federal Register** of May 17, 1982; however, it was not removed from Table 151.01-10(d). This rule removes "Propyl ether (iso-)" from Table 151.01-10(d).

Section 153.2 Definitions. A cross reference to the existing definition of "control space" in § 30.10-19a is added. The definition of "Independent" as applied to tank overflow control systems is moved to §153.408, the only section in which the term is used in that sense. The terms "liquid," "mixture," and "solution" are added to clarify their meaning when used in cargo names.

Section 153.8 U.S. flag vessel endorsement application. Section 153.8(b)(2) is amended to correct the citation listing the electrical plans the Coast Guard requries to review a vessel.

Table 1—Table of Minimum Requirements. Since the previous update of table 1, the Coast Guard has evaluated approximately thirty-seven new hazardous cargoes under the IMO Criteria for Hazard Evaluation of Bulk Chemicals (annex to the IMO Chemical Code, 1980 edition). These cargoes have been adopted by IMO and are incorporated into table 1.

One person commented on the material of construction restrictions proposed for tetraethylenepentamine and the water solution of the diammonium salt of zinc ethylenedíamine tetraacetic acid. The Coast Guard had proposed that aluminum not be allowed as a material of construction for these cargoes based in one case on a report that aluminum was attacked by the cargo and in the other case the manufacturer's recommendation against using aluminum with the cargo. The person commenting stated that he had shipped tetraethylenepentamine in aluminum tanks a number of times with no problem. The same person included corrosion data suggesting that the diammonium zinc EDTA solutions did not attack aluminum at a rate that would cause any problems. Since these corrosion problems, if they exist, are likely to cause no hazard beyond the cost to the vessel owner of repairing the corrosion damage, the Coast Guard has deleted the prohibition against aluminum for these two cargoes and added a footnote describing the reported problems. If further investigation or experience suggests the use of aluminum to be unwise, the Coast Guard will reconsider this question.

The same person commented that the requirement for 2,4-dichlorophenol to be inerted was unnecessary. He noted that the requirement was intended to exclude water (moist air) from the cargo tank since the cargo hydrolyzes easily and the acidic products of hydrolysis can corrode steel tanks. However, in his experience the amount of water needed to cause problems with steel tanks is much greater than can be expected from moist air brought in by tank breathing. The Coast Guard has deleted the prohibition while adding a footnote describing the problem and IMO's requirement that the vessel have a means of keeping the tank atmosphere dry.

IMO is removing chloroprene from Chapter VI of the IMO Chemical Code (the equivalent of table 1) because of potential problems with cargo stability under the present carriage conditions. The Coast Guard has not found any company shipping chloroprene in bulk by tankship and is removing chloroprene from table 1. The Coast Guard will consider relisting chloroprene after evaluation of data on the cargo if a vessel operator wishes to carry it.

The cargo names for "Benzene" and "Phenol" are amended to read "Benzene, and hydrocarbon mixtures containing 10 pct or more Benzene," and "Phenol or solutions with 5 pct or more phenol." These changes incorporate under one name a large number of cargoes that the Coast Guard previously listed separately (i.e. Petroleum hydrocarbon polymer, Pyrolysis gasoline, Phenol hydrate, etc.).

The gauging requirement for "(n-) Butyl ether" is reduced from closed to restricted gauging based on the IMO criteria.

The "Fire protection system" column entry for a number of cargoes is changed to agree with IMO and industry recommendations.

The carriage requirements for propylene oxide are revised by adopting those recommended at the tenth session

of the IMO Subcommittee on Bulk Chemicals. (See the discussion under §§ 153.530 and 153.1011.)

The Coast Guard is requiring that cargo pumprooms transferring motor fuel anti-knock compounds have ventilation rates meeting §153.316. These increased rates will reduce the risk of exposure to lead and lead alkyls.

Note.—The footnotes and other notes to table 1 have been renumbered, with corresponding changes to the superscripts in the table. The footnote numbering had become disorganized from several revisions.

To help the reader with the changes to table 1, a complete table as revised follows the listing of changes and additions. The complete table indicates with a "#" symbol those cargoes that are revised by this final rule, and with a "*" those that are added by this final rule.

Changes To Table 1 of Part 153

The following changes have been made to Table 1 of Part 153:

1. Amending the cargo name entry in for "Benzene" to read "Benzene, or hydrocarbon mixtures containing 10 pct or more benzene".

2. Amending the entry for "(n-)Butyl ether" in the column "Gauge" to read "Restr."

3. Removing the cargo "Chloroprene".

4. Adding ".316" in proper numerical sequence to the "Special requirements" column for "Motor fuel antiknock compounds containing lead alkyls."

5. Changing the footnote reference on the name and in the fire protection column of "Nitropropane" from "8" to "9".

6. Amending the cargo name "Phenol" to read "Phenol or solutions with 5 pct or more phenol".

7. Amending the entries for propylene oxide shown below to read as follows:

Cargo name	Fire protection system	Special requirements
* * * * *		
Propylene oxide	A,C	.372, .408, .440, .500, .526, .530, .1010, .1011
* * * * *		

8. Adding ".236(a), (g)" in proper sequence to the "Special requirements" of "Tetraethylene pentamine".

9. Amending the column entry under "Fire protection system" to read as shown for the following cargoes:

Cargo name	Fire protection system
(n-) Butyl ether	A, D
Butyl methacrylate	A, D
Coal tar naphtha	A, D
Creosote	B, D
Cyclohexylamine	A, D
(iso-, n-) Decyl acrylate	A, C, D
Dibutylamine	B, D
Dichlorobenzene	B, D
Diethylethanolamine	A, D
Dimethylamine (40 pct or less)	A, C, D
Dimethylethanolamine	A, D
Dimethylformamide	A, D
Ethylene chlorohydrin	A, C, D
Ethyl methacrylate	B, D
2-Methyl-5-ethyl pyridine	A, D
alpha-Methyl styrene	A, B, C, D
Naphthalene (liquid)	A, D
(mono-) Nitrobenzene	A, B, C, D
(iso-) Propylamine	C, D
(n-) Propylamine	C, D
Vinyl toluene	A, B, C, D

10. Adding ".372" in proper numerical sequence to the "Special requirements" column for the following cargoes:

Ethyl ether
Isoprene
Methyl formate
(iso-) Propylamine
Vinyl ethyl ether
Vinylidene chloride*

11. Adding ".440" in proper numerical sequence to the "Special requirements" column for the following cargoes:

"Naphthalene (liquid)"
"Phenol or solutions with 5 pct or more phenol"

12. Removing footnote "12" in the Electrical hazard class and group column for the following cargoes:

(iso-, n-, sec-, tert-) Butylamine
(n-) Butyl ether
Butyl methacrylate
Cyclohexylamine
Dibutylamine
1,1-Dichloroethane
Diethylethanolamine
Dimethylethanolamine
Dimethylformamide
Ethylene chlorohydrin
Ethyl methacrylate
2-Ethyl-3-propyl acrolein
Isoprene
alpha-Methyl styrene
Motor fuel antiknock compounds (containing lead alkyls)
Paraldehyde
Pyridine
Vinyl ethyl ether

*13. Adding a footnote reference "7" on the column title "Special Requirements".

14. Changing the footnote reference on the column title "Electrical Hazard Group and Class" from "7" to "8".

15. Revising the notes and footnotes at the end to read as follows:

Column Heading Footnotes

[1] The cargo name must be as it appears in this column (see 153.5, 153.900, 153.907).

[2] This column lists the type of containment system the cargo must have (see §§ 153.230 through 153.232).

[3] This column lists the height of any vent riser required (see §§ 153.350 and 153.351).

[4] This column lists any vent control valve required (see § 153.355).

[5] This column lists the type of gauging system required (see §§ 153.400 through 153.406).

[6] This column lists the type of fire protection system required. Where more than one type is listed, any listed system may be used. The types are as follows:

A is a foam system for water soluble cargoes (polar solvent foam).
B is a foam system for water insoluble cargoes (non-polar solvent foam).
C is a water spray system.
D is a dry chemical system.
NSR means there is no special requirement applying to fire protection systems.

A dry chemical system may not be substituted for either type of foam system unless the dry chemical system is listed as an alternative or the substitution is approved by Commandant (G-MTH) (see § 153.460).

[7] This column lists sections that apply to the cargo in addition to the general requirements of this Part. The 153 Part number is omitted.

[8] This column lists the electrical hazard class and group used for the cargo when determining requirements for electrical equipment under subchapter J (Electrical Engineering) of this chapter.

Footnotes on Specific Cargoes

[9] Dry chemical extinguishers should not be used on fires involving this cargo since some dry chemicals may react with the cargo and cause an explosion.

[10] The I-B electrical hazard for acids does not apply to weather deck locations. See 46 CFR Part 111.

[11] Water is effective in extinguishing open air fires but will generate hazardous quantities of gas if put on the cargo in enclosed spaces.

[12] Aluminum is a questionable material of construction with this cargo since pitting and corrosion have been reported. The IMO Chemical Code prohibits aluminum as a material of construction for this cargo.

[13] Some tank pitting has been reported when this cargo is contaminated with water, including moisture in the air. The IMO Chemical Code requires that the vapor space over this cargo be kept dry.

General Notes

The term "solution" means a water solution.

The term "mixture" means a mixture containing only the substances described in conjunction with the term.

The term "liquid" when used with a cargo that is solid at ambient temperatures means the cargo is handled as a liquid by heating the cargo until it is molten.

Part 150 of this chapter contains requirements on stowage of cargoes and cargo compatibility.

Appendix I of this part contains a list of cargoes that are not regulated under this part or subchapter D (Parts 30 through 35) of this chapter.

16. Adding the following new cargoes and their corresponding column entries in proper alphabetical order:

46 CFR Part 153

TABLE I—TABLE OF MINIMUM REQUIREMENTS

Cargo name [1]	Cargo containment system [2]	Vent height [3]	Vent [4]	Gauge [5]	Fire protection system [6]	Special requirements [7]	Electrical hazard class and group [8]
Acrylamide solution (50 pct or less)	II	NR	Open	Closed	NSR	.409, .525 (a), (c), (d), (e), .912(a)(1), .1002(a), .1004, .1020.	NA
2-(2-Aminoethoxy)ethanol	III	NR	Open	Open	A, C, D	.236 (b), (c), .409	NA
Benzenesulfonyl chloride	III	4m	PV	Restr	B, D	.236 (a), (b), (c), (g), .409, .526	I-D
Cetyl eicosyl methacrylate	III	NR	Open	Open	A, C, D	.912(a)(1), .1002(a), (b), .1004	NA
(o-,m-,p-) Chlorotoluene	III	4m	PV	Restr	B, C	.526	I-D
Cresylate spent caustic (mixtures of Cresols and Caustic soda solution).	III	NR	Open	Open	NSR	.236(a), (c), .933	NA
Diammonium salt of Zinc ethylenediamine tetraacetic acid solution.	III	NR	Open	Open	NSR	.236(a), .238(a)	I-B
2,2'-Dichloroisopropyl ether	II	B/3	PV	Restr	B, C, D	.236(a), (b), .316, .408, .525, .526, .1020.	I-D
2,4-Dichlorophenol	III	4m	PV	Restr	B, C, D	.236 (a), (b), (c), (g), .409, .500, .501, .525, .933.	NA
Dichloropropene, Dichloropropane mixtures.	II	B/3	PV	Restr	B	.316, .336, .408, .409, .526, .527	I-D
2,2-Dichloropropionic acid	III	4m	PV	Restr	A	.236(a), .238(a), .266, .500, .501, .554	NA
Diethyl sulfate	II	4m	PV	Closed	A, D	.236 (a), (c), (d), .409, .526	NA
Di-n-propylamine	III	4m	PV	Restr	A	.236 (b), (c), .409, .525, .526, .1020	I-C
Dodecyl methacrylate	III	NR	Open	Open	A, C	.236 (b), (c), .912(a)(1), .1004	I-D
Dodecyl pentadecyl methacrylate	III	NR	Open	Open	A, C, D	.912(a)(1), .1002(a), (b), .1004	NA
Ethylamine solution (72 pct or less)	II	B/3	PV	Closed	A, C	.236 (a), (b), (c), .408, .525 (a), (c), (d), (e), .526, .527, .1020.	I-D
N-Ethylbutylamine	III	4m	PV	Restr	A	.236 (a), (b), (c), (g), .409, .525 (a), (c), (d), (e), .526, .1020.	I-C
N-Ethylcyclohexylamine	III	4m	PV	Restr	A, C	.236 (a), (b), (c), (g), .409, .526	I-C
Ethylidene norbornene	III	B/3	PV	Restr	B, C, D	.236(b), .409, .526	NA
Formaldehyde 50 percent or more, Methanol mixtures.	III	4m	PV	Closed	A	.409, .526, .527	I-C
Glutaraldehyde solution (50 pct or less).	III	NR	Open	Open	NSR	None	NA
Hexamethylenediamine solution	III	4m	PV	Restr	A	.236 (b), (c), .409, .526	I-D
Maleic anhydride	III	4m	PV	Restr	A, C [9]	None	NA
Methylamine solution (42 pct or less)	II	B/3	PV	Restr	A, C, D	.236 (a), (b), (c), (g), .316, .408, .409, .525, .526, .527, .1020.	I-D
2-Methyl-6-ethyl aniline	III	NR	Open	Open	B, C, D	None	NA
2-Methylpyridine	II	4m	PV	Closed	A, C	.236(b), .409, .525(a), (c), (d), (e), .1020.	I-D
(o-) Nitrochlorobenzene	II	B/3	PV	Closed	B, C, D	.316, .336, .408, .525, .526, .1020	NA
Sodium borohydride (15 pct or less), Sodium hydroxide solution.	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .933	NA
Sodium chlorate solution (50 pct or less).	III	NR	Open	Open	NSR	.409, .933, .1065	NA
Sodium-2-mercaptobenzothiazol solution.	III	NR	Open	Open	NSR	.236(a), (b), (c), (g), .933	NA
Toluenediamine	II	B/3	PV	Closed	B, C, D	.236(a), (b), (c), (g), .316, .408, .525, .526, .527, .933, .1020.	NA
(o-) Toluidine	II	B/3	PV	Closed	A, C	.316, .408, .525, .526, .933, .1020	NA
1,2,4-Trichlorobenzene	III	4m	PV	Restr	C	.409, .526	I-D
1,2,3-Trichloropropane	II	B/3	PV	Closed	B, C, D	.316, .408, .525, .526, .1020	I-D
Trimethylacetic acid	III	4m	PV	Restr	A, C	.238(a), .266, .554	I-D
Trimethylhexamethylene diamine (2,2,4- and 2,4,4- isomers).	III	NR	Open	Open	A, C	.236(a), (b), (c), (g), .409	NA
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers).	II	B/3	PV	Restr	A, C [10]	.316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA

Sections 153.200 Portlights, wheelhouse windows, and wheelhouse doors; 153.201 Openings to accommodation, service or control spaces; and 153.202 Location of doors and airports on deckhouses and superstructures. Sections 153.200 and 153.202 are deleted. Section 153.201 incorporates the deleted sections while reducing the minimum distance aft of the superstructure's athwartship bulkhead required for openings in the superstructure. This revision makes § 153.201 consistent with the first set of amendments to SOLAS '74, 46 CFR 154.330 and the IMO Gas Carrier Code, Resolution A.328.

Section 153.370 Minimum relief valve setting for ambient temperature cargo tanks. The rule corrects the spelling of "ambient".

Section 153.372 Gauges and vapor return for cargo vapor pressures exceeding 100kPa (approx. 14.7 psia). Cargoes whose vapor pressure exceeds 100kPa at 37.8 °C (approx. 14.7 psia at 100 °F) are now designated by referencing § 153.372.

Sections 153.408 Tank overflow controls; and 153.968 Cargo transfer conference. An operating requirement is moved from § 153.408(d) to § 153.968(b)(5) to place it with other operating requirements.

Sections 153.430 Heat transfer systems: general; and 153.436 Heat transfer fluids. The introductory language to § 153.430 is revised to apply the requirement only to those cooling systems required by the part. The language was inadvertently changed with an earlier amendment.

The Coast Guard had proposed to revise section 153.436 to correct the wording of the paragraph limiting the operating temperature of heat transfer fluids. Seven of the eight comments the Coast Guard received on the Notice of Proposed Rulemaking objected to this requirement, generally arguing that it would unnecessarily restrict the choice of heat transfer fluids while offering no documented safety benefits. The Coast Guard has reconsidered the requirement and is deleting it.

Sections 153.530 Special requirements for alkylene oxides; and 153.1011 Changing containment systems and hoses to and from alkylene oxide

service. The carriage requirements for propylene oxide were discussed at the tenth session of the IMO Subcommittee on Bulk Chemicals in May 1982. After considering the safety record of propylene oxide carriage in integral gravity tanks, IMO removed its recommendation that would have prohibited this type of carriage after 1 January 1982. However, IMO added an operational requirement to inspect tanks before loading with propylene oxide. Based on the IMO recommendations, the final rule deletes § 153.530(q) and adds an operational requirement to § 153.1011(a)(1). The wording of the proposed rule, which would have made the change in section 1010 rather than 1011, could be easily construed to be more restrictive than the IMO requirement; this problem is corrected in the final rule.

IMO revised its description of the type of equipment required to monitor the oxygen level in void spaces around propylene oxide tanks in a way that allows either fixed or portable equipment. Section 153.530(h) is revised to give the same choices. The wording is changed from the proposal slightly because of a comment that the proposed wording might be misunderstood to require portable equipment even when permanent monitors are installed.

The rule clarifies § 153.530(j) by replacing the words "entirely separate" with "independent." The revised terminology is defined in the rule and conforms with the IMO Chemical Code standard.

Section 153.907 Cargo information cards, Section 153.908 Shipping document, Section 153.914 Documents at the transfer terminal. Cargo information cards with printing on one side are generally not available. The Coast Guard is simplifying cargo information requirements and consolidating them in § 153.907. Information cards are no longer required, though they may be used to supply part of the cargo information if an operator wishes. Section 153.908 is deleted; its requirements are incorporated in § 153.907. A requirement to list the name of an agent in the United States authorized to accept service of legal process is added to the list in § 153.907; it is not a new requirement but comes from 46 U.S.C. 3714(b)(4). It is included with the other information required by § 153.907 for completeness. Section 153.914 is also deleted since it has led to the misinterpretation that the vessel must supply the transfer facility's cargo information cards. The shore facility is still required to have cargo information by the requirements applying to such facilities under Title 33. These changes give the vessel operator complete flexibility in deciding the format for cargo information and substantially reduce the recordkeeping burden.

The cargo information requirements in the proposal did not retain the requirement in § 153.908 to show the cargo names for those cargoes not regulated under Part 153; such cargoes are typically those regulated under Parts 30 to 35 of title 46 (Subchapter D) or unregulated cargoes. The names of the other cargoes in a tanker carrying Part 153 cargoes is important to have should the vessel suffer some casualty; therefore, the Coast Guard has retained the requirement in § 153.907(b) of the final rule.

Section 153.1065 Sodium chlorate solutions. Sodium chlorate solutions are very reactive. Contact with organic substances, sulfur, sulfides, powdered metals, phosphorus, or ammonium compounds can cause fire and explosion. When in contact with strong acids, sodium chlorate solutions may evolve chlorine dioxide which is quite toxic. Sodium chlorate solutions, when spilled or mixed with small amounts of impurities, become very sensitive to shock and friction if allowed to dry. They decompose with an exothermic release of oxygen at 300 °F. For these reasons, it is essential for vessel safety that tanks be washed prior to loading and spilled solutions be washed away. The rule makes these safety considerations operational requirements.

E.O. 12291 and DOT Regulatory Policies and Procedures

The Coast Guard considers this rule to be non-major under Executive Order 12291 and non-significant under DOT policies and procedures (44 FR 11034; February 26, 1979). The Coast Guard's data indicate that at present there are no U.S. chemical tankships that will have to meet more stringent requirements because of this final rule. Although the number of variables involved makes actual costs and cost reductions difficult to quantify, the Coast Guard's evaluation suggests the tanker industry will benefit from the expanded cargo list, modified cargo overflow protection requirements, the simplified cargo information requirements, and the clarification of other requirements. The final regulatory evaluation, located in the rulemaking docket, examines these factors in more detail. The evaluation may be inspected or copied at the Marine Safety Council, Room 2110, U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, D.C. 20593, (202) 426–1477 from 8:00 a.m. to 3:00 p.m., Monday through Friday. Copies may also be obtained by contacting the same office.

Regulatory Flexibility Analysis

The Coast Guard certifies that this final rule will not have a significant economic impact on a substantial number of small entities. There are about thirty U.S. flag and about 400 foreign flag chemical tankships operating under Part 153. The purchase price of one of these tankships can range from about $50,000,000 to $150,000,000. The daily operating cost of a tankship ranges from about $15,000 to $20,000. The Coast Guard concludes that no company having capital and operating costs of this size is a "small entity."

Environmental Analysis

The rule has been evaluated in accordance with Department of Transportation Order 5610.1C and has been found to be excluded from further environmental evaluation. A copy of the Categorical Exclusion Determination statement has been placed in the public docket.

Paperwork Reduction Act

This rule contains information collection requirements in §§ 153.8 and 153.907. Those in § 153.8 are changed only to correct references to other sections and were previously approved under RCS/OMB number 2115–0089. The requirements consolidated in § 153.907 were previously approved under RCS/OMB number 2115–0089 and are reduced by this rulemaking. The collection items in § 153.907 have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*)

List of Subjects

46 CFR Part 30

Administrative practice and procedure, Foreign relations, Hazardous materials transportation, Marine safety, Penalties, Tank vessels, and Barges.

46 CFR Part 151

Barges, Flammable material, Hazardous materials transportation, Marine safety.

46 CFR Part 153

Hazardous materials transportation, Marine safety, Tank vessels.

In consideration of the foregoing, Chapter 1 of Title 46, Code of Federal Regulations, is amended as follows:

PART 30—GENERAL PROVISIONS

1. The authority citations for Parts 30, 151, and 153 are revised to read as follows:

Authority: 46 U.S.C. 3703, 49 U.S.C. 1803; 49 CFR 1.46 (n)(4) and (t).

§ 30.25–1 [Amended]

2. In § 30.25–1, by correcting the table entry "Alkyle Benzene Sulfonic Acid (4 pct or less)" to read "Alkyl Benzene Sulfonic Acid (4 pct or less)".

3. In § 30.25–1, by correcting the table entry "Diethylbenezine" to read "Diethylbenzene".

4. In § 30.25–1, by correcting the table entry "Digylcidyl Ether of Bisphenol A" to read "Diglycidyl Ether of Bisphenol A".

5. In § 30.25–1, by correcting the table entry "Jet Fuel:" by removing the indent before the entry.

6. In § 30.25–1, by correcting the table entry "Nonyl Phenol Sufide (30 pct or less)" to read "Nonyl Phenol Sulfide (90 pct or less)".

7. In § 30.25–1, by correcting the table entry "Xylene (meta-, para-, Ortho-)" to read "Xylene (meta-, para-, ortho-)".

8. By amending the table in § 30.25–1, placing the following cargo names in proper alphabetical order:

Cyclopentadiene Polymers.
Sulfolane.

9. By adding the following new cargoes in proper alphabetical order to the table in § 30.25–1:

Diisopropyl Naphthalene.
Dimethyl Polysiloxane.
Dipropylene Glycol Dibenzoate.
Tallow Fatty Acid.
Tributyl Phosphate.
Triethylene Glycol Butyl Ether Mixture.
Triethylene Glycol Ether Mixture.

PART 151—UNMANNED BARGES CARRYING CERTAIN BULK DANGEROUS CARGOES

§ 151.01–10 [Amended]

10. By removing "Propyl ether (iso-)" from Table 151.01–10(d).

11. In Table 151.01–10(d) by correcting the entry "Alkyle Benzene Sulfonic Acid (4 pct or less)" to read "Alkyl Benzene Sulfonic Acid (4 pct or less)".

12. In Table 151.01–10(d), by correcting the entry "Diethylbenezine" to read "Diethylbenzene".

13. In Table 151.01–10(d), by correcting the entry "Digylcidyl Ether of Bisphenol A" to read "Diglycidyl Ether of Bisphenol A".

14. In Table 151.01–10(d), by correcting the entry "Jet Fuel:" by removing the indent before the entry.

15. In Table 151.01–10(d), by correcting the entry "JP–5 (Kerosene, Heavy)" under "Jet Fuel:" by adding an indent before the entry.

16. In Table 151.01–10(d), by correcting the entry "Nonyl Phenol Sulfide (30 pct or less)" to read "Nonyl Phenol Sulfide (90 pct or less)".

17. In Table 151.01–10(d), by correcting the entry"Xylene (meta-, para-, Ortho-)" to read "Xylene (meta-, para-, ortho-)".

18. In Table 151.01–10(d), by moving the following cargo names so that they appear in proper alphabetical order:

Cyclopentadiene Polymers.
Sulfolane.

19. In Table 151.01–10(d), by adding the following new cargo names in proper alphabetical order:

Diisopropyl Naphthalene.
Dimethyl Polysiloxane.
Dipropylene Glycol Dibenzoate.
Tallow Fatty Acid.
Tributyl Phosphate.
Triethylene Glycol Butyl Ether Mixture.
Triethylene Glycol Ether Mixture.

PART 153—SAFETY RULES FOR SELF-PROPELLED VESSELS CARRYING HAZARDOUS LIQUIDS

20. By revising § 153.2 by removing the definition of "independent" as applied to tank overflow control systems, and by adding in alphabetical sequence the following definitions:

§ 153.2 Definitions.

* * * * *

"Control space" is defined in § 30.10–19a of this chapter.

* * * * *

"Liquid" when used in the name of a cargo that is solid at ambient temperatures means the cargo is handled as a liquid by heating the cargo until it is molten.

* * * * *

"Mixture" means a mixture containing only the substances described in conjunction with the term.

* * * * *

"Solution" means a water solution.

* * * * *

21. By revising § 153.8(b)(2) to read as follows:

§ 153.8 U.S. flag vessel endorsement application.

* * * * *

(b) * * *

(2) the plans and information listed in §§ 54.01–18, 56.01–10, 91.55–5 (a), (b), (d), (g) and (h), and 110.25–1 of this chapter; and

* * * * *

22. As revised, the entire table 1 of Part 153 appears as set out below, with the following notation:

#—indicates an entry that is revised by this final rule.

*—indicates an entry that is added by this final rule.

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS

Cargo name [1]	Cargo containment system [2]	Vent height [3]	Vent [4]	Gauge [5]	Fire protection system [6]	Special requirements [7]	Electrical hazard and class group [8]
Acetic acid	III	4m	PV	Restr	A	.238(a), .527, .554	I-D
Acetic anhydride	II	4m	PV	Restr	A	.238(a), .526, .527, .554	I-D
Acetone cyanohydrin	II	B/3	PV	Closed	A	.238(a), .316, .336, .408, .525, .526, .527, .912(a)(2), .933, .1002, .1004, .1020, .1035.	NA
Acetonitrile	II	B/3	PV	Restr	A	.525, 526, .1020	I-D
Acrylamide solution (50 pct or less)*	II	NR	Open	Closed	NSR	.409, .525 (a), (c), (d), (e), .912(a)(1), .1002(a), .1004, .1020.	NA
Acrylic acid	III	4m	PV	Restr	A	.238(a), .526, .912(a)(1), .1002(a), .1004	I-D
Acrylonitrile	II	B/3	PV	Closed	A	.236 (a), (c), (d), .316, .408, .525, .526, .527, .912(a)(1), .1004, .1020.	I-D
Adiponitrile	III	4m	PV	Restr	A	.526	NA
Alkyl benzene sulfonic acid	III	NR	Open	Open	B	None	NA
Allyl alcohol	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .933, .1020	I-C
Allyl chloride	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-D
2-(2-Aminoethoxy)ethanol*	III	NR	Open	Open	A,C,D	.236 (b), (c), .409	NA
Aminoethylethanolamine	III	NR	Open	Open	A	.236 (a), (b), (c), (g)	NA
Ammonium hydroxide (28 pct or less NH_3)	III	4m	PV	Restr	C	.236 (b), (c), (f), .526, .527	I-D
Aniline	II	B/3	PV	Closed	A	.316, .408, .525, .526, .933, .1020	NA
Benzene or hydrocarbon mixtures containing 10 pct or more Benzene #.	III	B/3	PV	Restr	B	.316, .526, .1060	I-D

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name [1]	Cargo containment system [2]	Vent height [3]	Vent [4]	Gauge [5]	Fire protection system [6]	Special requirements [7]	Electrical hazard and class group [8]
Benzenesulfonyl chloride*	III	4m	PV	Restr	B,D	.236 (a), (b), (c), (g), .409, .526	I-D
Benzyl chloride	II	B/3	PV	Closed	B	.316, .408, .525, .526, .527, .912(a)(2), .1004, .1020	NA
(iso-, n-) Butyl acrylate	II	4m	PV	Restr	A	.525, .912(a)(1), .1002 (a), (b), .1004	I-D
(iso-, n-, sec-, tert-) Butylamine #	II	B/3	PV	Closed	A	.236 (b), (c), .316, .408, .525, .526, .527, .1020	I-D
(n-) Butyl ether #	III	B/3	PV	Restr	A,D	.500, .525, .526, .1020	I-C
Butyl methacrylate #	III	4m	PV	Restr	A,D	.526, .912(a)(1), .1002 (a), (b), .1004	I-D
Butyl methacrylate, Decyl methacrylate, Cetyl eicosyl methacrylate mixture	III	4m	PV	Restr	A,C,D	.912(a)(1), .1002 (a), (b), .1004	I-D
(iso-, n-, crude) Butyraldehyde	III	4m	PV	Open	A	.526	I-C
Camphor oil	III	4m	PV	Open	B	None	I-D
Carbolic oil	II	B/3	PV	Closed	A	.408, .525, .526, .933, .1020	NA
Carbon disulfide	II	B/3	PV	Closed	C	.236(c), .252, .408, .500, .515, .520, .525, .526, .527, .1020, .1040.	I-A
Carbon tetrachloride	III	B/3	PV	Closed	NSR	.316, .409, .525, .526, .527, .1020	NA
Cashew nut shell oil (untreated)	III	4m	PV	Restr	B	.526, .933	NA
Caustic potash solution	III	NR	Open	Open	NSR	.236(a), (c), (g), .933	NA
Caustic soda solution	III	NR	Open	Open	NSR	.236(a),(c),(g), .933	NA
Cetyl eicosyl methacrylate *	III	NR	Open	Open	A,C,D	.912(a) [1), .1002(a),(b), .1004	NA
(mono-) Chlorobenzene	III	4m	PV	Restr	B	.526	I-D
Chloroform	III	B/3	PV	Restr	NSR	.525, .526, .527, .1020	NA
(crude) Chlorohydrins	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-D
2- or 3-Chloropropionic acid	III	NR	Open	Open	A	.238(a), .554	NA
Chlorosulfonic acid	I	B/3	PV	Closed	NSR	.408, .525, .526, .527, .554, .555, .602, .933, .1000, .1020, .1045.	I-14
(o-, m-, p-) Chlorotoluene *	III	4m	PV	Restr	B,C	.526	I-D
Coal atar naphtha #	III	4m	PV	Restr	A,D	.526	I-D
Creosote #	III	NR	Open	Open	B,D	.409	NA
Cresols	III	NR	Open	Open	B	None	NA
Crotonaldehyde	II	B/3	PV	Restr	A	.316, .525, .526, .527, .1020	I-C
Cresylate spent caustic (mixtures of Cresols and Caustic soda solutions) *.	III	NR	Open	Open	NSR	.236 (a), (c), .933	NA
Cyclohexanone	III	4m	PV	Restr	A	.236 (a), (b), .526	I-D
Cyclohexylamine #	III	4m	PV	Restr	A,D	.236 (a), (b), (c), (g), .526	I-D
# (iso-, n-) Decyl acrylate	III	NR	Open	Open	A,D,C	.236 (b), (c), .912(a)(1), .1002(a), (b), .1004	NA
* Diammonium salt of Zinc ethylenediamine tetraacetic acid solution. [12]	III	NR	Open	Open	NSR	none	I-B
Dibutylamine #	III	4m	PV	Restr	B,D	.236 (b), (c), .526	I-C
Dichlorobenzene #	III	4m	PV	Restr	B,D	.236 (a), (b), .526	NA
1,1-Dichloroethane #	III	4m	PV	Restr	B	.526, .527	I-D
2,2'-Dichloroethyl ether	II	4m	PV	Restr	A	.236 (a), (b), .526	I-D
2,2'-Dichloroisopropyl ether *	II	B/3	PV	Restr	B, C, D	.236 (a), (b), .316, .408, .525, .526, .1020	I-D
Dichloromethane	III	4m	PV	Restr	NSR	.526	NA
2,4-Dichlorophenol [13]*	III	4m	PV	Restr	B,C,D	.236 (a), (b), (c), (g), .409, .526, .933	NA
1,1-, 1,2-, or 1,3- Dichloropropene	II	B/3	PV	Restr	B	.525, .526, .1020	I-D
1,3-Dichloropropene	II	B/3	PV	Closed	B	.316, .336, .408, .525, .526, .527, .1020	I-D
Dichloropropene, Dichloropropane mixtures*	II	B/3	PV	Restr	B	.316, .336, .408, .409, .526, .527	I-D
2,2-Dichloropropionic acid *	III	4m	PV	Restr	A	.236 (a), .238(a), .266, .500, .501, .554	NA
Diethanolamine	III	NR	Open	Open	A	.236 (b), (c)	NA
Diethylamine	III	B/3	PV	Restr	A	.236 (a), (b), (c), (g), .525, .526, .527, .1020	I-C
Diethylenetriamine	III	NR	Open	Open	A	.236 (b), (c)	NA
Diethylethanolamine #	III	4m	PV	Restr	A,D	.236 (a), (b), (c), (g), .526	I-C
Diethyl sulfate*	II	4m	PV	Closed	A,D	.236 (a), (c), (d), .409, .526	NA
Diisobutylamine	II	4m	PV	Restr	B,D	.236 (a), (b), (c), (g), .409, .525(a), (c), (d), (e), .526, .1020.	I-C
Diisopropanolamine	III	NR	Open	Open	A	.236 (b), (c)	NA
Diisopropylamine	II	B/3	PV	Closed	A	.236 (b), (c), .408, .525, .526, .527, .1020	I-C
Dimethylamine (40 pct or less) #	III	B/3	PV	Restr	A,C,D	.236 (a), (b), (c), (d), .525, .526, .527, .1020	I-C
Dimethylethanolamine #	III	4m	PV	Restr	A,D	.236 (b), (c), .526	I-C
Dimethylformamide #	III	4m	PV	Restr	A,D	.236 (b), .526	I-D
Di-n-propylamine*	III	4m	PV	Restr	A	.236 (b), (c), .409, .525, .526, .1020	I-C
Diphenyl methane diisocyanate [11]	II	B/3	PV	Closed	C,D	.236 (a), (b), .316, .409, .500, .501, .525, .526, .602, .1000, .1020.	NA
1,4-Dioxane	II	B/3	PV	Closed	A	.408, .525, .526, .1020	I-C
Dodecyl diphenyl oxide disulfonate solution	III	NR	Open	Open	NSR	None	NA
Dodecyl methacrylate*	III	NR	Open	Open	A,C	.236 (b), (c), .912(a)(1), .1004	I-D
Dodecyl pentadecyl methacrylate*	III	NR	Open	Open	A,C,D	.912(a)(1), .1002 (a), (b), .1004	NA
Epichlorohydrin	II	B/3	PV	Closed	A	.316, .408, .525, .526, .527, .1020	I-C
Ethanolamine	III	NR	Open	Open	A	.236 (b), (c), .526	NA
Ethyl acrylate	II	4m	PV	Restr	A	.526, .527, .912(a)(1), .1002 (a), (b), .1004	I-D
Ethylamine solution (72 pct or less)*	II	B/3	PV	Closed	A,C	.236 (a), (b), (c), .408, .525 (a), (c), (d), (e), .526, .527, .1020.	I-D
N-Ethylbutylamine*	III	4m	PV	Restr	A	.236 (a), (b), (c), (g), .409, .525 (a), (c), (d), (e), .526, .1020.	I-C
N-Ethylcyclohexylamine*	III	4m	PV	Restr	A,C	.236 (a), (b), (c), (g), .409, .526	I-C
Ethylene chlorohydrin #	II	B/3	PV	Closed	A,C,D	.316, .408, .525, .526, .527, .933, .1020	I-D
Ethylene cyanohydrin	III	NR	Open	Open	A	None	NA
Ethylenediamine	II	4m	PV	Restr	A	.236 (b), (c), .526	I-D
Ethylene dibromide	II	B/3	PV	Closed	NSR	.408, .525, .526, .527, .1020	NA
Ethylene dichloride	II	4m	PV	Restr	B	.408, .526	I-D
Ethyl ether #	II	4m	PV	Closed	A	.236(g), .252, .372, .408, .440, .500, .515, .526, .527	I-C
2-Ethylhexyl acrylate	III	NR	Open	Open	A	.912(a)(1), .1002(a),(b), .1004	NA
2-Ethylhexylamine	II	B/3	PV	Restr	A	.236 (a), (c), .525, .526, .1020	I-C
Ethylidene norbornene*	III	B/3	PV	Restr	B,C,D	.236(c), .409, .526	NA
Ethyl methacrylate #	III	4m	PV	Restr	B,D	.526, .912(a)(1), .1002(a),(b), .1004	I-D
2-Ethyl-3-propyl acrolein #	III	4m	PV	Restr	A	.526	I-C
Formaldehyde (50 pct or more)-Methanol mixtures *	III	4m	PV	Closed	A	.409, .526, .527	I-C
Formaldehyde solution (37 to 50 pct)	III	4m	PV	Restr	A	.526, .527	I-C
Formic acid	III	4m	PV	Restr	A	.233 (b), (c), .526, .527, .554	I-D

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name [1]	Cargo containment system [2]	Vent height [3]	Vent [4]	Gauge [5]	Fire protection system [6]	Special requirements [7]	Electrical hazard and class group [8]
Furfural	III	4m	PV	Restr	A	.526	I-C
Glutaraldehyde solution (50 pct or less)*	III	NR	Open	Open	NSR	None	NA
Hexamethylenediamine solution*	III	4m	PV	Restr	A	.236 (b), (c) .409, .526	I-D
Hexamethyleneimine solution	II	4m	PV	Restr	A,C	.236 (a), (b), (c), (g), .526	I-C
Hydrochloric acid	III	4m	PV	Restr	NSR	.252, .526, .527, .554, .557, .933, .1045, .1052	I-B [10]
2-Hydroxyethyl acrylate	II	B/3	PV	Closed	A	.408, .525, .526, .912(a)(1), .933, .1002(a),(b), .1004, .1020.	NA
Isoprene #	III	4m	PV	Restr	B	.372, .440, .912(a)(1), .1002(a),(b), .1004	I-D
Isophorone diamine	III	4m	PV	Restr	A	.236 (b), (c) .526	NA
Isophorone diisocyanate [11]	III	B/3	PV	Closed	C,D	.236(a), (b), .316, .409, .500, .501, .602, .1000, .1020	NA
Maleic anhydride* *	III	4m	PV	Restr	A,C*	None	NA
Mesityl oxide	III	4m	PV	Restr	A	.409, .526	I-D
Methyl acrylate	II	4m	PV	Restr	B	.526, .527, .912(a)(1), .1002(a),(b), .1004	I-D
Methacrylic acid	III	4m	PV	Restr	A	.238(a), .526, .912(a)(1), .1002(a), .1004	NA
Methylamine solution (42 pct or less)*	II	B/3	PV	Restr	A,C,D	.236 (a), (b), (c), (g), .316, .408, .409, .525, .526, .527, .1020.	I-D
2-Methyl-6-ethyl aniline*	III	NR	Open	Open	B,C,D	None	NA
2-Methyl-5-ethyl pyridine #	III	NR	Open	Open	A,D	.236(b)	NA
Methyl formate #	II	B/3	PV	Restr	A	.372, .408, .440, .525, .526, .527, .1020	I-D
2-Methyl-2-hydroxy-3-butyne	III	4m	PV	Restr	A	.236 (b), (d), (f), (g), .526	I-D
Methyl methacrylate	II	4m	PV	Restr	B	.526, .912(a)(1), .1002(a),(b), .1004	I-D
2-Methyl pyridine*	II	4m	PV	Closed	A,C	.236(b), .409, .525(a), (c), (d), (e), .1020	I-D
Alpha-methyl styrene #	III	4m	PV	Restr	A,B,C,D	.526, .912(a)(1), .1002 (a), (b), .1004	I-D
Morpholine	III	4m	PV	Restr	A	.236 (b), (c)	I-C
Motor fuel anti-knock compounds (containing lead alkyls) #.	II	B/3	PV	Closed	B, C	.252, .316, .336, .408, .525, .526, .527, .933, .1020, .1025	I-D
Naphthalene (liquid) #	III	4m	PV	Restr	A, D	.440	NA
Nitric acid (70 pct or less)	II	4m	PV	Restr	NSR	.408, .526, .527, .554, .555, .559, .933, .1045	I-B [10]
(mono-) Nitrobenzene #	II	B/3	PV	Closed	A,B,C,D	.316, .336, .408, .525, .933, .1020	NA
(o-) Nitrochlorobenzene *	II	B/3	PV	Closed	B,C,D	.316, .336, .408, .525, .526, .1020	NA
(o-) Nitrophenol	II	B/3	PV	Closed	A,C,D,	.409, .440, .525, .526, .1020	NA
1- or 2-Nitropropane * #	III	4m	PV	Restr	A *	.526	I-C
(o-, p-) Nitrotoluene	II	B/3	PV	Closed	B	.316, .408, .525, .526, .1020	NA
Oleum	II	B/3	PV	Closed	NSR	.316, .408, .526, .527, .554, .555, .556, .602, .933, .1000, .1045, .1052.	I-B [10]
Paraldehyde #	III	4m	PV	Restr	A	None	I-C
Pentachloroethane	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	NA
1,3-Pentadiene	III	4m	PV	Restr	B	.526, .912(a)(1), .1002, .1004	I-D
Perchloroethylene	III	4m	PV	Restr	NSR	.526	NA
Phenol, or solutions with 5 pct or more Phenol #	II	B/3	PV	Closed	A	.408, .440, .525, .526, .933, .1020	NA
Phosphoric acid	III	NR	Open	Open	NSR	.554, .555, .558, .1045, .1052	I-B [10]
Phthalic anhydride (liquid)	III	4m	PV	Restr	D	None	NA
Polyethylene polyamines	III	NR	Open	Open	A	.236 (b), (c)	NA
Polymethylene polyphenyl isocyanate [11]	II	B/3	PV	Closed	C,D	.236(a), (b), .409, .500, .501, .525, .526, .602, .1000, .1020.	NA
(iso-, n-) Propanolamine	III	NR	Open	Open	A	.236 (b), (c), .526	NA
Propionaldehyde	III	4m	PV	Restr	A	.316, .526, .527	I-C
Propionic acid	III	4m	PV	Restr	A	.238(a), .527, .554	I-D
Propionic anhydride	III	4m	PV	Restr	A	.238(a), .556	NA
(iso-) Propylamine #	II	B/3	PV	Closed	C,D	.236 (b), (c), .372, .408, .440, .525, .526, .527, .1020	I-D
(n-) Propylamine #	II	B/3	PV	Closed	C,D	.236 (b), (c), .408, .500, .525, .526, .527, .1020	I-D
Propylene oxide #	II	B/3	PV	Closed	A,C	.372, .408, .440, .500, .526, .530, .1010, .1011	I-B
(iso-) Propyl ether	III	4m	PV	Restr	A	.409, .500, .515, .912(a)(1)	I-D
Pyridine #	III	4m	PV	Restr	A	.236(b)	I-D
Sodium borohydride (15 pct or less), Sodium hydroxide solution*.	III	NR	Open	Open	NSR	.236 (a), (b), (c), (g), .933	NA
Sodium chlorate solution (50 pct or less)*	III	NR	Open	Open	NSR	.409, .933, .1065	NA
Sodium hydrosulfide solution (45 pct or less)	III	4m	PV	Restr	NSR	.526, .933	NA
Sodium hypochlorite solution (15 pct or less)	III	4m	PV	Restr	NSR	.236 (a), (b)	NA
Sodium-2-mercaptobenzothiazol solution*	III	NR	Open	Open	NSR	.236 (a), (b), (c), (g), .933	NA
Styrene	III	4m	PV	Open	B	.912(a)(1), .1002 (a), (b), .1004	I-D
Sulfur (liquid)	III	NR	Open	Open	NSR	.252, .440, .526, .545	I-C
Sulfuric acid	III	NR	Open	Open	NSR	.554, .555, .556, .602, .933, .1000, .1045, .1046, .1052	I-B [10]
1,1,2,2-Tetrachloroethane	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	NA
Tetraethylene-pentamine [12] #	III	NR	Open	Open	A	.236 (b), (c), (g)	NA
Tetrahydrofuran	III	4m	PV	Restr	A,D	.526, .912(a)(2), .1004	I-C
Toluenediamine*	II	B/3	PV	Closed	B,C,D	.236 (a), (b), (c), (g), .316, .408, .525, .526, .527, .933, .1020.	NA
Toluene diisocyanate [11]	II	4m	PV	Closed	C,D	.236(b), .316, .408, .500, .501, .525, .526, .527, .602, .1000, .1020.	NA
(o-) Toluidine*	II	B/3	PV	Closed	A,C	.316, .408, .525, .526, .933, .1020	NA
1,2,4-Trichlorobenzene*	III	4m	PV	Restr	C	.409, .526	I-D
1,1,2-Trichloroethane	III	B/3	PV	Restr	NSR	.526	I-D
Trichloroethylene	III	B/3	PV	Restr	NSR	.316, .525, .526, .1020	I-D
1,2,3-Trichloropropane*	II	B/3	PV	Closed	B,C,D	.316, .408, .525, .526, .1020	I-D
Tricresyl phosphate (containing 1 pct or more of the ortho isomer).	II	4m	PV	Closed	B	.408, .525 (a), (c), (d), (e), .1020	NA
Triethanolamine	III	NR	Open	Open	A	.236 (a), (b), (c), (g)	NA
Triethylamine	II	B/3	PV	Restr	B	.236 (b), (c) .525, .526, .527, .1020	I-C
Triethylenetetramine	III	NR	Open	Open	A	.236 (a), (b), (c)	NA
Trimethylacetic acid*	III	4m	PV	Restr	A,C	.238(a), .266, .554	I-D
Trimethylhexamethylene diamine (2,2,4- and 2,4,4- isomers) *.	III	NR	Open	Open	A,C	.236 (a), (b), (c), (g), .409	NA
Trimethylhexamethylene diisocyanate (2,2,4- and 2,4,4- isomers). [11]	II	B/3	PV	Restr	A,C	.316, .409, .500, .501, .525, .526, .602, .1000, .1020	NA
Urea, Ammonium nitrate solution (containing more than 2 pct NH_3).	III	4m	PV	Restr	A	.236(b), .526	I-D
(iso-, n-) Valeraldehyde	III	4m	PV	Restr	A	.500, .526	I-C

TABLE I.—SUMMARY OF MINIMUM REQUIREMENTS—Continued

Cargo name [1]	Cargo containment system [2]	Vent height [3]	Vent [4]	Gauge [5]	Fire protection system [6]	Special requirements [7]	Electrical hazard and class group [8]
Vinyl acetate	III	4m	PV	Open	A	.912(a)(1), .1002(a), (b), .1004	I-D
Vinyl ethyl ether #	II	4m	PV	Closed	A	.236 (b), (f), (g), .372, .408, .440, .500, .515, .526, .527, .912(a)(1), .1002 (a), (b), .1004.	I-C
Vinylidene chloride #	II	4m	PV	Restr	B	.236 (a), (b), .372, .440, .500, .526, .527, .912(a)(1), .1002 (a), (b), .1004.	I-D
Vinyl neodecanate	III	NR	Open	Open	B	.912(a)(1), .1002 (a), (b), .1004	NA
Vinyl toluene #	III	4m	PV	Restr	A,B,C,D	.236 (a), (c), (g), .912(a)(1), .1002 (a), (b), .1004	I-D
Xylenols	III	NR	Open	Open	B	None	NA

COLUMN HEADING FOOTNOTES:
[1] The cargo name must be as it appears in this column (see §§ 153.5, 153.900, 153.907).
[2] This column lists the type of containment system the cargo must have (see §§ 153.230 through 153.232).
[3] This column lists the height of any vent riser required (see §§ 153.350 and 153.351).
[4] This column lists any vent control valve required (see § 153.355).
[5] This column lists the type of gauging system required (see §§ 153.400 through 153.406).
[6] This column lists the type of fire protection system required. Where more than one type is listed, any listed system may be used. The types are as follows:
A is a foam system for water soluble cargoes (polar solvent foam).
B is a foam system for water insoluble cargoes (non-polar solvent foam).
C is a water spray system.
D is a dry chemical system.
NSR means there is no special requirement applying to fire protection systems.
A dry chemical system may not be substituted for either type of foam system unless the dry chemical system is listed as an alternative or the substitution is approved by Commandant (G-MTH) (§ 153.460).
[7] This column lists sections that apply to the cargo in addition to the general requirements of this part. The 153 Part number is omitted.
[8] This column lists the electrical hazard class and group used for the cargo when determining requirements for electrical equipment under subchapter J (Electrical Engineering) of this chapter.
FOOTNOTES ON SPECIFIC CARGOES:
[9] Dry chemical extinguishers should not be used on fires involving this cargo since some dry chemicals may react with the cargo and cause an explosion.
[10] The 1-B electrical hazard for acids does not apply to weather deck locations. See 46 CFR Part 111.
[11] Water is effective in extinguishing open air fires but will generate hazardous quantities of gas if put on the cargo in enclosed spaces.
[12] Aluminum is a questionable material of construction with this cargo since pitting and corrosion have been reported. The IMO Chemical Code prohibits aluminum as a material of construction for this cargo.
[13] Some tank pitting has been reported when this cargo is contaminated with water, including moisture in the air. The IMO Chemical Code requires that the vapor space over this cargo be kept dry.
GENERAL NOTES:
The term "solution" means a water solution.
The term "mixture" means a mixture containing only the substances described in conjunction with the term.
The term "liquid" when used with a cargo that is solid at ambient temperatures means the cargo is handled as a liquid by heating the cargo until it is molten.
Part 150 of this chapter contains requirements on stowage of cargoes and cargo compatibility.
Appendix I of this part contains a list of cargoes that are not regulated under this Part or Subchapter D (Parts 30 through 35) of this Chapter.

§ 153.200 [Removed]

23. By removing § 153.200.

24. By adding § 153.201 to read as follows:

§ 153.201 Openings to accommodation, service or control spaces.

(a) Except as allowed in paragraph (b) of this section, entrances, ventilation intakes and exhausts, and other openings to accommodation, service, or control spaces must be located aft of the house bulkhead facing the cargo area a distance at least equal to the following:

(1) 3 m (approx. 10 ft) if the vessel length is less than 75 meters (approx. 246 ft).

(2) L/25 if the vessel length is between 75 and 125 meters (approx. 246 ft and 410 ft).

(3) 5 m (approx. 16.5 ft) if the vessel length is more than 125 meters (approx. 410 ft).

(b) Fixed port lights, wheelhouse doors, and windows need not meet the location requirements specified in paragraph (a) of this section if they do not leak when tested with a fire hose at 207 kPa gauge (30 psig).

§ 153.202 [Removed]

25. By removing § 153.202.

26. By revising § 153.370 to read as follows:

§ 153.370 Minimum relief valve setting for ambient temperature cargo tanks.

The relief valve setting for a containment system that carries a cargo at ambient temperature must at least equal the cargo's vapor pressure at 46 °C (approx. 115 °F).

27. By revising the introductory text of § 153.372 to read as follows:

§ 153.372 Gauges and vapor return for cargo vapor pressures exceeding 100kPa (approx. 14.7 psia).

When table 1 references this section, the containment system must have a—

* * * * *

28. By revising § 153.408 to read as follows:

§ 153.408 Tank overflow control.

(a) When table 1 references this section, a cargo containment system must have a cargo high level alarm meeting § 153.409 and one of the following additional systems:

(1) A second high level (cargo overflow) alarm.

(2) A system that automatically stops cargo flow to the tank (automatic shutdown system).

(b) The high level alarm and the cargo overflow alarm or automatic shutdown system must—

(1) be independent of one-another; and

(2) operate on loss of power.

(c) The cargo overflow alarm or the automatic shutdown system must operate early enough to—

(1) stop the loading operation before the cargo tank overflows; and

(2) avoid surge pressures that exceed the working pressure specified in § 153.294(b).

(d) A tank overflow must be identified with the legend "TANK OVERFLOW ALARM" in lettering as specified for the warning sign in § 153.955.

(e) A tank overflow alarm must be audible and visible in that part of the deck where the containment systems are located and at the point where cargo loading is controlled on the tankship.

(f) The automatic shutdown system or tank overflow alarm must be able to be checked at the tank for proper operation (for example, by electrically simulating an overfill at the tank gauge connection).

(g) In this section, "independent" as applied to two systems means that one system will operate with a failure of any part of the other system except high level power sources and electrical feeder panels. Conduit need not be independent; the control wiring for several independent systems may be carried in a single conduit.

29. By revising the introductory language of § 153.430 to read as follows:

§ 153.430 Heat transfer systems: general.

Each cargo cooling system required by this part and each cargo heating system must—

* * * * *

30. By revising § 153.436 to read as follows:

§ 153.436 Heat transfer fluids: compatibility with cargo.

A heat transfer fluid separated from the cargo by only one wall (for example, the heat transfer fluid in a coil within a tank) must be compatible with the cargo under the standards prescribed for compatibility between two cargoes in Part 150 of this chapter.

31. By revising § 153.530 (h) and (j) to read as follows:

§ 153.530 Special requirements for alkylene oxides.

* * * * *

(h) The cargo containment system vapor space and each space listed in paragraphs (k) and (l) must have continuous monitoring of oxygen concentration or have an arrangement to enable sampling with a portable oxygen analyzer.

* * * * *

(j) The venting system must be independent of other containment or tankship systems.

* * * * *

32. By removing § 153.530(q).

33. By revising § 153.907 to read as follows:

§ 153.907 Cargo information.

(a) The master shall ensure that the following information for each cargo carried under this part is readily available to those on the tankship engaged in cargo operations:

(1) The name of the cargo as listed in table 1.

(2) A description of the cargo's appearance and color.

(3) Hazards in handling the cargo.

(4) Any special handling procedures for the cargo, such as inerting.

(5) Procedures to follow if the cargo spills or leaks.

(6) Procedures for treating a person exposed to the cargo.

(7) A list of fire fighting procedures and extinguishing agents effective with cargo fires.

(8) Shipper's name.

(9) Loading point.

(10) Approximate quantity of cargo.

(11) Tank in which the cargo is located.

(12) The name of an agent in the United States authorized to accept service of legal process for the vessel.

(b) The master shall make sure that the following information for cargoes other than those carried under this part is readily available on the tankship:

(1) The name of the cargo as listed in table 4 of Part 154 of this chapter or § 30.25–1 of this chapter if the cargo is listed in one of these two tables.

(2) The name of the cargo prescribed in the letter authorizing carriage of the cargo under § 153.5(b) if the cargo is a hazardous or flammable cargo authorized for carriage under that section.

(3) The shipper's name for the cargo and the name of the shipper if the cargo is neither a hazardous nor flammable cargo.

§ 153.908 [Removed]

34. By removing § 153.908.

§ 153.914 [Removed]

35. By removing § 153.914.

36. By revising § 153.968(b)(5) to read as follows:

§ 153.968 Cargo transfer conference.

* * * * *

(b) * * *

(5) If the vessel is equipped with the tank overflow alarm prescribed in § 153.408(c), a procedure for shutdown of shore pumps, shore valves, and ship's valves that prevents piping system pressures from exceeding those for which the piping system is designed.

37. Section 153.1011 is amended by revising paragraph (a)(1) to read as follows:

§ 153.1011 Changing containment systems and hoses to and from alkylene oxide service.

(a) * * *

(1) No alkylene oxide is loaded into a containment system that last carried a cargo other than an alkylene oxide unless the containment system has been cleaned and inspected to make sure it is in good condition with no heavy rust accumulations or traces of previous cargoes;

* * * * *

38. By adding a new § 153.1065 to read as follows:

§ 153.1065 Sodium chlorate solutions.

(a) No person may load sodium chlorate solutions into a containment system that previously carried another cargo unless the containment system is thoroughly washed before loading.

(b) The person in charge of cargo transfer shall make sure that spills of sodium chlorate solutions are immediately washed away.

Dated: April 15, 1985.

Clyde T. Lusk, Jr.,

Rear Admiral, U.S. Coast Guard, Chief, Office of Merchant Marine Safety.

[FR Doc. 85–9364 Filed 5–21–85; 8:45 am]

BILLING CODE 4910–14–M

Federal Register

Wednesday
May 22, 1985

Part III

Department of Energy

Office of Conservation and Renewable Energy

Industrial Energy Conservation Program; Identification of Corporations for Purposes of Industrial Energy Efficiency Improvement and Recovered Materials Utilization Reporting; and Proposed Exempt Corporations and Adequate Reporting Programs; Notice

DEPARTMENT OF ENERGY

Office of Conservation and Renewable Energy

[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program; Notice of Identification of Corporations for Purposes of Industrial Energy Efficiency Improvement and Recovered Materials Utilization Reporting

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of Corporate Identification.

SUMMARY: The Department of Energy (DOE) is identifying corporations which consumed at least one trillion British thermal units (Btu's) of energy in calendar year 1983 in any of the major energy-consuming industries, as required by DOE's regulations at 10 CFR 445.15 which implements section 373(b) of the Energy Policy and Conservation Act (EPCA), as amended by the National Energy Conservation Policy Act.

Section 445.12 of these regulations requires certain corporations which consumed at least one trillion Btu's of energy in a calendar year in any of the 20 major energy-consuming industries identified by DOE to file a certified statement with DOE. The deadline to file this with DOE was February 28, 1985. Based on the reports filed in response to this requirement and reports filed previously, DOE has identified the corporations listed in the appendix to this notice. Identified corporations are required to meet the reporting requirements of 10 CFR 445, Subpart C.

A corporation may file a request with DOE to modify its identification on the grounds of technical or clerical error within 30 days of this notice as provided in 10 CFR 445.16.

Identified corporations are required to report on energy efficiency improvements and, if appropriate, recovered materials utilization in calendar year 1984 either directly to DOE or to DOE-approved sponsors of reporting programs, pursuant Subpart C of 10 CFR Part 445 which implements the requirements of sections 374A, 375 and 376 of EPCA.

DATE: Requests for modification of identification must be filed by June 21, 1985.

ADDRESS: Modification requests should be submitted to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, U.S. Department of Energy, Docket Number CAS-RM-80-304, CE-60, Room 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, CE-122.1, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-2371;

Joshua P. Smith, Office of General Counsel, GC-33, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9507.

Issued in Washington, D.C., May 8, 1985.

Donna R. Fitzpatrick,

Acting Assistant Secretary, Conservation and Renewable Energy.

LIST OF CORPORATIONS IDENTIFIED FOR CALENDAR YEAR 1984

SIC 20—Food and Kindred Products

A.E. Staley Manufacturing Company
Adolph Coors Company
Amalgamated Sugar Company
American Crystal Sugar Company
American Home Products Corporation
American Maize-Products Company
AMFAC Inc.
Amstar Corporation
Anderson Clayton & Company
Anheuser-Busch Inc.
Archer Daniels Midland Company
Basic American Foods
Beatrice Foods Company
Borden Inc.
Bunge Corporation
California & Hawaiian Sugar Company
Campbell Soup Company
Campbell Taggart Inc.
Cargill Inc.
Carnation Company
Castle & Cooke Inc.
Central Soya Company Inc.
Chesebrough-Ponds Inc.
Coca Cola Company
Colonial Sugars Inc.
Conagra Inc.
Consolidated Foods Corporation
Continent Grain Company
CPC International Inc.
Curtice-Burns Inc.
Del Monte Corporation
Eli Lilly and Company
Excel Corporation
Farmland Industries Inc.
FDL Foods, Inc.
Federal Company
Flowers Industries Inc.
Foremost-McKesson Inc.
Froedtert Malt Corporation
G. Heileman Brewing Company Inc.
General Foods Corporation
General Mills Inc.
George A. Hormel & Company
Georgia Sugar Refinery
Gerber Products Company
Gold Kist Inc.
Grain Processing Corporation
Great Western Sugar Company
H.J. Heinz Company
Hanson Industries Inc.
Harvest Foods Corporation
Hershey Foods Corporation
Holly Sugar Corporation
Hubinger Company
Hunt International Resources Corporation
IBP Inc.
IC Industries Inc.
Imperial Sugar Company
International Telephone & Telegraph Corporation
Interstate Brands Corporation
Iowa Beef Processors Inc.
J.R. Simplot Company
Joseph E. Seagram & Sons Inc.
Keebler Company
Kellogg Company
Kraft Inc.
Kroger Company
Ladish Malting Company
Land O' Lakes Inc.
Lance, Inc.
Lykes Brothers Inc.
Mars Inc.
McKesson Corporation Michigan Sugar Company
Mid-American Dairymen Inc.
Midwest Solvents Company Inc.
Miller Brewing Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Moorman Manufacturing Company
Nabisco Brands Inc.
National Distillers & Chemical Corporation
National Starch & Chemical Corporation
Nestle Enterprises Inc.
Olympia Brewing Company
Oscar Mayer & Company
Pabst Brewing Company
Pepsico Inc.
Perdue Inc.
Pet Inc.
Peter Paul Cadbury Inc.
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Quincy Soy Bean Company
R.T. French Company
Ralston Purina Company
Rath Packing Company
Refined Sugars Inc.
Revere Sugar Corporation
Riceland Foods Inc.
Safeway Stores Inc.
Savannah Foods & Industries Inc.
SCM Corporation
Southern Minnesota Sugar Cooperative
Stroh Companies Inc.
Sunkist Growers Inc.
Sunshine Biscuits Inc.
Supreme Sugar Company Inc.
Swift and Company
Swift & Company
Swift Independent Packing Company
Thomas J. Lipton Inc.
Tri/Valley Growers Inc.
Union Sugar Company
Univar Corporation
Universal Foods Corporation
Wilson Foods Corporation

SIC 21—Tobacco Products

American Brands Inc.
Brown & Williamson Tobacco Corporation
Philip Morris Inc.
R.J. Reynolds Industries Inc.

SIC 22—Textile Mill Products

Armstrong World Industries Inc.
Avondale Mills Inc.
Bibb Company
Bigelow-Sanford Inc.
Burlington Industries Inc.
Cannon Mills Company
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Consolidated Foods Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J.P. Stevens & Company Inc.
Johnson & Johnson
Kiddie Tot Hosiery Mills Inc.
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Mahasco Corporation
Northwest Industries Inc.
RCA Corporation
Reeves Brothers Inc.
Riegel Textile Corporation
Sayles Biltmore Bleacheries Inc.
Shaw Industries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company
Springs Industries Inc.
Standard Oil Company (Indiana)
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.
World Carpets Inc.

SIC 23—Apparel and Other Textile Products

None

SIC 24—Lumber and Wood Products

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 25—Furniture and Fixtures

Steelcase Inc.

SIC 26—Paper and Allied Products

Abitibi-Price Southern Corporation
Alabama River Pulp Company Inc.
Alaska Lumber & Pulp Company Inc.
Alton Packaging Corporation
Appleton Papers Inc.
Arcata National Corporation
Armstrong World Industries Inc.
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Inc.
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Forest Industries Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers Inc.
Dennison Manufacturing Company
Dexter Corporation
Eastex
Eddy Forest Products Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper Limited
GAF Corporation
Garden State Paper Company Inc.
Genstar Building Materials
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hearst Corporation
International Paper Company
International Telephone & Telegraph Corporation
Interstate Paper Corporation
James River Corporation of Virginia
Jim Walter Corporation
Kimberly-Clark Corporation
Longview Fibre Company
Louisiana-Pacific Corporation
Macmillan Bloedel Inc.
Manville Corporation
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Minnesota Mining & Manufacturing Company
Mobil Chemical Company
Mobil Oil Corporation
Mosinee Paper Corporation
Newark Group
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc.
P.H. Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Philip Morris Inc.
Pope and Talbot Inc.
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
SCM Corporation
Scott Paper Company
Simpson Timber Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Technographics, Inc.
Temple-Inland Inc.
Tenneco Inc.
Times Mirror Company
Union Camp Corporation
United States Gypsum Company
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 27—Printing and Publishing

Arcata Corporation
City Investing Company
R.R. Donnelley & Sons Company
W.F. Hall Printing Company

SIC 28—Chemicals and Allied Products

Abbott Laboratories
A.H. Robins Company
Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Corporation
Aluminum Company of America
AMAX Inc.
Amerada Hess Corporation
American Can Company
American Chrome & Chemicals Inc.
American Cyanamid Company
American Hoechst Corporation
American Home Products Corporation
American Petrofina Inc.
American Synthetic Rubber Corporation
Arizona Chemical Company
Asarco Incorporated
Ashland Oil Inc.
Atlantic Richfield Company
Atlas Powder Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Baxter-Travenol Laboratories Inc.
Beecham Laboratories
Beker Industries Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Bristol-Myers Company
Buffalo Color Corporation
CF Industries Inc.
Cargill Inc.
Carus Chemical Company Inc.
Celanese Corporation
CF Industries Inc.
Chemical Products Corporation
Chemplex Company
Chemtech Industries Inc.
Chevron Chemical Company
CIBA-GEIGY Corporation
Citgo Corporation
Colgate-Palmolive Company
Columbia Nitrogen Corporation
Cominco American Inc.
Conoco Inc.
Copolymer Rubber & Chemical Corporation
CPC International Inc.
Crompton & Knowles Corporation
Dart Industries Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E.I. du Pont de Nemours & Company
Eastman Kodak Company
El Paso Products Company
Eli Lilly & Company
Emery Industries
Engelhard Corporation
Essex Chemical Corporation
Estech Inc.
Ethyl Corporation
Exxon Corporation
Farmland Industries Inc. (partial)

Ferro Corporation
Firestone Tire & Rubber Company
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Gardinier Inc.
G.D. Searle & Company
General Electric Company
General Tire & Rubber Company
Georgia-Pacific Corporation
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Green Valley Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Hardy Salt Company
Harshaw/Filtrol Partnership
Hawkey Chemical Company
Henkel Corporation
Hercules Inc.
Hoffman-La Roche Inc.
ICI Americas Inc.
Inmont Corporation
International Minerals & Chemicals Corporation
Inter North Inc.
J.M. Huber Corporation
J.R. Simplot Company
Johnson & Johnson
Kaiser Aluminum & Chemical Corporation
Kay-Fries Inc.
Kerr-McGee Corporation
Koppers Company Inc.
LCP Chemicals & Plastics, Inc.
Lever Brothers Company
Lithium Corporation of America
Lubrizol Corporation
Mallinckrodt Inc.
Merck & Company Inc.
Merichem Company
Miles Laboratories Inc.
Minnesota Mining & Manufacturing Company
Mississippi Chemical Corporation
Mobay Chemical Corporation
Mobil Chemical Corporation
Monsanto Company
Morton Thiokol Inc.
N-Ren Corporation
Nalco Chemcial Company
National Distillers & Chemical Corporation
National Starch & Chemical Corporation
Neville Chemical Company
Newmont Mining Corporation
NL Industries Inc.
North American Rayon Corporation
Occidental Petroleum Corporation
Olin Corporation
Organon Inc.
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
Pilot Chemical Company
Polysar Gulf Coast, Inc.
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Purex Industries Inc.
Reichhold Chemicals Inc.
Reilly Tar & Chemical Corporation
Reynolds Metals Company
Richardson-Vicks Inc.
Rohm and Haas Company
SCM Corporation
Schering-Plough Corporation
Shell Oil Company
Sheperd Chemical Company
Sherex Chemical Company Inc.
Sherwin-Williams Company
Signal Companies Inc.
Sohio Chemical Company
Soltex Polymer Corporation
Squibb Corporation
Standard Chlorine of Delaware, Inc.
Standard Oil Company (Indiana)
Standard Oil Company of California
Stauffer Chemical Company
Sterling Drug Inc.
Sun Olin Chemical Company
Tenneco Inc.
Terra Chemicals International Inc.
Texaco Inc.
Texasgulf Inc.
Union Camp Corporation
Union Carbide Corporation
Union Oil Company of California
Uniroyal Inc.
United States Borax & Chemical Corporation
United States Industrial Chemicals Corporation
United States Steel Corporation
Upjohn Company
Velsicol Chemical Corporation
Vertac Inc.
Virginia Chemicals Inc.
Vulcan Materials Company
W.R. Grace & Company
Warner-Lambert Company
Westvaco Corporation
Williams Company
Witco Chemical Corporation
Wycon Chemical Company

SIC 29—Petroleum and Coal Products

Agway Inc.
Amber Refining
Amerada Hess Corporation
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Bird Inc.
Certainteed Corporation
Champlin Petroleum Company
Charter International Oil Company
Citgo Petroleum Corporation
Clark Oil & Refining Corporation
Coastal Corporation
Conoco Inc.
CRA Inc.
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Dorchester Refining Company
Edgington Oil Company
Exxon Corporation
Farmers Union Central Exchange Inc.
Fletcher Oil & Refining Company
GAF Corporation
Getty Oil Company
Great Lakes Carbon Corporation
Gulf Oil Corporation
Holly Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association, Inc.
Jim Walter Corporation
Kern Oil & Refinery Company
Kerr-McGee Corporation
Koch Industries Inc.
Koppers Company Inc.
Louisiana Land & Exploration Company
Manville Corporation
Marathon Oil Corporation
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association, Inc.
Navajo Refining Company
Owens-Corning Fiberglas Corporation
Pacific Resources Inc.
Pennzoil Company
Petrolite Corporation
Phillips Petroleum Company
Placid Refining Company
Pride Refining Inc.
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Company
Southern Union Refining Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company
Tenneco Inc.
Tesoro Petroleum Company
Texaco Inc.
Texas Eastern Transmission Corporation
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
U.S. Oil & Refining Company
USS Chemicals
Witco Chemical Corporation

SIC 30—Rubber and Miscellaneous Plastics Products

American Cyanamid Company
Ames Rubber Corporation
Armstrong Rubber Company
B F Goodrich Company
Baxter-Travenol Laboratories Inc.
Carisle Corporation
Continental Group Inc.
Cooper Tire & Rubber Company
Dart Industries Inc.
Dayco Corporation
Dunlop Tire & Rubber Corporation
Eagle Picher Industries Inc.
Ethyl Corporation
Exxon Company
Firestone Tire & Rubber Company
Gates Rubber Company
General Motors Corporation (Recovered Materials Only)
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Michelin Tire Corporation
Minnesota Mining & Manufacturing Company
Owens-Illinois Inc.
Teledyne Monarch Rubber Company
Union Carbide Corporation
Uniroyal Inc.
W.R. Grace & Company
Westinghouse Electric Corporation

SIC 31—Leather and Leather Products

None

SIC 32—Stone, Clay and Glass Products

Aetna Cement Corporation
AFG Industries Inc.
Alamo Cement Company

Allied Corporation
Allied Chemical Corporation
Allied Products Company
American Olean Tile Company
American Standard Inc.
Anchoring Hocking Corporation
Arkansas Cement Corporation
Arkansas Louisiana Gas Company
Armco Inc.
Armstrong World Industries Inc.
Ash Grove Cement Company
Austin White Lime Company
Atlantic Cement Company Inc.
Ball Corporation
Belden Brick Company
Bethlehem Steel Corporation
Bickerstaff Clay Products Company Inc.
Blue Circle Industries
Boren Clay Products Company
Brockway Glass Company Inc.
California Portland Cement Company
Can-Am Corporation
Capitol Aggregates Inc.
Centex Corporation
CertainTeed Corporation
Cianbro Corporation
Clevepak Corporation
Container General Corporation
Columbia Cement Corporation
Combustion Engineering Inc.
Coors Container Company
Coplay Cement Manufacturing Company
Corning Glass Works
Cutler-Magner Company
Davenport Cement Company
Delta Brick & Tile Company Inc.
Detroit Lime Company
Dickey Company
Dixie Lime and Stone Company
Domtar Industries Inc.
Dravo Lime Company
Dundee Cement Company
Engelhard Corporation
Ferro Corporation
Ford Motor Company
GAF Corporation
Gallo Glass Company
General Telephone & Electronic Corporation
General Electric Company
General Portland Inc.
General Shale Products Corporation
Georgia-Pacific Corporation
Giant Portland & Masonry Cement Company
Gifford-Hill Portland Cement Company
Glen-Gery Corporation
Glenshaw Glass Company
Guardian Industries Corporation
Gulf Coast Portland Cement
Ideal Basic Industries Inc.
In Con Inc.
Jim Walter Corporation
Justin Industries Inc.
Kaiser Aluminum & Chemical Corporation
Kaiser Cement Corporation
Kerr Glass Manufacturing Corporation
Keystone Portland Cement Company
Kohler Company
Lancaster Colony Corporation
Latchford Glass Company
Lehigh Portland Cement Company
Libbey-Owens-Ford Company
Liberty Glass Company
Lone Star Industries Inc.
Louisville Cement Company
Manville Corporation
Martin-Marietta Corporation
Maryland Clay Products Inc.
Medusa Corporation
Merry Companies Inc.
Midland Glass Company Inc.
Minnesota Mining & Manufacturing Company
Mississippi Lime Company
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
Moore McCormack Cement Inc.
National Can Corporation
National Cement Company
National Gypsum Company
National Lime & Stone Company
Newmont Mining Corporation
Northwestern State Portland Cement Company
Norton Company
Norton Simon Inc.
Ochs Brick & Tile Company
Ohio Lime Company
Owens-Corning Fiberglas Corporation
Ownes-Illinois Inc.
Pacific Coast Building Products Company
Pete Lien & Sons
Pfizer Inc.
Philip Morris Inc.
Pine Hall Brick and Pipe Company
PPG Industries Inc.
Puerto Rican Cement Company Inc.
Rangaire Corporation
Raymark Corporation
Republic Steel Corporation
Richards Brick Company
Rinker Portland Cement Corporation
River Cement Company
Robinson Brick & Tile Company
Rockwell Lime Company
South Dakota Cement Company
Southwestern Portland Cement Company
St. Clair Lime Company
Steetley Resources Inc.
Tenn-Luttrell Lime Company
Texas Industries Inc.
Thatcher Glass Corporation
United States Gypsum Company
Victor Cushwa & Sons Inc.
Vulcan Materials Company
Warner Company
Western Lime & Cement Company
Wheaton Industries

SIC 33—Primary Metal Industries

A. Finkl & Sons Company
Alcan Aluminum Corporation
Allegheny International, Inc.
Alumax Inc.
Aluminum Company of America
Amax Inc.
Amcast Industrial Corporation
American Can Company
American Cast Iron Pipe Company
Armco Inc.
Asarco Inc.
Atlantic Richfield Company
Atlantic Steel Company
AT&T Technology, Inc.
Bethlehem Steel Corporation
Babcock & Wilcox
Cabot Corporation
Cargill Inc.
Carpenter Technology Corporation
Caterpillar Tractor Company
Century Brass Products Inc.
CF&I Steel Corporation
Chicago Extruded Metals Company
Colt Industries Inc.
Consolidated Aluminum Corporation
Continental Steel Corporation
Copper Range Company
Copperweld Corporation
Cyclops Corporation
Dow Chemical Company
Eastmet Corporation
Elkem Metals Company
Ethyl Corporation
Extruded Metals
Florida Steel Corporation
Foote Mineral Company
General Motors Corporation
Grede Foundries Inc.
Gulf & Western Industries Inc.
Hayes-Albion Corporation
Howmet Turbine Component Corporation
Huntington Alloys Inc.
IC Industries Inc.
Inland Steel Company
Inspiration Consolidated Copper Company
Interlake Inc.
International Development Corporation
J I Case—Tenneco Inc.
Jessup Steel Company
Jones & Laughlin Steel Corporation
Kaiser Aluminum & Chemical Corporation
Kennecott Corporation
Keystone Consolidated Industries Inc.
Korf Industries Inc.
Laclede Steel Corporation
Lone Star Steel Company
Louisiana Land & Exploration Company
Lukens Steel Company
Marmon Group Inc.
Martin Industries Inc.
Martin Marietta Corporation
Meade Corporation
Midland-Ross Corporation
National Distillers & Chemical Corporation
National Steel Corporation
National Standard Company
Newmont Mining Corporation
NL Industries Inc.
Noranda Aluminum Inc.
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Ohio Ferro-Alloys Corporation
Olin Corporation
Ormet Corporation
Phelps Dodge Corporation
Phoenix Steel Corporation
Quanex Corporation
Republic Steel Corporation
Revere Copper and Brass Inc.
Reynolds Metals Company
Rogue Steel
RSR Corporation
Sharon Steel Corporation
SKW Alloys Inc.
SMI Steel Inc.
Slater Inc.
Southwire Company
St. Joe Minerals Corporation
Structural Metals Inc.
Teledyne Inc.
Textron Inc.
Timken Company
United States Pipe Company
United Technologies Corporation
Vulcan Materials Company
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation
White Consolidated Industries Inc.

SIC 34—Fabricated Metal Products

Aluminum Company of America
American Can Company
American Standard Inc.
Armco Inc.
Ball Corporation
Bethlehem Steel Corporation
Budd Company
Cameron Iron Works Inc.
Campbell Soup Company
Combustion Engineering Inc.
Continental Group Inc.
Crown Cork & Seal Company Inc.
Cyclops Corporation
E.I. du Pont de Nemours & Company
Gulf & Western Industries Inc.
International Telephone & Telegraph Corporation
Kaiser Aluminum & Chemical Corporation
Kohler Company
Martin Marietta Corporation
McDermott Inc.
Miller Brewing Company
National Can Corporation
Olin Corporation
Reynolds Metals Company
Rockwell International Corporation
Stanley Works Inc.
Stroh Brewery Company
Textron Inc.
United States Steel Corporation
Wyman-Gordon Company

SIC 35—Machinery, Except Electrical

Allis Chalmers Corporation
Borg-Warner Corporation
Briggs & Stratton Corporation
Bucyrus-Erie Company
Caterpillar Tractor Company
Clark Equipment Company
Colt Industries Inc.
Control Data Corporation
Cooper Industries Inc.
Cummins Engine Company Inc.
Deere & Company
Digital Equipment Corporation
Dresser Industries Inc.
Emerson Electric Company
FMC Corporation
Ford Motor Company
General Electric Company
Harnischfeger Corporation
Honeywell Inc.
Hussman Refrigerator Company
Ingersoll-Rand Company
International Business Machines Corporation
International Harvester Company
J I Case—Tenneco Inc.
Johnson Controls Inc.
Outboard Marine Corporation
Rexnord Inc.
Sperry UNIVAC Corporation
Sundstrand Corporation
Timken Company
Trane Company
TRW Inc.
United Technologies Corporation
Westinghouse Electric Corporation
Xerox Corporation

SIC 36—Electric, Electronic Equipment

Airco Carbon
Allied Corporation
AT&T Technology, Inc.
Dart Industries, inc.
Emerson Electric Company
General Electric Company
General Telephone & Electronic Corporation
Great Lakes Carbon Corporation
Harvey Hubbell Inc.
Hughes Aircraft Company
Johnson Controls Inc.
Maytag Company
McGraw-Edison Company
Minnesota Mining & Manufacturing Company
Raytheon Company
RCA Corporation
Reliance Electric Company
Rockwell International Corporation
Square D Company
Stackpole Company
Texas Instruments Inc.
Union Carbide Corporation
Western Electric Company
Westinghouse Electric Corporation
Whirlpool Corporation
White Consolidated Industries Inc.

SIC 37—Transportation Equipment

Allied Corporation
A.O. Smith Corporation
American Motors Corporation
Avco Corporation
Bethlehem Steel Corporation
Boeing Company
Borg-Warner Corporation
Budd Company
Chrysler Corporation
Dana Corporation
Eaton Corporation
Ford Motor Company
Fruehauf Corporation
Garrett Corporation
General Dynamics Corporation
General Electric Company
General Motors Corporation
Goodyear Tire & Rubber Company
Grumman Corporation
Hercules Inc.
Hughes Aircraft Company
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Morton Thiokol Corporation
Northrop Corporation
Rockwell International Corporation
Signal Companies Inc.
Tenneco Inc.
Textron Inc.
TRW Inc.
United Technologies Corporation
Volkswagon of America
Vought Corporation

SIC 38—Instruments and Related Products

Eastman Kodak Company
GAF Corporation
G.D. Searle & Company
Johnson & Johnson
Minnesota Mining & Manufacturing Company
Polaroid Corporation

SIC 39—Miscellaneous Manufacturing Industries

Armstrong World Industries Inc.
Congoleum Corporation

[FR Doc. 85-12282 Filed 5-21-85; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. CAS-RM-80-304]

Industrial Energy Conservation Program Exempt Corporations and Adequate Reporting Programs

AGENCY: Office of Conservation and Renewable Energy, DOE.

ACTION: Notice of Proposed Exempt Corporations and Adequate Reporting Programs.

SUMMARY: As an annual part of the Department of Energy's (DOE) Industrial Energy Conservation Program, DOE is proposing to exempt certain corporations from the requirements of filing corporate energy consumption reporting forms directly with DOE and determine as adequate certain industrial reporting programs for third party sponsor reporting. This notice is required pursuant to section 376(g)(1) of the Energy Policy and Conservation Act (EPCA) and DOE's regulation set forth at 10 CFR Part 445, Subpart D. DOE has compiled this list based on submissions filed by corporations and third party sponsors in accordance with 10 CFR 445.34 and 445.35. The deadline for these filings was February 28, 1985. These procedures, which allow identified corporations to be exempted from filing energy data directly with DOE, assist in maintaining the confidentiality of consumption information and reduce the reporting burden for corporations. The proposed exempt corporations and the respective sponsors of adequate reporting programs are listed alphabetically by industry in the appendix to the notice. Parentheses with the word "partial" follow any corporations which will be reporting less than its total energy data in a particular 2-digit SIC code through the program sponsor under which it is listed. The corporation will be reporting the rest of its efficiency data through another sponsor or directly to DOE. DOE will accept written comments with respect to this proposed list and will publish a final list in the Federal Register.

DATE: Written comments must be received by June 21, 1985.

ADDRESS: Comments should be addressed to: Office of Conservation and Renewable Energy, Hearings and Dockets Branch, U.S. Department of Energy, Docket Number CAS-RM-80-304, CE-60, Room 6B-025, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-9319.

FOR FURTHER INFORMATION CONTACT:

Tyler E. Williams, Jr., Office of Industrial Programs, CE-122.1, U.S.

Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–2371.

Joshua P. Smith, Office of General Counsel, GC–33, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252–9507.

Issued in Washington, D.C., May 8, 1985.

Donna R. Fitzpatrick,

Acting Assistance Secretary, Conservation and Renewable Energy.

PROPOSED EXEMPT CORPORATIONS AND SPONSORS OF ADEQUATE REPORTING PROGRAMS

SIC 20—Food and Kindred Products

American Bakers Association

Campbell Soup Company (partial)
Campbell Taggart, Inc.
Consolidated Foods Corporation (partial)
Flowers Industries Inc.
G. Heileman Brewing Company, Inc. (partial)
ITT Continential Baking Company Inc. (partial)
Interstate Brands Corporation

American Feed Manufacturers Association

Cargill Inc.
Central Soya Company Inc. (partial)
Gold Kist Inc.
Land O'Lakes, Inc. (partial)
Moorman Manufacturing Company
Quincy Soy Bean Company
Ralston Purina Company (partial)

American Frozen Food Institute

Campbell Soup Company (partial)
J.R. Simplot Company

American Meat Institute

Beatrice Foods Company (partial)
Consolidated Foods Corporation (partial)
Farmland Industries Inc.
FDL Foods, Inc.
George A. Hormel & Company
IBP Inc.
Oscar Mayer & Company
Rath Packing Company
Swift and Company
Swift Independent Packing Company
Wilson Foods Corporation

Biscuit & Cracker Manufacturers Association

Keebler Company
Lance, Inc.
Nabisco Brands, Inc. (partial)
Sunshine Biscuits, Inc.

Chemical Manufacturers Association

National Distillers Products Company

Corn Refiners Association

A.E. Staley Manufacturing Company (partial)
American Maize-Products Company
CPC International Inc.
Grain Processing Corporation
Hubinger Company
National Starch & Chemical Corporation
Univar Corporation

Grocery Manufacturers of America, Inc.

A.E. Staley Manufacturing Company (partial)
American Home Products Corporation
Amstar Corporation
Anderson Clayton & Company
Archer Daniels Midland Company (partial)
Basic American Foods
Beatrice Foods Company (partial)
Borden Inc. (partial)
Carnation Company
Central Soya Company, Inc. (partial)
Chesebrough-Ponds Inc.
Coca Cola Company
Consolidation Foods Corporation (partial)
General Foods Corporation
General Mills, Inc.
H.J. Heinz Company (partial)
Hershey Foods Corporation
Kellogg Company
Kraft Inc.
Mars Inc.
Nabisco Brands, Inc. (partial)
Pepsico Inc.
Pet Inc.
Peter Paul Cadbury, Inc.
Pillsbury Company
Procter & Gamble Company
Quaker Oats Company
Ralston Purina Company (partial)
R.T. French Company
Thomas J. Lipton Inc.
Universal Foods Corporation

National Food Processors Association

Castle & Cooke Inc.
Curtice-Burns Inc.
Del Monte Corporation
Gerber Products Company
H.J. Heinz Company (partial)
Hunt Wesson (partial)
Sunkist Growers Inc.
Tri/Valley Growers Inc.

Pharmaceutical Manufacturers Association

Eli Lilly and Company

U.S. Beet Sugar Association

Amalgamated Sugar Company
American Crystal Sugar Company
Great Western Sugar Company
Holly Sugar Corporation
Michigan Sugar Company
Minn-Dak Farmers Cooperative
Monitor Sugar Company
Southern Minnesota Sugar Cooperative
Union Sugar Company

U.S. Brewers Association

Adolph Coors Company
Anheuser-Busch Inc. (partial)
Archer Daniels Midland Company (partial)
Froedtert Malt Corporation
Ladish Malting Company
Miller Brewing Company
Olympia Brewing Company
Pabst Brewing Company
The Stroh Companies Inc.

U.S. Cane Sugar Refiners Association

California & Hawaiian Sugar Company
Colonial Sugars Inc.
Georgia Sugar Refinery
Imperial Sugar Company
Refined Sugars Inc.
Revere Sugar Corporation
Savannah Foods & Industries Inc. (partial)
Supreme Sugar Company, Inc

SIC 22—Textile Mill Products

American Textile Manufacturers Institute

Avondale Mills Inc.
Bibb Company
Burlington Industries Inc.
Clinton Mills Inc.
Coats & Clark Inc.
Colgate-Palmolive Company
Collins & Aikman Corporation
Cone Mills Corporation
Cranston Print Works Company
Crompton Company Inc.
Dan River Inc.
Dixie Yarns Inc.
Fieldcrest Mills Inc.
Goodyear Tire & Rubber Company
Graniteville Company
Greenwood Mills Inc.
J.P. Stevens & Company Inc.
Johnson & Johnson
Kimberly-Clark Corporation
M. Lowenstein & Sons Inc.
Milliken & Company
Northwest Industries Inc.
Reeves Brothers Inc.
Riegel Textile Corporation
Sayles Biltmore Bleacheries Inc.
Spartan Mills Inc.
Sperry and Hutchinson Company (partial)
Springs Industries Inc.
Standard-Coosa-Thatcher Company
Thomaston Mills Inc.
Ti-Caro Inc.
United Merchants & Manufacturers Inc.
West Point-Pepperell Inc.

Carpet & Rug Institute

Bigelow-Sanford Inc.
Mohasco Corporation
Shaw Industries Inc.
Standard Oil Company (Indiana)
World Carpets Inc.

SIC 24—Lumber and Wood Products

National Forest Products Association

Abitibi-Price Corporation
Boise Cascade Corporation
Champion International Corporation
Georgia-Pacific Corporation
Louisiana-Pacific Corporation
Masonite Corporation
Potlatch Corporation
Weyerhaeuser Company
Willamette Industries Inc.

SIC 26—Paper and Allied Products

American Paper Institute

Abitibi-Price Southern Corporation
Alabama River Pulp Company Inc.
Alton Packaging Corporation
Appleton Papers Inc.
Arcata National Corporation
Bell Fibre Products Corporation
Blandin Paper Company
Boise Cascade Corporation
Bowater Incorporated
Caraustar Industries Company
Champion International Corporation
Chesapeake Corporation
Consolidated Packaging Corporation
Consolidated Papers Inc.
Continental Forest Industries Inc.
Crown Zellerbach Corporation
Deerfield Specialty Papers, Inc.

Dennison Manufacturing Company
Dexter Corporation
Eastex
Eddy Paper Company Limited
Erving Paper Mills Inc.
Federal Paper Board Company Inc.
Finch Pruyn & Company Inc.
Fort Howard Paper Company
Fraser Paper Limited
GAF Corporation
Garden State Paper Company Inc.
Georgia-Pacific Corporation
Gilman Paper Company
Great Northern Nekoosa Corporation
Green Bay Packaging Inc.
Gulf States Paper Corporation
Hammermill Paper Company
Hearst Corporation
International Paper Company
International Telephone & Telegraph Corporation
James River Corporation of Virginia
Kimberly-Clark Corporation
Longview Fibre Company
Macmillan Bloedel Inc.
Marcal Paper Mills Inc.
Mead Corporation
Menasha Corporation
Mobil Oil Corporation (partial)
Mosinee Paper Corporation
Newark Group
Newton Falls Paper Mill Inc.
Olin Corporation
Owens-Illinois Inc.
PH Glatfelter Company
Penntech Papers Inc.
Pentair Industries Inc.
Philip Morris Inc.
Potlatch Corporation
Procter & Gamble Company
Rhinelander Paper Company
Scott Paper Company
Simpson Timber Company
Sonoco Products Company
Southeast Paper Manufacturing Company
Southwest Forest Industries
St. Joe Paper Company
St. Regis Paper Company
Stone Container Corporation
Technographics Inc.
Temple-Inland Inc.
Tenneco Inc.
Times Mirror Company
Union Camp Corporation
Virginia Fibre Corporation
Wausau Paper Mills Company
Weston Paper & Manufacturing Company
Westvaco Corporation
Weyerhaeuser Company
Willamette Industries Inc.

Chemical Manufacturers Association

Minnesota Mining & Manufacturing Company
Mobil Chemical Company

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas

SIC 28—Chemicals and Allied Products

Aluminum Association

Aluminum Company of America
Reynolds Metals Company

American Feed Manufacturers Association

Cargill Inc.

Chemical Manufacturers Association

Air Products & Chemicals Inc.
Airco Inc.
Akzona Inc.
Allied Corporation
American Can Company
American Cyanamid Company
American Hoechst Corporation
Arizona Chemical Company
Ashland Oil Inc.
Atlantic Richfield Company
Avtex Fibers Inc.
B F Goodrich Company
Badische Corporation
BASF Wyandotte Corporation
Big Three Industries Inc.
Borden Inc.
Borg-Warner Corporation
Buffalo Color Corporation
Cabot Corporation
Carus Chemical Company Inc.
Celanese Corporation
Chemical Products Corporation
Chemplex Corporation
Chemtech Industries Inc.
CIBA-CEIGY Corporation
Columbia Nitrogen Corporation
Conoco Inc.
Crompton & Knowles Corporation
CPC International Inc.
Dart Industries Inc.
Diamond Crystal Salt Company
Diamond Shamrock Corporation
Dow Chemical Company
Dow Corning Corporation
E.I. du Pont de Nemours & Company
Eastman Kodak Company
El Paso Products Company
Emery Industries
Essex Chemical Corporation
Ethyl Corporation
Exxon Corporation
Firestone Tire & Rubber Company
First Mississippi Corporation
FMC Corporation
Freeport Minerals Company
GAF Corporation
Georgia-Pacific Corporation
Goodyear Tire & Rubber Company
Great Lakes Chemical Corporation
Greyhound Corporation
Gulf Oil Corporation
Harshaw/Filtrol Partnership
Henkel Corporation
Hercules Inc.
ICI Americas Inc.
International Minerals & Chemicals Corporation (partial)
Inter North Inc.
Kaiser Aluminum & Chemical Corporation
Kay-Fries Inc.
Kerr-McGee Corporation
Koppers Company Inc.
LCP Chemicals & Plastics, Inc.
Lever Brothers Company
Lubrizol Corporation
Mallinckrodt Inc.
Merichem Company
Minnesota Mining & Manufacturing Company
Mobay Chemical Corporation
Mobil Oil Corporation
Monsanto Company
Morton Thiokol, Inc.
Nalco Chemical Company
National Distillers & Chemical Corporation
National Starch & Chemical Corporation
Neville Chemical Company
NL Industries Inc.
Occidental Chemical Corporation
Olin Corporation
Pennwalt Corporation
Pfizer Inc.
Phillips Petroleum Company
Pilot Chemical Company
Polysar Gulf Coast, Inc.
PPG Industries Inc.
PQ Corporation
Procter & Gamble Company
Reilly Tar & Chemical Corporation
Rohm and Haas Company
Shell Oil Company
Shepherd Chemical Company
Sherex Chemical Company Inc.
Sohio Chemical Company
Soltex Polymer Corporation
Standard Chlorine of Delaware, Inc.
Standard Oil Company (Indiana)
Stauffer Chemical Company
Sun Olin Chemical Company
Tenneco Inc.
Texaco Inc.
Texasgulf, Inc.
Union Carbide Corporation
Uniroyal Inc.
United States Borax & Chemical Corporation
United States Industrial Chemicals Corporation
United States Steel Corporation (partial)
Upjohn Company (partial)
Velsicol Chemical Corporation
Vertax Inc. (partial)
Virginia Chemicals Inc.
Vulcan Materials Company
W.R. Grace & Company
Westvaco Corporation
Witco Chemical Corporation

Fertilizer Institute

Atlas Powder Company
Beker Industries Corporation
CF Industries Inc.
Cominco America Inc.
Estech Inc.
Farmland Industries Inc. (partial)
First Mississippi Corporation
Gardinier Inc.
Green Valley Chemical Company
Hawkeye Chemical Company
International Minerals & Chemical Corporation (partial)
J.R. Simplot Company
Mississippi Chemical Corporation
Occidental Petroleum Corporation (partial)
Reichhold Chemicals Inc. (partial)
Terra Chemicals International Inc.
Union Oil Company of California
United States Steel Corporation (partial)
Williams Companies
Wycon Chemical Company

Pharmaceutical Manufacturers Association

Abbott Laboratories
American Home Products Corporation (partial)
Baxter-Travenol Laboratories
Beecham Laboratories
Eli Lilly & Company
Hoffman-La Roche Inc.
Johnson & Johnson
Merck & Company Inc.
Organon Inc.
Richardson-Vicks Inc.

Schering-Plough Corporation
Squibb Corporation
Upjohn Company (partial)
Warner-Lambert Company

SIC 29—Petroleum and Coal Products

American Petroleum Institute

Agway Inc.
Amber Refining
American Petrofina Inc.
Asamera Oil (US) Inc.
Ashland Oil Inc.
Atlantic Richfield Company
Beacon Oil Company
Champlin Petroleum Company
Charter International Oil Company
Clark Oil & Refining Corporation
Coastal Corporation
Conoco Inc.
CRA Inc.
Crown Central Petroleum Corporation
Diamond Shamrock Corporation
Dorchester Refining Company
Exxon Corporation
Farmers Union Central Exchange Inc.
Fletcher Oil & Refining Company
Getty Oil Company
Gulf Oil Corporation
Hunt Oil Company
Husky Oil Company
Indiana Farm Bureau Cooperative Association
Kerr-McGee Corporation
Koch Industries Inc.
Marathon Oil Company
Mobil Oil Corporation
Murphy Oil Corporation
National Cooperative Refinery Association, Inc.
Pacific Resources Inc.
Pennzoil Company
Phillips Petroleum Company
Placid Refining Company
Quaker State Oil Refining Corporation
Rock Island Refining Corporation
Shell Oil Company
Sinclair Oil Corporation
Southern Union Refining Company
Southland Oil Company
Standard Oil Company (Indiana)
Standard Oil Company (Ohio)
Standard Oil Company of California
Sun Company Inc.
Tenneco Inc.
Tesoro Petroleum Corporation
Texaco Inc.
Texas Eastern Transmission Corporation
Tosco Corporation
Total Petroleum Inc.
Union Oil Company of California
USA Petroleum Corporation
U.S. Oil and Refining Company
Witco Chemical Corporation

Chemical Manufacturers Association

GAF Corporation
Great Lakes Carbon Corporation
Koppers Company Inc.
USS Chemicals

Glass—Pressed and Blown (Battelle Institute)

Owens-Corning Fiberglas Corporation

SIC 30—Rubber and Miscellaneous Plastic Products

Chemical Manufacturers Association

American Cyanamid Company
Dart Industries Inc.
Ethyl Corporation
Exxon Corporation
Minnesota Mining & Manufacturing Company
Union Carbide Corporation
W.R. Grace & Company

Pharmaceutical Manufacturers Association

Baxter-Travenol Laboratories

Rubber Manufacturers Association

Ames Rubber Corporation
Armstrong Rubber Company
B F Goodrich Company
Carlisle Corporation
Cooper Tire & Rubber Company
Dayco Corporation
Dunlop Tire & Rubber Corporation
Firestone Tire & Rubber Company
Gates Rubber Company
General Tire & Rubber Company
Goodyear Tire & Rubber Company
Owens-Illinois Inc.
Teledyne Monarch Rubber Company
Uniroyal Inc.

SIC 32—Stone, Clay and Glass Products

Brick Institute of America

Belden Brick Company
Bickerstaff Clay Products Company Inc.
Boren Clay Products Company
Delta Brick & Tile Company, Inc.
General Dynamics Corporation (partial)
General Shale Products Corporation
Glen-Gery Corporation
Justin Industries Inc.
Maryland Clay Products, Inc.
Merry Companies, Inc.
Ochs Brick & Tile Company
Pine Hall Brick & Pipe Company
Richards Brick Company
Robinson Brick & Tile Company
Victor Cushwa & Sons, Inc.

Chemical Manufacturers Association

Engelhard Corporation
GAF Corporation
Minnesota Mining & Manufacturing Company
Vulcan Materials Company

Glass—Flat (Eugene L. Stewart)

AFG Industries Inc.
Ford Motor Company
Guardian Industries Corporation
Libbey-Owens-Ford Company
PPG Industries Inc.

Glass—Pressed & Blown (Battelle Institute)

Anchor Hocking Corporation (partial)
CertainTeed Corporation
Corning Glass Works (partial)
Owens-Corning Fiberglas Corporation
Owens-Illinois Inc. (partial)

Gypsum Association

Comtar Industries, Inc. (partial)†
Genstar Gypsum Products Company
Georgia-Pacific Corporation
Jim Walter Corporation (partial)
National Gypsum Company (partial)
Pacific Coast Building Products Company (partial)
United States Gypsum Company (partial)

National Lime Association

Ash Grove Cement Company (partial)
Bethlehem Steel Corporation (partial)
Can-Am Corporation
Cutler-Magner Company
Detroit Lime Company
Dravo Lime Company
General Dynamics Corporation (partial)
National Lime & Stone Company
Pete Lien & Sons
Rockwell Lime Company
St. Clair Lime Company
Steetley Resources, Inc.
Tenn-Luttrell Lime Companies
United States Gypsum Company (partial)
Vulcan Materials Company (partial)
Warner Company

Portland Cement Association

Aetna Cement Corporation
Alamo Cement Company
Arkansas Cement Corporation
Ash Grove Cement Company (partial)
Atlantic Cement Company Inc.
Blue Circle Industries
California Portland Cement Company
Capitol Aggregates Inc.
Centex Corporation
Cianbro Corporation
Columbia Cement Corporation
Coplay Cement Manufacturing Company
Davenport Cement Company
Dundee Cement Company
General Portland Inc.
Genstar Cement & Lime Company
Gifford-Hill Portland Cement Company
Ideal Basic Industries
Kaiser Cement Corporation
Keystone Portland Cement Company
Lehigh Portland Cement Company (partial)
Lone Star Industries Inc.
Louisville Cement Company
Medusa Corporation
Missouri Portland Cement Company
Monarch Cement Company
Monolith Portland Cement Company
Moore McCormack Cement, Inc.
National Cement Company
Northwestern State Portland Cement Company
Rinker Portland Cement Corporation
River Cement Company
South Dakota Cement Company
Southwestern Portland Cement Company
Texas Industries Inc. (partial)

Refractories Institute

Allied Chemical Corporation (partial)
Combustion Engineering Inc. (partial)
Corning Glass Works (partial)
Dresser Industries Inc. (partial)
Kaiser Aluminum & Chemical Corporation (partial)
Martin Marietta Corporation (partial)
Norton Company (partial)
United States Gypsum Company (partial)

Tile Council of America

American Olean Tile Company

SIC 33—Primary Metal Industries

Aluminum Association

Alcan Aluminum Corporation

Alumax
Aluminum Company of America
American Can Company
Atlantic Richfield Company (partial)
Cabot Corporation
Consolidated Aluminum Corporation
Ethyl Corporation
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
National Steel Corporation (partial)
Noranda Aluminum Inc.
Ormet Corporation
Pechiney Ugine Kuhlmann Corporation (partial)
Revere Copper and Brass Inc. (partial)
Reynolds Metals Company
Southwire Company

American Die Casting Institute

Hays-Albion Corporation (partial)

American Foundrymen's Society

American Cast Iron Pipe Company
Amcast Industrial Corporation
Grede Foundries Inc.
Mead Corporation
Teledyne Inc. (partial)
United States Pipe Company

American Iron & Steel Institute

A. Finkl & Sons Company
Atlantic Steel Company
Armco Inc.
Babcock & Wilcox
Bethlehem Steel Corporation
Cargill, Inc.
Carpenter Technology Corporation
Colt Industries Inc.
Cyclops Corporation
Eastmet Corporation
Florida Steel Corporation
Inland Steel Company
Jones & Laughlin Steel Corporation
Keystone Consolidated Industries Inc.
Lone Star Steel Company
Lukens Steel Corporation
National Steel Corporation (partial)
Northwest Steel Rolling Mills Inc.
Northwestern Steel & Wire Company
Republic Steel Corporation
Sharon Steel Corporation
Teledyne Inc. (partial)
Timken Company
United States Steel Corporation
Washington Steel Corporation
Wheeling Pittsburgh Steel Corporation

American Mining Congress

Amax Inc.
Asarco Inc.
Inspiration Consolidated Copper Company
Kennecott Corporation (partial)
Louisiana Land & Exploration Company (partial)
Marmon Group Inc.
Newmont Mining Corporation (partial)
Phelps Dodge Corporation (partial)
St. Joe Minerals Corporation

Construction Industry Manufacturers Association

J.I Case—Tenneco Inc.

Copper & Brass Fabricators Council

Atlantic Richfield Company (partial)
Century Brass Products Inc.
Chicago Extruded Metals Company
Copper Range Company
Extruded Metals
Kennecott Corporation (partial)
Marmon Group Inc.
National Distillers & Chemical Corporation
Olin Corporation
Phelps Dodge Corporation (partial)
Revere Copper & Brass Inc. (partial)

SIC 34—Fabricated Metal Products

Aluminum Association

Aluminum Company of America
Kaiser Aluminum & Chemical Corporation
Martin Marietta Corporation
Reynolds Metals Company

American Boiler Manufacturers Association

Combustion Engineering Inc.
McDermott Inc.

Can Manufacturers Institute

American Can Company
Campbell Soup Company
Continental Group Inc.
Crown Cork & Seal Company Inc.
Miller Brewing Company
National Can Corporation
Stroh Brewery Company

Chemical Manufacturers Association

E.I. du Pont de Nemours & Company
Olin Corporation

SIC 35—Machinery, Except Electrical

Air Conditioning & Refrigeration Institute

Emerson Electric Company
Honeywell Inc.
Hussman Refrigeration Company
Johnson Controls Inc.
Sundstrand Corporation
Trane Company

Computer & Business Equipment Manufacturers Association

Control Data Corporation
Digital Equipment Corporation
International Business Machines Corporation
Sperry UNIVAC Corporation
TRW Inc.
Xerox Corporation

Construction Industry Manufacturers Association

Bucyrus-Erie Company
Clark Equipment Company
Cummins Engine Company Inc.
FMC Corporation
Ford Motor Company
Harnischfeger Corporation
Ingersoll-Rand Company
J.I Case—Tenneco Inc.

SIC 36—Electric, Electronic Equipment

Chemical Manufacturers Association

Great Lakes Carbon Corporation
Minnesota Mining & Manufacturing Company

National Electrical Manufacturers Association

Airco Inc.
Allied Corporation
Emerson Electric Company
Harvey Hubbell Inc.
Johnson Controls Inc.
Reliance Electric Company
Square D Company
Union Carbide Corporation

SIC 37—Transportation Equipment

Aerospace Industries Association of America

Boeing Company
General Dynamics Corporation (partial)
Grumman Corporation
Hughes Aircraft Corporation
Lockheed Corporation
Martin Marietta Corporation
McDonnell Douglas Corporation
Morton Thiokol Corporation
Northrop Corporation
Textron Inc.
TRW Inc.

Chemical Manufacturers Association

Hercules Incorporation
Tenneco Inc.

Motor Vehicle Manufacturers Association

American Motors Corporation
Chrysler Corporation
Ford Motor Company (SIC Code 33, Recovered Materials)
General Motors Corporation (SIC Code 30, 33, Recovered Materials)

SIC 38—Instruments and Related Products

Chemical Manufacturers Association

Eastman Kodak Company
GAF Corporation
Minnesota Mining & Manufacturing Company

Pharmaceutical Manufacturers Association

G.D. Searle & Company
Johnson & Johnson

[FR Doc. 85-12281 Filed 5-21-85; 8:45 am]
BILLING CODE 6450-01-M

federal register

Wednesday
May 22, 1985

Part IV

Department of Education

Office of Special Education and Rehabilitative Services

34 CFR Part 396

Training of Interpreters for Deaf Individuals; Proposed Rule

DEPARTMENT OF EDUCATION

Office of Special Education and Rehabilitative Services

34 CFR Part 396

Training of Interpreters for Deaf Individuals

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to issue regulations for the Training of Interpreters for Deaf Individuals Program under the Rehabilitation Act of 1973, as amended (the Act). The proposed regulations would implement section 304(d) of the Act. The proposed regulations would provide financial support for training programs to increase the supply of skilled manual and oral interpreters and to ensure the maintenance of interpreter skills of personnel currently serving as interpreters for deaf individuals.

DATE: Comment must be received on or before June 21, 1985.

ADDRESS: All comments concerning these proposed regulations should be addressed to Mr. Wallace K. Babington, Office of Special Education and Rehabilitative Services, Department of Education, 400 Maryland Avenue SW., Switzer Building, Room 3316, Washington, D.C. 20202.

A copy of any comments that concern information collection requirements should also be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble.

FOR FURTHER INFORMATION CONTACT: Mr. Joseph Abrams, (202) 732-1357.

SUPPLEMENTARY INFORMATION: The Training of Interpreters for Deaf Individuals Program was established by the Rehabilitation Act Amendments of 1978 (Pub. L. 95-602). The Secretary has conducted two competitions under this program since Fiscal Year 1980. The first competition was held in 1980. The second competition, in 1982, was conducted under the Education Department General Administrative Regulations (EDGAR), Part 75, which includes provisions for use with programs, such as the Training of Interpreters for Deaf Individuals Program, which do not have implementing regulations. (See 34 CFR 75.210).

On the basis of program experience, the Secretary has determined that the administration of this program will be significantly improved if the Department issues regulations specifically for this discretionary program.

A summary of the proposed regulations follows:

(a) Subpart A—General.

Section 396.1 describes the scope and purpose of the program.

Section 396.2 identifies those agencies and organizations eligible for assistance under the program. Eligible entities include any public or private nonprofit agency or organization, including institutions of higher education.

Section 396.3 identifies regulations applicable to this program, including certain provisions of the Education Department General Administrative Regulations (EDGAR).

Section 396.4 contains or refers to definitions of terms used in Part 396. A definition of "interpreter for deaf individuals" is included.

(b) Subpart B—What Kinds of Activities Does the Secretary Assist Under this Program?

Section 396.10 describes the types of interpreter training that may be supported. Training activities prepare persons to serve as manual and oral interpreters, including training in specialized fields such as law, medicine and the performing arts.

(c) Subpart C—How Does One Apply for a Grant?

Section 396.20 describes certain assurances and information that each applicant must include in the application.

(d) Subpart D—How Does the Secretary Make a Grant?

The proposed selection criteria used to evaluate grant applications are contained in §396.30.

Section 396.31 states that, in making awards, the Secretary considers the geographical distribution of projects.

Section 396.32 states that, in making awards, the Secretary gives priority to public or private nonprofit agencies or organizations with existing programs that demonstrate their capacity for providing interpreter training services.

Executive Order 12291

These proposed regulations have been reviewed by the Department in accordance with Executive Order 12291.

They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations will not have a significant economic impact on a substantial number of small entities. The application and reporting requirements are not burdensome, an no other costs are imposed on small entities.

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3214, Switzer Building, 330 C Street, SW., Washington, D.C., between the hours of 8:30 a.m. and 4:00 p.m., Eastern Time, Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 and the Paperwork Reduction Act of 1980 and the overall requirement of reducing regulatory burden, public comment is invited on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Paperwork Reduction Act of 1980

Sections 396.20 and 396.30 contain information collection requirements. As required by section 3504(h) of the Paperwork Reduction Act of 1980, the Department of Education will submit a copy of these proposed regulations to the Office of Management and Budget (OMB) for its review. Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 3208, New Executive Office Building, Washington, D.C. 20503; Attention: Joseph F. Lackey, Jr.

List of Subjects in 34 CFR Part 396

Education; Grant programs—education; Vocational rehabilitation.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(29 U.S.C. 774(d))

(Catalog of Federal Domestic Assistance No. 84.160; Training of Interpreters for Deaf Individuals Programs)

Dated: May 16, 1985.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 396 to read as follows:

PART 396—TRAINING OF INTERPRETERS FOR DEAF INDIVIDUALS

Subpart A—General

Sec.

396.1 What is the Training of Interpreters for Deaf Individuals Program?
396.2 Who is eligible for assistance under this program?
396.3 What regulations apply to this program?
396.4 What definitions apply to this program?
396.5–396.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

396.10 What types of projects are authorized under this program?
396.11–396.19 [Reserved]

Subpart C—How Does One Apply for a Grant?

396.20 What must be included in an application for a grant?
396.21–396.29 [Reserved]

Subpart D—How Does the Secretary Make a Grant?

396.30 What are the selection criteria used to award a grant?
396.31 Does the Secretary consider geographical distribution in making grants?
396.32 Does the Secretary give priority to certain existing programs in making grants?
396.33–396.39 [Reserved]

Authority: Sec. 304(d) of the Rehabilitation Act of 1973, as amended by Pub. L. 95–602, 92 Stat. 2970, (29 U.S.C. 774(d)), unless otherwise noted.

Subpart A—General

§ 396.1 What is the Training of Interpreters for Deaf Individuals Program?

(a) The Training of Interpreters for Deaf Individuals Program is designed to assist in providing a sufficient number of skilled interpreters to meet the communications needs of deaf individuals by—

(1) Training manual and oral interpreters throughout the country for employment in public and private agencies, schools, and other institutions involved in health, education, welfare, rehabilitation and employment; and

(2) Ensuring the maintenance of the skills of interpreters engaged in programs serving deaf people, and providing opportunities for interpreters to raise their level of competence.

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

§ 396.2 Who is eligible for assistance under this program?

Public and private nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under the Training of Interpreters for Deaf Individuals Program.

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

§ 396.3 What regulations apply to this program?

The following regulations apply to this program:

(a) The Education Department General Administrative Regulations (EDGAR), established in Title 34 of the Code of Federal Regulations in—

(1) Part 74 (Administration of Grants);

(2) Part 75 (Direct Grant Programs);

(3) Part 77 (Definitions that apply to Department Regulations); and

(4) Part 78 (Education Appeal Board).

(b) The regulations in this Part 396.

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

§ 396.4 What definitions apply to this program?

(a) *Definitions in EDGAR.* The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
EDGAR
Equipment
Grant
Grantee
Nonprofit
Private
Project
Project period
Public
Secretary
Supplies

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

(b) *Definitions that also apply to this part.* The following definitions also apply to this part:

"Interpreter for deaf individuals" is an individual who utilizes sign language skills or oral interpreting skills to facilitate communications between hearing and hearing-impaired individuals.

"Existing program that has demonstrated its capacity for providing interpreter training services" means an established program with—

(1) A record of training interpreters who are serving the deaf community; and

(2) An established curriculum that is suitable for training interpreters.

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

§§ 396.5–396.9 [Reserved]

Subpart B—What Kinds of Activities Does the Secretary Assist Under This Program?

§ 396.10 What types of projects are authorized under this program?

The Secretary provides assistance for projects that provide training in manual and oral interpreting skills for persons preparing to serve, or already serving, as interpreters for deaf individuals in public and private agencies, schools, and other service-providing facilities.

(Sec. 304(d)) of the Act; 29 U.S.C. 774(d))

§§ 396.11–396.19 [Reserved]

Subpart C—How Does One Apply for a Grant?

§ 396.20 What must be included in an application for a grant?

Each applicant shall include in the application—

(a) A description of the manner in which the proposed interpreter training program will be developed and operated during the five-year period following the award of the grant;

(b) A description of the geographical area to be served by the project;

(c) A demonstration of the applicant's capacity or potential for providing training for interpreters for deaf individuals; and

(d) Assurances that—

(1) Any interpreter trained or retrained under this program will meet such minimum standards of competency as the Secretary may establish;

(2) To the extent appropriate, the grantee will provide for the training or retraining (including short-term and in-service training) of teachers who are involved in providing instruction to deaf individuals but who are not certified as teachers of deaf individuals; and

(3) Funds for in-service training will be provided only through funds appropriated under Part B of the Education of the Handicapped Act.

(Sec. 304(d)(2) of the Act; 29 U.S.C. 774(d)(2))

§§ 396.21–396.29 [Reserved]

Subpart D—How Does the Secretary Make a Grant?

§ 396.30 What are the selection criteria used to award a grant?

The Secretary uses the weighted criteria in this section to evaluate applications for new awards. The maximum score for all the criteria is 100 points. The maximum possible points for each criterion are indicated in parentheses after the heading for the criterion.

(a) *Plan of operation.* (10 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) High quality in the design of the project;

(ii) An effective plan of management that insures proper and efficient administration of the project;

(iii) A clear description of how the objectives of the project relate to the purpose of the program;

(iv) The way the applicant plans to use its resources and personnel to achieve each objective; and

(v) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training, in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Budget and cost effectiveness.* (10 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to support the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(d) *Evaluation plan.* (5 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project.

Cross Reference: 34 CFR 75.590, *Evaluation by the grantee.*

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project, and to the extent possible, are objective and produce data that are quantifiable.

(e) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(f) *Technical and programmatic soundness.* (30 points)

(1) The Secretary reviews each application for information that shows that the approach is technically and programmatically sound.

(2) The Secretary looks for information which shows that—

(i) The proposed project can reasonably be expected to accomplish the purposes of the program, including any priorities established;

(ii) There is a shortage of interpreters in the geographic area to be served by the proposed project;

(iii) The training activities described in the application reflect practices of recognized professional soundness and efficacy or new and innovative activities which may reasonably be expected to result in the training of interpreters who will display a high level of skill;

(iv) There appear to be no substantial obstacles to carrying out the activities described in the application; and

(v) The application demonstrates a logical, coherent and balanced approach to the objectives of the program.

(g) *Specialized capabilities of applicant.* (10 points)

(1) The Secretary reviews each application for information that shows that the applicant has the capacity for providing training for interpreters for deaf individuals.

(2) The Secretary looks for information that shows the adequacy of the experience of the applicant organization, in addition to the experience of the staff described under paragraph (b) of this section (Quality of key personnel), in conducting activities which are similar, or have significant relevance, to those proposed in the application.

(h) *Demonstrated relationships with service providers.* (10 points)

(1) The Secretary reviews each application for information that shows that the proposed interpreter training project was developed in consultation with service providers.

(2) The Secretary looks for information that shows—

(i) The training is appropriate to the needs of deaf individuals and public and private agencies which provide services to deaf individuals in the geographical area to be served by the training project;

(ii) There has been or there will exist a working relationship between the interpreter training project and service providers;

(iii) There are opportunities for the parents of deaf persons and for deaf persons to involve themselves in the training; and

(iv) The training includes a practicum, or field experience, with potential employers of interpreters, if possible.

(Sec. 304(d) of the Act; 29 U.S.C. 774(d))

§ 396.31 Does the Secretary consider geographical distribution in making grants?

In addition to the selection criteria listed in § 396.30, the Secretary, in making awards under this part, considers the geographical distribution of projects, to the extent possible, where necessary to best carry out the purposes of this program.

(Section 304(d)(1) of the Act; 29 U.S.C. 774(d)(1))

§ 396.32 Does the Secretary give priority to certain existing programs in making grants?

(a) The Secretary, in making awards under this part, gives priority to public or private nonprofit agencies or organizations with existing programs that have demonstrated their capacity for providing interpreter training services.

(b) The Secretary implements this priority by selecting for funding applications from existing programs with demonstrated capacity over applications of comparable merit that do not reflect these characteristics.

(Sec. 304(d)(1) of the Act; 29 U.S.C. 774(d)(1))

§§ 396.33-396.39 [Reserved]

[FR Doc. 85-12275 Filed 5-21-85; 8:45 am]
BILLING CODE 4000-01-M

Federal Register

Wednesday
May 22, 1985

Part V

Department of Education

34 CFR Part 280

Magnet Schools Assistance Program; Final Rule and Extension of Closing Date for Transmittal of Applications for New Projects

DEPARTMENT OF EDUCATION

34 CFR Part 280

Magnet Schools Assistance Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary issues final regulations for the Magnet Schools Assistance Program. These regulations are designed to implement Title VII of the Education for Economic Security Act.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: M. Patricia Goins, Chair, Magnet Schools Task Force, U.S. Department of Education (Room 2011, FOB–6), 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245–7965.

SUPPLEMENTARY INFORMATION: The purpose of the Magnet Schools Assistance Program is to (1) provide financial assistance to eligible LEAs to enable those agencies to establish and operate magnet schools; (2) meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools; (3) encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and (4) encourage the development of courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending those schools. The Act defines a magnet school as "a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds."

A Notice of Proposed Rulemaking was published in the Federal Register on November 23, 1984. The public had 45 days during which to submit written comments concerning the proposed regulations. These final regulations implement the Magnet Schools Assistance Program with only the following changes from the proposed regulations:

1. Section 280.2 has been revised to make it clear that there are three ways in which an LEA may establish eligibility to apply to a grant.

2. The terms "desegregation" and "minority group isolation" have been defined to clarify the types of desegregation plans that will qualify under §§ 280.2 and 280.10(b). The definition of "desegregation" covers the two principal types of plans that were eligible under the Emergency School Aid Act (ESAA)—plans to remedy the illegal separation of children or faculty in an LEA's schools and plans for the reduction, elimination, or prevention of minority group isolation. The definition of "minority group isolation," as a condition in which minority group children constitute more than 50 percent of a school's enrollment, also was adopted from ESAA.

3. The provisions of the regulations concerning the types of projects that are funded (§ 280.10(b)) and the contents of an application (§ 280.20) have been clarified.

4. The evaluation criterion in § 280.31(c)(2)(iii) has been reworded to focus more clearly on the educational needs of the students who would participate in project activities.

5. The maximum number of points awarded under the special consideration factor "Need for assistance" in § 280.32(d) has been increased from 10 to 15. This provision also has been revised to indicate that those LEAs that received $1 million less under Chapter 2 of the Education Consolidation and Improvement Act in fiscal year 1982 than they received in fiscal year 1981 under ESAA will receive the full 15 points. Other LEAs will be awarded points based on the expense of implementing their approved desegregation plans or the difficulty of implementing those plans and their magnet schools projects.

The provision awarding the full 15 points to LEAs that received $1 million less under Chapter 2 in fiscal year 1982 than they received in fiscal year 1981 under ESAA will remain in effect through fiscal year 1986—the period through which the Magnet Schools Assistance Program is authorized. If the program is reauthorized, this provision will be deleted so that LEAs do not receive an indefinite competitive advantage based on their loss of ESAA funds. Instead, after fiscal year 1986, all LEAs would be evaluated on the expense of implementing their desegregation plans and the difficulty of implementing those plans and their magnet schools projects.

6. A new section (§ 280.33) has been added to reflect the statutory requirement that an LEA may receive a continuation award only if the Secretary determines that it is making satisfactory progress in achieving the proposes of the Act.

7. Minor changes have been made in a number of sections for purposes of clarification.

The comments submitted in response to the proposed regulations are summarized in the appendix to these regulations. After each comment, a response is included stating the change that has been made in the regulations or the reasons why no change is considered appropriate. The comments are grouped according to the sections of the regulations to which they pertain.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR Part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

In accordance with the Order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

List of Subjects in 34 CFR Part 280

Civil rights, Desegregation, Education, Elementary and secondary education, Grant programs-education, Magnet schools, Recordkeeping and reporting requirements.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of these regulations.

(Catalog of Federal Domestic Assistance number 84.165, Magnet Schools Assistance Program)

Dated: May 16, 1985.

William J. Bennett,

Secretary of Education.

The Secretary amends Title 34 of the Code of Federal Regulations by adding a new Part 280 to read as follows:

PART 280—MAGNET SCHOOLS ASSISTANCE PROGRAM

Subpart A—General

Sec.

280.1 What is the Magnet Schools Assistance Program?
280.2 Who is eligible to apply for a grant?
280.3 What regulations apply to this program?
280.4 What definitions apply to this program?

Subpart B—What Types of Projects Does the Secretary Assist under This Program?

280.10 What types of projects does the Secretary assist?

Subpart C—How Does One Apply for a Grant?

280.20 How does one apply for a grant?

Subpart D—How Does the Secretary Make a Grant?

280.30 How does the Secretary evaluate an application?
280.31 What selection criteria does the Secretary use?
280.32 How is special consideration given to applicants?
280.33 How does the Secretary approve a continuation award?

Subpart E—What Conditions Must Be Met by a Grantee?

280.40 What are the limitations on allowable costs?

Subpart F—May a State Reduce Aid to an LEA That Receives a Grant Under This Program?

280.50 May a State reduce the amount of aid it gives to an LEA?

Authority: Title VII of the Education for Economic Security Act, Pub. L. 98-377, 98 Stat. 1299-1302 (20 U.S.C. 4051-4062), unless otherwise noted.

Subpart A—General

§ 280.1 What is the Magnet Schools Assistance Program?

The Magnet Schools Assistence Program provides grants to eligible local educational agencies (LEAs) for use in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic, and racial backgrounds together. The purposes of the program are to—

(a) Provide financial assistance to eligible LEAs to enable them to establish and operate magnet schools;

(b) Meet the special needs incident to the elimination of minority group segregation and discrimination among students and faculty in elementary and secondary schools;

(c) Encourage the voluntary elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority group students; and

(d) Encourage the development of courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending these schools.

(20 U.S.C. 4053-4054)

§ 280.2 Who is eligible to apply for a grant?

An LEA is eligible to receive assistance under this part if the LEA meets any of the following requirements:

(a) The LEA received $1,000,000 less under Chapter 2 of the Education Consolidation and Improvement Act (ECIA) in fiscal year 1982 than it received in fiscal year 1981 under the Emergency School Aid Act (ESAA).

(b) The LEA is implementing a plan undertaken pursuant to a final order of a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and the order requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of that agency.

(c) The LEA adopted and is implementing on a voluntary basis—or will, if assistance is made available to it under this part, adopt and implement—a plan that has been approved by the Secretary as adequate under Title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in its schools.

(20 U.S.C. 4052)

§ 280.3 What regulations apply to this program?

The following regulations apply to the Magnet Schools Assistance Program:

(a) The Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74 (Administration of grants), 75 (Direct grant programs), 77 (Definitions apply to Department regulations), 78 (Education Appeal Board), and 79 (Intergovernmental Review of Department of Education programs and activities).

(b) The regulations in this part.

(20 U.S.C. 4051-4062)

§ 280.4 What definitions apply to this program?

(a) *Definitions in EDGAR:* The following terms used in this part are defined in 34 CFR Part 77:

Applicant
Application
Award
Budget
EDGAR
Elementary school
Equipment
Facilities
Fiscal year
Grant
Local educational agency
Project
Secondary school
Secretary
State
Supplies

(b) *Definitions that apply to this program:* The following definitions also apply to this part:

"Act" means Title VII of the Education for Economic Security Act, Pub. L. 98-377.

"Desegregation," in reference to a plan, means a plan for the reassignment of children or faculty to remedy the illegal separation of minority group children or faculty in the schools of an LEA or a plan for the reduction, elimination, or prevention of minority group isolation in one or more of the schools of an LEA.

"Implementation date" means the date of the first change in the enrollment of a school as a result of the desegregation plan or a modification of the plan, or, in the case of a plan for the desegregation of minority group segregated faculty, the first reassignment of a faculty member as a result of the plan or a modification of the plan.

"Magnet school" means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

"Minority group" means the following:

(1) *American Indian or Alaskan Native.* A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(2) *Asian of Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, India, Japan, Korea, the Philippine Islands, and Samoa.

(3) *Black (Not of Hispanic Origin).* A person having origins in any of the black racial groups of Africa.

(4) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race.

"Minority group isolation," in reference to a school, means a condition in which minority group children constitute more than 50 percent of the enrollment of the school.

"Special curriculum" means a course of study embracing subject matter or a teaching methodology that is not generally offered to students of the same age or grade level in the same LEA, as the students to whom the special curriculum is offered in the magnet schools. This term does not include—

(1) A course of study or a part of a course of study designed solely to provide basic educational services to handicapped students or to students of limited English-speaking ability;

(2) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited English-speaking ability;

(3) A course of study or a part of a course of study in which any student is unable to participate because of his or her limited financial resources; or

(4) A course of study or a part of a course of study that fails to provide for a participating student's meeting the requirements for completion of elementary of secondary education in the same period as other students enrolled in the applicant's schools.

(20 U.S.C. 4051–4062)

Subpart B—What Types of Projects Does the Secretary Assist Under This Program?

§ 280.10 What types of projects does the Secretary assist?

(a) The Secretary funds applications proposing projects for planning and conducting programs in magnet schools that are part of an approved desegregation plan and that are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

(b) For the purposes of this part, an approved desegregation plan is—

(1) A desegregation plan described in § 280.2(b) or (c); or

(2) A plan that the applicant used to establish its eligibility under section 606(a)(1) of the ESAA and that the applicant is continuing to implement.

(c) In the case of a desegregation plan described in § 280.2(b), any modification to that plan must be approved by the court, agency, or official that approved the plan.

(d) The Secretary assists projects for the conduct of programs in magnet schools, including the following activities:

(1) Providing courses of academic instruction offered at magnet schools.

(2) Providing courses of instruction in magnet schools offering secondary education or vocational education that are designed to increase the tangible and marketable skills of secondary school students and vocational school students.

(3) Purchasing books, materials, and equipment, including computers, that contribute directly to academic excellence and the purpose of this part.

(4) Paying or subsidizing the compensation of elementary and secondary school teachers in magnet schools who are certified or licensed by the State and who are necessary to carry out the courses of instruction for which assistance is sought.

(e) A project for the conduct of programs in magnet schools also may include planning activities, subject to the restrictions in § 280.40(a).

(20 U.S.C. 4056)

Subpart C—How Does One Apply for a Grant?

§ 280.20 How does one apply for a grant?

(a) Each eligible LEA that desires to receive assistance under this part shall submit an annual application to the Secretary.

(b) In its application, the LEA shall provide assurances that it—

(1) Will use funds made available under this part for the purposes specified in section 703 of the Act;

(2) Will employ teachers in the courses of instruction assisted under this part who are certified or licensed by the State to teach the subject matter of the course of instruction;

(3) Will not engage in discrimination based upon race, religion, color, or national origin in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

(4) Will not engage in discrimination based upon race, religion, color, or national origin in the mandatory assignment of students to schools or to courses of instruction within schools of the agency except to carry out the approved desegregation plan; and

(5) Will not engage in discrimination based upon race, religion, color, or national origin in designing or operating extracurricular activities for students.

(c) In addition to the assurances listed in paragraph (b) of this section, the LEA shall provide such other assurances as the Secretary determines necessary to carry out the provisions of this part.

(d) Upon request, the LEA shall submit any information that is necessary for the Assistant Secretary for Civil Rights to determine whether the assurances required in paragraphs (b) (3), (4), and (5) of this section will be met.

(e) An LEA that has an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan.

(2) An assurance that the plan is being implemented as approved.

(f) An LEA that does not have an approved desegregation plan shall submit each of the following with its application:

(1) A copy of the plan the LEA is submitting for approval.

(2) A copy of a school board resolution or other evidence of final official action adopting and implementing the plan, or agreeing to adopt and implement it upon the award of assistance under this part.

(3) Evidence that the plan is a desegregation plan as defined in § 280.4(b).

(Approved under OMB Control No. 1810–0516)

(20 U.S.C. 4057)

Subpart D—How Does the Secretary Make a Grant?

§ 280.30 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application submitted under this part on the basis of the criteria in § 280.31 and the special consideration factors in § 280.32.

(b) The Secretary awards up to 100 points for the extent to which an application meets the criteria described in § 280.31. The maximum possible points for each complete criterion are indicated in parentheses after the heading for that criterion.

(c) The Secretary then awards up to 45 additional points based upon the special consideration factors in § 280.32.

(20 U.S.C. 4051–4062)

§ 280.31 What selection criteria does the Secretary use?

The Secretary uses the following selection criteria in evaluating each application:

(a) *Plan of operation.* (20 points)

(1) The Secretary reviews each application for information that shows the quality of the plan of operation for the project.

(2) The Secretary looks for information that shows—

(i) An effective plan of management that ensures proper and efficient administration of the project;

(ii) A clear description of how the objectives of the project relate to the purposes of the program;

(iii) The way the applicant plans to use its resources and personnel to achieve each objective; and

(iv) A clear description of how the applicant will provide equal access and treatment for eligible project participants who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(b) *Quality of key personnel.* (20 points)

(1) The Secretary reviews each application for information that shows the qualifications of the key personnel the applicant plans to use on the project.

(2) The Secretary looks for information that shows—

(i) The qualifications of the project director (if one is to be used);

(ii) The qualifications of each of the other key personnel to be used in the project;

(iii) The time that each person referred to in paragraphs (b)(2) (i) and (ii) of this section will commit to the project; and

(iv) The extent to which the applicant, as part of its nondiscriminatory employment practices, encourages applications for employment from persons who are members of groups that have been traditionally underrepresented, such as—

(A) Members of racial or ethnic minority groups;

(B) Women;

(C) Handicapped persons; and

(D) The elderly.

(3) To determine personnel qualifications, the Secretary considers experience and training in fields related to the objectives of the project, as well as other information that the applicant provides.

(c) *Quality of project design.* (35 points)

(1) The Secretary reviews each application for information that shows the quality of the project design.

(2) The Secretary looks for information that shows—

(i) The extent to which the design of the magnet school(s) is likely to bring students from different social, economic, ethnic, and racial backgrounds together;

(ii) The applicant's and the staff's experience in and knowledge of currriculum development and desegregation strategies; and

(iii) How the magnet school(s) will—

(A) Address educational needs that are appropriate to the students who will be enrolled in the magnet school(s); and

(B) Encourage parental involvement in the project.

(d) *Budget and cost effectiveness.* (5 points)

(1) The Secretary reviews each application for information that shows that the project has an adequate budget and is cost effective.

(2) The Secretary looks for information that shows—

(i) The budget for the project is adequate to suppport the project activities; and

(ii) Costs are reasonable in relation to the objectives of the project.

(e) *Evaluation plan.* (15 points)

(1) The Secretary reviews each application for information that shows the quality of the evaluation plan for the project. (See 34 CFR 75.590, Evaluation by the grantee.)

(2) The Secretary looks for information that shows methods of evaluation that are appropriate for the project and, to the extent possible, are objective and produce data that are quantifiable.

(f) *Adequacy of resources.* (5 points)

(1) The Secretary reviews each application for information that shows that the applicant plans to devote adequate resources to the project.

(2) The Secretary looks for information that shows—

(i) The facilities that the applicant plans to use are adequate; and

(ii) The equipment and supplies that the applicant plans to use are adequate.

(Approved under OMB Control No. 1810-0516)

(20 U.S.C 4051-4062)

§ 280.32 How is special consideration given to applicants?

(a) *How special consideration is given.*

In addition to the points awarded under § 280.31, the Secretary gives special consideration to the factors listed in paragraphs (b) through (e) of this section. The maximum number of points awarded for each factor is stated in parentheses.

(b) *The recentness of the implementation of the approved desegregation plan.* (10 points)

(1) The Secretary reviews each application to determine the recentness of the implementation date of the approved desegregation plan or modification of the plan.

(2) The Secretary determines the recentness of the plan by assigning each application to one of the following categories:

(i) Applications based on plans or modifications of plans with implementation dates not more than five years before the July 1 that follows the deadline date for applications. (10 points)

(ii) Applications based on plans or modifications of plans with implementation dates more than five years but not more than ten years before the July 1 that follows the deadline date for applications. (7 points)

(iii) Applications based on plans or modifications of plans with implementation dates more than ten years but not more than fifteen years before the July 1 that follows the deadline date for applications. (4 points)

(iv) Applications based on plans or modifications of plans with implementation dates more than fifteen years before the July 1 that follows the deadline date for applications. (0 points)

(c) *Involvement of minority group children.* (10 points)

(1) The Secretary gives special consideration to the proportion of minority group children involved in the approved desegregation plan.

(2) The Secretary determines the percentage that represents a comparison of the number of minority group children involved in the applicant's approved desegregation plan to the number of minority group children enrolled in the applicant's schools.

(3) The Secretary awards one point for each ten percentage points the applicant receives under paragraph (c)(2) of this section.

(d) *Need for assistance.* (15 points)

(1) For grants awarded in fiscal years 1985 and 1986, the Secretary uses the procedure in paragraph (d)(3) of this section to assign points under this criterion. If an applicant is not eligible to receive points under paragraph (d)(3) of this section, the Secretary uses the procedure in paragraph (d)(4) of this section to assign points.

(2) For grants awarded in any fiscal year after fiscal year 1986, the Secretary uses only the procedure in paragraph (d)(4) of this section to assign points under this criterion.

(3) The Secretary determines whether the applicant is eligible under § 280.2(a). Each applicant that is eligible under § 280.2(a) receives 15 points.

(4) The Secretary reviews the application to determine the need for assistance based on the incremental expense of implementing the approved desegregation plan (expressed as a percentage increase in an LEA's operating budget) or the difficulty of effectively carrying out the plan and the project for which assistance is sought. The applicant receives up to 15 points, depending on the extent of need for assistance.

(e) *Degree of achievement.* (10 points)

The Secretary reviews each application to determine the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this part as listed in § 280.1.

(Approved under OMB Control No. 1810-0516])

(20 U.S.C. 4051-4062)

§ 280.33 How does the Secretary approve a continuation award?

The Secretary approves a continuation award only if—

(a) The applicant is making satisfactory progress toward achieving the purposes of this part; and

(b) The conditions in 34 CFR 75.253(a) have been met.

(20 U.S.C. 1221e-3(a)(1), 4060(a))

Subpart E—What Conditions Must Be Met by a Grantee?

§ 280.40 What are the limitations on allowable costs?

An LEA that receives assistance under this part may not—

(a) Expend more than 10 percent of the funds received in any fiscal year for planning;

(b) Use funds for consultants or transportation;

(c) Use funds for any activity that does not augment academic improvement; or

(d) Use funds for any course of instruction the substance of which the LEA determines is secular humanism.

(Approved under OMB Control No. 1810-0516)

(20 U.S.C. 4059, 4060(b))

Subpart F—May a State Reduce Aid to an LEA That Receives a Grant Under This Program?

§ 280.50 May a State reduce the amount of aid it gives to an LEA?

(a) Except as provided in paragraph (b)(1) of this section, a State shall not reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under Chapter 2 of the ECIA in any school district of any LEA within the State because of assistance made or to be made available to the LEA under this part.

(b) (1) A State may reduce assistance received under Chapter 2 if the amount of assistance is attributable to section 577(3) of the ECIA (as in effect prior to August 11, 1984), but only to the extent the amount is so attributable.

(2) The Secretary may waive the prohibition against the reduction of assistance received under Chapter 2 and permit such a reduction if the State demonstrates that the assistance under Chapter 2 is not necessary to the LEA.

(20 U.S.C. 4060(c))

Note.—This Appendix will be published with the regulations in the **Federal Register** but will not be published in the Code of Federal Regulations.

Appendix—Summary of Comments and Responses

The following is a summary of the comments received on the notice of proposed rulemaking for the Magnet Schools Assistance Program published on November 23, 1984. Each comment is followed by a response that indicates whether a change has been made, and, if no change has been made, why no change is considered necessary. Specific comments are arranged in order of the sections of the final regulations to which they pertain.

Section 280.1 What is the Magnet Schools Assistance Program?

Comment: A few commenters requested more specificity in § 280.1(d) regarding the term "academic subjects," while one commenter wanted the regulations to specify how the content of these subjects would be determined by the local educational agency (LEA).

Response: No change has been made. As used in § 280.1(d), the term "academic subjects" is contrasted with courses in vocational skills. The determination as to which academic subjects will be taught in a magnet school is properly left to the discretion of the LEA.

Section 280.2 Who is eligible to apply for a grant?

Comment: A number of commenters recommended adding the word "or" after the semi-colon at the end of § 280.2(a) in order to clarify who is eligible to apply for a grant.

Response: A change has been made. Section 280.2 has been revised to emphasize that there are three ways in which an LEA may establish its eligibility to apply for a grant.

Comment: One commenter recommended clarification of how the $1 million loss is calculated, and suggested that the comparison should be between an LEA's 1982 grant under Chapter 2 of the Education Consolidation and Improvement Act (ECIA) and the total of its 1981 grants under the categorical grant programs that were consolidated into Chapter 2.

Response: No change has been made. Based on detailed legislative history in the Senate, which originated this legislation—including a chart analyzing the effects of this provision on a number of large school districts—the regulations state that the comparison is between the LEA's 1982 grant under Chapter 2 and its 1981 Emergency School Aid Act (ESAA) grant.

Comment: Several commenters requested clarification of the types of desegregation plans that will establish an LEA's eligibility under § 280.2(c).

Response: A change has been made. Section 280.2(c) permits an LEA to establish its eligibility based on a desegregation plan that has been or will be adopted on a voluntary basis—i.e., without an order from a court or from a State agency or official of competent jurisdiction—and that has been approved by the Secretary as adequate under Title VI of the Civil Rights Act. The final regulations add a definition of "desegregation" to § 280.4(b). The definition includes both a plan to remedy the illegal separation of minority group children or faculty in an LEA's schools and a plan for the reduction, elimination, or prevention of minority group isolation in one or more of an LEA's schools. As a result, an LEA will be eligible under § 280.2(c) based either on a voluntary plan negotiated with the Office for Civil Rights to remedy illegal segregation or on a voluntary plan initiated by the LEA to reduce, eliminate, or prevent minority group isolation in its schools.

Section 280.4 What definitions apply to this program?

Comment: One commenter questioned the statutory basis for the definition of the term "special curriculum" in § 280.4 and two commenters requested more specificity in defining the term, particularly as it relates to the uniqueness of the curriculum offered by the magnet school.

Response: No change has been made. The statute requires that a magnet school offer a special curriculum that is capable of attracting substantial numbers of students of different racial backgrounds. The definition adopted by the regulations is the same one formerly used in the ESAA Magnet School Program. Under this definition, the curriculum offered in a magnet school need not be unique; an LEA may offer the same curriculum in more than one school so long as it is not the standard curriculum for the school district.

Comment: Several commenters discussed whether the term "implementation date" should mean the date on which the desegregation plan was approved or the date on which physical movement occurred as a result of the plan. Most recommended the latter, which is the definition used in the proposed regulations.

Response: No change has been made. The definition in the regulations provides that the implementation date is the date on which the first change resulting from the plan occurs—that is, when the first change in the enrollment of students or the first reassignment of a faculty member occurs.

Comment: A few commenters questioned the origin of the definition of the term "minority group". One commenter recommended the inclusion of Portuguese and French Canadians as minorities.

Response: No change has been made. The definition of who is considered a member of a "minority group" is contained in the Department of Commerce's Statistical Policy Directive No. 15, which was published in the Federal Register on May 4, 1978. Directive No. 15 provides standard classifications for record-keeping, collection, and presentation of data on race and ethnicity in Federal program administrative reporting and statistical activities.

Section 280.10 What types of projects does the Secretary assist?

Comment: Several commenters requested clarification of the requirement that magnet schools be part of an "approved" desegregation plan. These commenters asked whether a voluntary plan would qualify and whether the requirement applies only to LEAs that base their eligibility on the loss of $1 million in ESAA funds.

Response: No change has been made. The requirement that magnet schools be part of an approved desegregation plan in order to receive assistance under this program applies to all LEAs, regardless of the basis on which they establish their eligibility under § 280.2 In the case of a voluntary plan that has not previously been approved by the Secretary, the LEA must submit the plan for approval with its application. The plan must include the magnet schools for which the LEA is requesting assistance. The Secretary will approve the plan if he determines that it meets the regulations' definition of a "desegregation" plan in § 280.4(b) and that it is consistent with the requirements of Title VI of the Civil Rights Act of 1964.

If an LEA is implementing a plan that includes the magnet school(s) for which it is requesting assistance and that previously has been approved by the Secretary, a court, or a State agency or official of competent jurisdiction, no further approval is necessary. However, if the plan that previously was approved does not include the magnet school(s) for which assistance is requested, the plan must be modified to include the new magent school(s) component. The LEA must obtain approval of the magnet schools component, or any other modification to its desegregation plan, from the court, agency, or official that originally approved the plan.

Comment: One commenter recommeded that § 280.10(b)(4) be revised to authorize inservice training, as well as the inclusion of teachers, parents, students, and community members in the planning and implementation of magnet school programs. Another commenter felt that costs incurred for counselors, community liaison representatives, curriculum developers, and staff development specialists should be allowable under this section. One commenter suggested clarifying whether the salaries of aides or other support personnel for desegregation related activities are allowable under this section.

Response: A change has been made to clarify this provision. The Act permits the Secretary to fund activities for the planning and conduct of programs in magnet schools. The Act provides a list of eligible activities, although the list is not exhaustive. Thus, activities not listed in the regulations, but integral to the planning and conduct of the magnet school program, are eligible for funding. Inservice training and employing counselors, curriculum developers, and other staff are permissible activities when they are necessary to the planning and conduct of programs in magnet schools. The Act makes it clear, however, that only teachers who are certified or licensed by the State to teach the subject matter of the courses of instruction for which assistance is sought may be employed in the project funded under the Magnet Schools Assistance Program.

Comment: One commenter recommended that assistance be extended only to existing magnet schools.

Response: No change has been made. Section 702(3) of the Act states that an LEA is eligible if it has adopted and is implementing, or will, if assistance is made available to it, adopt and implement, a desegregation plan. Therefore, a magnet school proposed as part of a desegregation plan that has not been implemented, but that will be implemented if the LEA receives a Magnet Schools Assistance grant, is eligible for assistance.

Section 280.20 How does one apply for a grant?

Comment: Two commenters asked how the assurances required under § 280.20 should be made.

Response: No change has been made. Assurance forms will be provided to all applicants in the application package.

Comment: One commenter wanted to know what additional information would be required under § 280.20(c) of the proposed regulations.

Response: A change has been made. That provision (now § 280.20(d)) has been amended to clarify that additional information will be requested from an LEA only when the Assistant Secretary for Civil Rights needs that information to determine whether the assurances in § 280.20(b) (3), (4), and (5) will be met. In general, the Assistant Secretary for Civil Rights will base the determination on a review of the LEA's history of compliance with civil rights laws.

Section 280.30 How does the Secretary evaluate an application?

Comment: One commenter suggested that § 280.30 be clarified by adding language concerning review panels and the selection of panelists.

Response: No change has been made. The procedures for the evaluation of applications are described in the Education Department General Administrative Regulations (EDGAR). These procedures provide for the use of groups of experts who will review applications under the Magnet Schools Assistance Program selection criteria. EDGAR establishes requirements for the selection of these experts in 34 CFR 75.217.

Comment: Several commenters felt that the procedures for evaluating applications in § 280.30 were unclear, and should indicate whether the Secretary would make awards on the basis of the recentness of an LEA's desegregation plan, as under the former ESAA Basic Grant Program, or by a single ranking for all applications based on a total score.

Response: No change has been made. The procedures for selecting grantees will not be the same as those used under the ESAA Basic Grant Program. Section 280.30 indicates that the Secretary adds the points awarded for the special consideration factors in § 280.32 (including points for the recentness of the desegregation plan) to the points awarded on the basis of criteria described in § 280.31, to produce a total score. Applications are then ranked using the procedures described in EDGAR, 34 CFR 75.217 (c), (d), and (e).

Section 280.31 What selection criteria does the Secretary use?

Comment: Several commenters recommended that § 280.31(a)(2)(iv) be amended to limit the consideration of whether equal access and treatment will be provided to project participants who are members of traditionally underrepresented groups by looking only at whether members of minority groups will be provided equal access and treatment. The commenters based their recommendation on the fact that the Magnet Schools Assistance Program is a desegregation program.

Response: No change has been made. This criterion is taken from EDGAR and was designed to apply generally to the Department's programs, not just to those programs in which traditionally underrepresented groups (i.e., members of minority groups, women, the disabled, and the elderly) are the intended beneficiaries. The purpose of the criterion is to encourage applicants in developing their applications to consider whether members of these groups may unintentionally be excluded because of the project design. The fact that the Magnet Schools Assistance Program provides assistance for desegregation activities does not make it inappropriate for an applicant to consider, for example, whether equal access to its project will be provided to disabled students or to elderly teachers.

Comment: Two commenters suggested a redistribution of the points to be awarded for the criteria described in § 280.31 (b), (c) and (d) to place greater emphasis on the quality of project design and cost effectiveness, while reducing the points for quality of key personnel.

Response: No change has been made. In the point distribution plan, 20 points are allocated for the "Quality of key personnel." This criterion covers the qualifications of both the project director (if one is to be used) and the project's other key personnel, as well as the time commitments for these personnnel, and the extent to which the applicant encourages applications for employment from members of groups that have been traditionally underrepresented. Since a project is not likely to be effective without personnel who have appropriate training and experience, and allocation of fewer than 20 points for this criterion would not place sufficient weight on the qualifications of the persons who would be responsible for administering and implementing a project.

Comment: One commenter suggested that the criterion for the quality of project design under § 280.31(c)(2)(iv) be revised to eliminate language concerning diversity of learning approaches and students' knowledge and skills. The commenter proposed more general language that would evaluate applications on the extent to which "the needs of students to be served will be appropriately addressed."

Response: A change has been made. This provision (now § 280.31(c)(2)(iii)(A)) has been amended to indicate that the Secretary will evaluate applications based on information that shows how the magnet school(s) will address the educational needs of the students who will be enrolled in them. The Secretary believes that this approach provides applicants better focus for describing the important aspects of the design of their magnet school(s).

Comment: One commenter recommended that the criterion in proposed § 280.31(c)(2)(iv)(C) be modified to allow the use of existing community and parental input components of a desegregation plan rather than require another level of parental review.

Response: No change has been made. The criterion does not penalize an applicant that uses its current procedures for encouraging parental involvement, provided that those procedures are appropriate to the magnet school program for which assistance is sought.

Section 280.32 How is special consideration given to applicants?

Comment: One commenter recommended that the program take into consideration problems related to resegregation, costs incurred in implementing the desegregation plan in relation to available resources, and the percentage of students attending private schools in the school district.

Response: No change has been made. The special consideration factor in § 280.32(d), "Need for assistance," already addresses considerations such as those proposed by the commenter. Costs incurred in implementing the desegregation plan in relation to available resources will be reflected in the incremental expense of implementing the plan. Problems in implementing a desegregation plan, such as resegregation and the percentage of students attending private schools, may be addressed in a narrative description of the difficulty of effectively carrying out the desegregation plan and the project for which assistance is sought.

Comment: One commenter recommended that § 280.32 be clarified by indicating whether there will be grant negotiations in the award making process.

Response: No change has been made. The Secretary uses the procedures set forth in EDGAR, 34 CFR 75.232–75.233 to set the amount of each award, except that in fiscal year 1985 no award may exceed $4,000,000 as required by the appropriations statute.

Comment: One commenter suggested that § 280.32(b) be clarified by adding information concerning the type of documentation a school district must submit to indicate the implementation date of its desegregation plan.

Response: No change has been made. Because information concerning the implementation date of a desegregation plan or modification may be contained in any of several types of documents (for example, a school board resolution or a court order), the regulations do not prescribe a specific form of documentation. The application package requires each applicant to indicate the implementation date of its desegregation plan and to provide a statement describing how the applicant determined the implementation date.

Comment: Several commenters suggested alternatives to the point allocations for recentness of the desegregation plan under § 280.32(b). These alternatives included (1) awarding the full 10 points to LEAs with plans not more than 10 years old; (2) Awarding the full 10 points only to LEAs with plans not more than 5 years old, awarding 5 points to plans up to 10 years old, and awarding no points to plans more than 10 years old; and (3) Deleting this provision entirely.

Response: No change has been made. Some school districts have been involved in the implementation of desegregation plans for many years. Further, as needs and other conditions within a community change over a period of time, many of the school districts that have a relatively long history of involvement in desegregation have, either voluntarily or under mandate, modified their desegregation plans to reflect current needs and conditions. The Secretary believes that a school district should not be penalized under the special consideration factor for the recentness of the implementation of its approved desegregation plan merely because the school district has a history of implementing desegregation plan activities that might extend over 15 years or more, if the LEA has updated its plan to reflect current needs. As a result, a school district that initially implemented a desegregation plan a number of years ago may receive credit under this special consideration factor

for the implementation of more recent desegregation plan activities if that school district has an approved desegregation plan modification that changed the enrollment of a school or schools or reassigned faculty.

Comment: One commenter was concerned that the special consideration factor for the involvement of minority group children in § 280.32(c) would require the use of an estimate because school administrators would not know exactly how many students would be involved in the magnet schools project until after it was implemented.

Response: No change has been made. Section 280.32(c) refers to the proportion of minority group children involved in an LEA's approved desegregation plan, not to the proportion of minority group children involved in the project that is funded under the Magnet Schools Assistance Program. It is true, however, that in the case of a desegregation plan that will be implemented only after assistance is made available, the Secretary will consider an estimate from the LEA of the proportion of minority group children who will be involved in that plan.

Comment: Many commenters recommended increasing the number of points awarded for the special consideration factor, "Need for assistance," in § 280.32(d). In addition, most recommended that the loss of ESAA funds be considered as evidence of need under this special consideration factor, and suggested that school districts that lost $1 million or more in ESAA funds should receive the maximum number of points available.

Response: A change has been made. The maximum number of points available for the special consideration factor in § 280.32(d) has been increased from 10 to 15. This change gives additional weight to an LEA's need for assistance. All LEAs may receive the full 15 points based on the evidence they submit in response to this factor. However, this section also has been amended to specify that LEAs that lost $1 million when ESAA was consolidated into Chapter 2 will receive the full 15 points that are available. These LEAs will be accorded this competitive advantage through fiscal year 1986—the period through which the Magnet Schools Assistance Program is authorized. If the program is reauthorized, this provision will be deleted so that LEAs do not receive an indefinite competitive advantage based on their loss of ESAA funds. Instead, after fiscal year 1986, all LEAs would be evaluated on the expense of implementing their desegregation plans and the difficulty of implementing those plans and their magnet schools projects.

Comment: Several commenters objected to the use of the incremental expense of operating an approved plan as a method of measuring the need for assistance under § 280.32(d), noting that school districts' budgets do not allow for easy computation of the cost of the desegregation.

Response: No change has been made. The statute specifically addresses the incremental expense of carrying out the desegregation plan. An LEA that does not have this information may instead address that part of the criterion relating to the difficulty of effectively carrying out the plan and the project for which the LEA is seeking assistance.

Section 280.40 What are the limitations on allowable costs?

Comment: A number of comments were received on the regulatory language concerning secular humanism in § 280.40(d). Commenters were about evenly divided among three positions: Endorsing the regulatory approach taken by the Department of Education; seeking clarification or a definition of the term secular humanism; and recommending that § 280.40(d) be deleted from the regulations. One commenter expressed concern that, if § 280.40(d) were interpreted to require grantees to urge religious views on their students, the provision would be unconstitutional.

Response: No change has been made. The prohibition on use of grant funds for courses of instruction the substance of which is secular humanism is taken directly from the statute and, therefore, cannot be deleted from the regulations. The legislative history on this provision supports the Department's decision to defer to LEAs the determination of what constitutes secular humanism. LEAs must, of course, administer the provision in a manner consistent with the First Amendment of the United States Constitution.

Comment: One commenter asked why § 280.40 did not mention the limitation found in section 710(a) of the Act that requires "satisfactory progress" by an LEA in achieving the purposes of the statute after the first year of a magnet schools project.

Response: A change has been made. A new section, § 280.33, has been added to the regulations. This section indicates that an applicant must be making satisfactory progress toward achieving the purposes of the Magnet Schools Assistance Program in order to qualify for a continuation award.

Section 280.50 May a State reduce the amount of aid it gives to an LEA?

Comment: One commenter recommended that § 280.50(b) be amended to prohibit a State educational agency from reducing Chapter 2 monies to a school district in its State under any circumstances.

Response: No change has been made. The regulations merely restate the requirements of section 710(c) of the Act, which provides for a Secretarial waiver to permit the reduction of Chapter 2 assistance if the State demonstrates that assistance under Chapter 2 is not necessary to the LEA.

Comment: One commenter asked that § 280.50(b)(2) be clarified by including a statement of the conditions under which a State could seek a waiver from the Secretary.

Response: No change has been made. The regulations state the conditions under which a State may request a waiver—i.e., when a State demonstrates that the Chapter 2 assistance is not necessary to the LEA. The Secretary will consider any request for a waiver based on the particular circumstances surrounding the request.

Comment: One commenter recommended the inclusion of a requirement that the State educational agency recommend funding and provide technical assistance.

Response: No change has been made. Provisions for State recommendations concerning applications are provided for under Executive Order 12372, entitled "Intergovernmental Review of Federal Programs," and the Department's implementing regulations in 34 CFR Part 79. Nothing in the regulations implementing the Magnet Schools Assistance Program precludes State educational agencies from providing technical assistance to school districts in their States. The Secretary believes, however, that this matter is best left to the discretion of State and local educational agencies, and should not be

a requirement imposed by the Federal Government.

Comment: Two commenters noted that the proposed regulations do not specify the maximum amount of a grant that a school district may receive.

Response: No change has been made. Because the maximum amount of an award is subject to change each year, this information is included in the application notice that announces the closing date for the transmittal of applications. For fiscal year 1985, that amount has been set by the appropriations statute at $4 million.

Comment: One commenter recommended that a State minimum allocation be established.

Response: No change has been made. The Act does not authorize the use of a State allocation formula for the Magnet Schools Assistance Program.

[FR Doc. 85-12277 Filed 5-21-85; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Magnet Schools, Assistance Program; Applications

AGENCY: Department of Education.

ACTION: Extension of Closing Date for Transmittal of Applications for New Projects under the Magnet Schools Assistance Program for Fiscal Year 1985.

The June 18, 1985 closing date for transmittal of applications for fiscal year 1985 new projects under the Magnet Schools Assistance Program is extended. The new closing date is June 25, 1985.

Authority for this program is contained in Title VII of the Education for Economic Security Act, Pub. L. 98-377. (20 U.S.C. 4051-4062).

The program issues awards to local educational agencies. The purpose of the award is to assist eligible local educational agencies in the planning, establishment, and operation of magnet schools that are a part of an approved desegregation plan. A "magnet school" is defined by the Act as a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

Applications delivered by mail: Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: (CFDA No. 84.165) Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: Applications that are hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building #3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on the closing date.

Program information: Final regulations under the Magnet Schools Assistance Program are published in this issue of the **Federal Register.** The regulations describe eligibility requirements for applicants, the types of projects that the Secretary assists, and the criteria to be used to evaluate applications. Because changes in §§ 280.20, 280.31(c), and 280.32(d) of the final regulations could affect the content of applications, the Secretary is extending the application deadline.

Applicants should also note that § 280.10(c) of the final regulations requires that a local educational agency that is implementing a desegregation plan described in § 280.2(b)—i.e., a desegregation plan implemented pursuant to the order of a court or a State agency or official of competent jurisdiction—must obtain approval for any modification to the desegregation plan from the court, agency, or official that originally approved the plan. A previously approved desegregation plan that does not include the magnet schools for which a local educational agency is seeking assistance under this program must be modified to include the magnet schools component, and the modification to the desegregation plan must be approved in this manner. In order to permit an applicant to obtain this approval of modifications to its desegregation plan, an applicant will be considered eligible for assistance in fiscal year 1985 if its desegregation plan, as modified, is approved by the appropriate court, agency, or official no later than August 20, 1985.

Intergovernmental review: On June 24, 1983, the Secretary published in the **Federal Register** final regulations (34 CFR Part 79, published at 48 FR 29158-29168), implementing Executive Order 12372 entitled "Intergovernmental Review of Federal Programs." The regulations took effect September 30, 1983.

This program is subject to the requirements of the Executive Order and the regulations in 34 CFR Part 79. The objective of Executive Order 12372 is to foster an intergovernmental partnership and a strengthened federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

The Executive Order—

- Allows States, after consultation with local officials, to establish their own process for review and comment on proposed Federal financial assistance;
- Increases Federal responsiveness to State and local officials by requiring Federal agencies to accommodate State and local views or explain why those views will not be accommodated; and
- Revokes OMB Circular A-95.

Transactions with nongovernmental entities, including State postsecondary educational institutions and federally recognized Indian tribal governments, are not covered by Executive Order 12372. Also excluded from coverage are research, development, or demonstration projects that do not have a unique geographic focus and are not directly relevant to the governmental responsibilities of a State or local government within that geographic area.

The Magnet Schools Assistance Program is a new program, and States have not made a determination as to whether it will be included or excluded from review under the State review process. Therefore, immediately upon receipt of this notice, applicants that are governmental entities, including local educational agencies, must contact the appropriate State single point of contact to find out about and to comply with the State's process under the Executive Order. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the single point of contact for each State and follow the procedures established in those States under the Executive Order. A list containing the single point of contact for each State is included in the application package for this program.

All comments from State single points of contact and all comments from State, areawide, regional, and local entities must be mailed or hand delivered by August 23, 1985 to the following address:

The Secretary, U.S. Department of Education, Room 4181, (84.165) 400 Maryland Avenue, SW., Washington, D.C. 20202. Proof of mailing will be determined on the same basis as applications.

Please note that the above address is not the same address as the one to which the applicant submits its

completed application. *Do not send applications to the above address.*

Length of awards: The proposed project period for an award may not exceed 24 months.

Available funds: The appropriation for this program for fiscal year 1985 is $75,000,000. No eligible local educational agency may receive more than $4,000,000 of that amount.

Application forms: Supplementary application forms and program information packages reflecting the requirements of the final regulations are expected to be ready for mailing by May 22, 1985. They may be obtained by writing to the Office of Elementary and Secondary Education, Division of Educational Support, U.S. Department of Education, Room 2007, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance under this program. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those imposed under the statute and regulations.

Applicants are encouraged to limit the narrative section to a maximum of 30 pages. The Secretary strongly urges that applicants not submit information that is not requested.

(The application is approved by the Office of Management and Budget under OMB control number 1810-0516.)

Applicable regulations: The regulations applicable to this program include the following:

(a) Regulations governing the Magnet Schools Assistance Program, 34 CFR Part 280, published in this issue of the **Federal Register.**

(b) Education Department General Administrative Regulations, (EDGAR) 34 CFR Parts 74, 75, 77, 78, and 79.

For further information: For further information contact M. Patricia Goins, Office of Elementary and Secondary Education, Division of Educational Support, U.S. Department of Education, Room 2007, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-7965.

(20 U.S.C. 4051-4062)

Dated: May 16, 1985.

(Catalog of Federal Domestic Assistance No. 84.165, Magnet Schools Assistance Program)

William J. Bennett,

Secretary of Education.

[FR Doc. 85-12278 Filed 5-21-85; 8:45 am]

BILLING CODE 4000-01-M

federal register

Wednesday
May 22, 1985

Part VI

Department of the Interior

Minerals Management Service

Outer Continental Shelf; Proposed Notice of Sale; St. George Basin, Oil and Gas Sale 89

Billing Code: 4310-MR

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
St. George Basin
Oil and Gas Lease Sale 89

With regard to oil and gas leasing on the Outer Continental Shelf (OCS), the Secretary of the Interior, pursuant to section 19 of the OCS Lands Act, as amended, provides the affected States the opportunity to review the proposed Notice of Sale. The following is a proposed Notice of Sale for Sale 89 in the St. George Basin. This Notice is hereby published as a matter of information to the public.

The reader's attention is directed to a separate Notice printed in this issue which contains a request for information regarding this proposed sale area.

John B. [illegible]
Acting Director, Minerals Management Service

Approved:

J. Steven Griles
Deputy Assistant Secretary - Land and Minerals Management

15
Date

UNITED STATES
DEPARTMENT OF THE INTERIOR
MINERALS MANAGEMENT SERVICE

Outer Continental Shelf
Proposed Notice of Sale
St. George Basin
Oil and Gas Lease Sale 89

1. Authority. This Notice is published pursuant to the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1331-1343), as amended (92 Stat. 629), and the regulations issued thereunder (30 CFR 256).

2. Filing of Bids. Sealed bids will be received by the Regional Director (RD), Alaska Outer Continental Shelf (OCS) Region, Minerals Management Service (MMS), room 544, 949 East 36th Avenue, Anchorage, Alaska 99508. Bids may be delivered in person to the above address between 8:00 a.m. and 4:00 p.m., Alaska Standard Time (a.s.t.), until the Bid Submission Deadline at 10:00 a.m., a.s.t., September ___, 1985. Bids will not be accepted on September ___, 1985, the day of Bid Opening. Delivery by mail should be addressed to P.O. Box 101159, Anchorage, Alaska 99510, and must be received by the Bid Submission Deadline. Bids received by the RD later than the time and date specified above will be returned unopened to the bidders. Bids may not be modified unless written modification is received by the RD prior to 10:00 a.m., a.s.t., September ___, 1985. Bids may not be withdrawn unless written withdrawal is received by the RD prior to 8:30 a.m., a.s.t., September ___, 1985. Bid Opening Time will be 9:00 a.m., a.s.t., September ___, 1985, at the _____ Anchorage, Alaska. All bids must be submitted and will be considered in accordance with applicable regulations, including 30 CFR Part 256. The list of restricted joint bidders which applies to this sale appeared in the Federal Register at 50 FR 13290 on April 3, 1985.

3. Method of Bidding. A separate bid in a sealed envelope, labeled "Sealed Bid for Oil and Gas Lease Sale 89--St. George Basin, (insert Official Protraction Diagram number(s) and name(s), if applicable, and block number(s)), not to be opened until 9:00 a.m., a.s.t., September ___, 1985," must be submitted for each block or prescribed bidding unit bid on. For example, a label would read as follows: "Sealed Bid for Oil and Gas Lease Sale 89--St. George Basin, NO 2-8, St. George Island, Block 617, not to be opened until 9:00 a.m., a.s.t., September ___, 1985." For those blocks which must be bid on together as a bidding unit (see paragraph 12), it is recommended that all numbers of blocks comprising the bidding unit appear in the label on the sealed envelope. A suggested bid form appears in 30 CFR 256, Appendix A. In addition, the total amount bid must be in whole dollar amounts (no cents). Bidders must submit with each bid one-fifth of the cash bonus, in cash or by cashier's check, bank draft, or certified check, payable to the order of the U.S. Department of the Interior--Minerals Management Service. No bid for less than all of the unleased portions of a block or bidding unit as described in paragraph 12 will be considered. Bidders submitting joint bids must state on the bid form the percentage of the proportionate interest of each participating bidder. The percentage shown on the bid form may not exceed five decimal places; e.g., 50.12345 percent. All documents must be executed in conformance

with signatory authorizations on file. Partnerships also need to submit or have on file a list of signatories authorized to bind the partnership. Other documents may be required of bidders under 30 CFR 256.46.

Bidders are warned against violation of 18 U.S.C. 1860, prohibiting unlawful combination or intimidation of bidders.

4. Bidding Systems. All bids submitted at this sale must provide for a cash bonus in the amount of $371 or more per hectare or fraction thereof. All leases awarded from this sale will provide for a yearly rental payment of $8 per hectare or fraction thereof. All leases will provide for a minimum royalty of $8 per hectare or fraction thereof. The bidding system to be utilized for this sale is cash bonus bidding with a 12 1/2 percent royalty. All bids submitted on all blocks or bidding units shown in paragraph 12 must be submitted on a cash bonus basis with a fixed royalty of 12 1/2 percent.

5. Equal Opportunity. Each bidder must have submitted by the Bid Submission Deadline, stated in paragraph 2, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by Executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (June 1982), and the Affirmative Action Representation Form, Form 1140-7 (June 1982). See paragraph 14, "Information to Lessees."

6. Bid Opening. Bid opening will begin at the Bid Opening Time stated in paragraph 2. The opening of the bids is for the sole purpose of publicly announcing bids received, and no bids will be accepted or rejected at that time. If the Department is prohibited for any reason from opening any bid before midnight on the day of Bid Opening, that bid will be returned unopened to the bidder as soon thereafter as possible.

7. Deposit of Payment. Any cash, cashier's checks, certified checks, or bank drafts submitted with a bid may be deposited by the Government in an interest bearing account in the U.S. Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

8. Withdrawal of Blocks. The United States reserves the right to withdraw any block from this sale prior to the issuance of a written acceptance of a bid for the block.

9. Acceptance, Rejection, or Return of Bids. The United States reserves the right to reject any and all bids. In any case, no bid will be accepted, and no lease for any block or bidding unit will be awarded to any bidder, unless:

(a) the bidder has complied with all requirements of this Notice and applicable regulations;

(b) the bid is the highest valid bid; and

(c) the amount of the bid has been determined to be adequate by the authorized officer.

No bonus bid will be considered for acceptance unless it provides for a cash bonus in the amount of $371 or more per hectare or fraction thereof. Any bid submitted which does not conform to the requirements of this Notice, the OCS Lands Act, as amended, or other applicable regulations, may be returned to the person submitting that bid by the authorized officer and not considered for acceptance.

10. Successful Bidders. Each person who has submitted a bid accepted by the authorized officer will be required to execute copies of the lease as specified below, pay the balance of the cash bonus bid with the first year's annual rental as specified below, and satisfy the bonding requirements of 30 CFR 256, Subpart I.

Successful bidders are required to submit the balance of the bonus and the first year's annual rental payment, for each lease issued, by electronic funds transfer (EFT) utilizing the Federal Reserve Communications System and the Treasury Financial Communications System, payable to the Department of the Interior--MMS.

The RD will provide detailed instructions on making the EFT payments when bidders are qualified to submit bids at the sale. Bidders are referred to 30 CFR 218.155.

11. Official Protraction Diagrams (OPD). Blocks or portions of blocks offered for lease may be located on the following OPD's which may be purchased for $2 each from the Records Manager, Alaska OCS Region, room 502, at the first address stated in paragraph 2 of this Notice.

Outer Continental Shelf Official Protraction Diagrams.

NR 2-2	-	(Approved November 29, 1974)
NN 2-4	Okmok Canyon	(Revised September 11, 1984)
NN 2-6	Umnak	(Revised September 11, 1984)
NN 3-1	Davidson Bank	(Approved November 29, 1974)
NN 3-3	Akutan	(Revised September 11, 1984)
NO 2-3	-	(Approved December 13, 1976)
NO 2-4	-	(Approved December 13, 1976)
NO 2-5	-	(Approved June 11, 1975)
NO 2-6	St. Paul Island	(Revised September 10, 1984)
NO 2-7	-	(Approved March 20, 1975)
NO 2-8	St. George Island	(Revised September 10, 1984)
NO 3-3	-	(Approved December 13, 1976)
NO 3-5	-	(Approved June 11, 1975)
NO 3-7	-	(Approved November 29, 1974)

12. Description of the Areas Offered for Bids.

(a) Categories of blocks listed under OPD's:

The lease sale area offered for bids is listed by OPD. Three categories of blocks appear under each OPD listed: (1) whole or partial blocks, (2) split blocks, and (3) blocks which comprise bidding units.

Whole or partial blocks fall entirely under the jurisdiction of the Federal Government. Each block must be bid on separately. Hectares for whole or partial blocks listed in paragraph 12(b) may be found on the appropriate OPD.

Split blocks are blocks divided into two or more portions. This occurs where a block is intersected by one or more lines separating it into Federal and State portions or into pure Federal and section 8(g) portions or all of the above. Each split block listed below represents the available Federal or section 8(g) portion and must be bid on separately.

The letter symbol "G" appearing next to block numbers identifies a block or portion of a block lying within 3-geographical miles of the seaward boundary of Alaska and may become subject to provisions of section 8(g) of the OCS Lands Act (43 U.S.C. 1337).

Bidding units are a combination of portions of adjoining blocks. The entire bidding unit is listed under the OPD where the first partial block or split block is located. When part of the bidding unit is located on a second adjoining OPD, the appropriate OPD number will be listed (i.e., 141 (NO 2-6)). All parts of a bidding unit must be bid on together.

(b) The following blocks or portions of blocks are offered for bid:

Official Protraction Diagram NO 2-3, (approved December 13, 1976):

(1) WHOLE or PARTIAL BLOCKS:

2-37	310-345	617-653
46-81	354-389	661-697
90-125	398-433	705-741
134-169	442-477	749-785
178-213	486-521	793-829
222-257	530-565	837-873
266-301	573-609	881-917
		925-961
		969-1005

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
1	0.30	
45	59.61	
89	162.95	
133	266.25	
177	369.51	
221	472.71	
265	575.87	1907.20
309	678.98	
353	782.05	1461.03
397	885.07	
441	968.04	1873.11
485	1090.96	
529	1193.83	2284.79

Official Protraction Diagram NO 2-4, (approved December 13, 1976):

(1) WHOLE or PARTIAL BLOCKS:

1-36	265-300	529-565	793-829
45-80	309-344	573-609	837-873
89-124	353-388	617-653	881-917
133-168	397-432	661-697	925-961
177-212	441-476	705-741	969-1005
221-256	485-520	749-785	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
37	0.30	
81	59.61	
125	162.95	
169	266.25	
213	369.51	
1 (NO 3-3)	0.30	
45 (NO 3-3)	59.61	
89 (NO 3-3)	162.95	
133 (NO 3-3)	266.25	
177 (NO 3-3)	369.51	1717.24
257	472.71	
301	575.87	
221 (NO 3-3)	472.71	
265 (NO 3-3)	575.87	2097.16
345	678.98	
309 (NO 3-3)	678.98	1357.96
389	782.05	
353 (NO 3-3)	782.05	1564.10
433	885.07	
397 (NO 3-3)	885.07	1770.04
477	988.04	
441 (NO 3-3)	988.04	1976.08
521	1090.96	
485 (NO 3-3)	1090.96	2181.92

Official Protraction Diagram NO 3-3, (approved December 13, 1976):

WHOLE or PARTIAL BLOCKS:

2-37	266-301	529-565	793-829
46-81	310-345	573-609	837-873
90-125	354-389	617-653	881-917
134-169	398-433	661-697	925-961
178-213	442-477	705-741	969-1005
222-257	486-521	749-785	

Official Protraction Diagram NO 2-5, (approved June 11, 1975):

(1) WHOLE or PARTIAL BLOCKS:

8-44	272-308	535-572	799-836
52-88	316-352	579-616	843-880
96-132	360-396	623-660	887-924
140-176	404-440	667-704	931-968
184-220	448-484	711-748	976-1012
228-264	491-528	755-792	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
7	23.57	
51	120.59	
95	222.84	
139	325.05	
183	427.20	
227	529.30	
271	631.36	2279.91
315	733.37	
359	835.33	1568.70
403	937.24	
447	1039.10	1976.34
974	0.09	
975	2257.53	2257.62

Official Protraction Diagram NO 2-6, St. Paul Island, (revised September 10, 1984):

(1) WHOLE or PARTIAL BLOCKS:

1-37	353-389	661-666	837-841
45-81	397-433	675-698	853-874
89-125	441-477	705-709	881-885
133-169	485-521-	721-742	897-918
177-213	529-566	749-753	925-929
221-257	573-610	765-786	937-962
265-301	617-626	793-797	969-973
309-345	630-654	809-830	980-1005

(2) SPLIT BLOCKS:

Blocks	Hectares	Blocks	Hectares
627	1951.86	808 G	1748.21
628	1739.24	842 G	2193.91
629	2000.70	848 G	974.01
667	2265.28	851 G	1809.84
668	1746.79	852	1022.50
670 G	1501.38	852 G	1281.50
671 G	2256.53	886 G	1498.71
672 G	2135.07	891 G	1069.48
673 G	2084.87	892 G	2228.07
674 G	365.72	893 G	1922.00
710	2042.99	894 G	2241.92
711	357.07	896	2180.45
712 G	2197.34	930 G	1641.15
713 G	1601.60	931 G	923.73
718 G	2052.68	935 G	2182.66
720	2250.84	936 G	570.82
754 G	1597.12	977 G	802.92
763 G	1953.55	978 G	2186.56
764 G	1178.13	979 G	485.16
796 G	2159.42		
807 G	960.16		

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
38	23.57	
82	120.59	
126	222.84	
170	325.05	
214	427.20	
7 (NO 3-5)	23.57	
51 (NO 3-5)	120.59	
95 (NO 3-5)	222.84	
139 (NO 3-5)	325.05	
183 (NO 3-5)	427.20	2238.50
258	529.30	
227 (NO 3-5)	529.30	1058.60
302	631.36	
271 (NO 3-5)	631.36	1262.72
346	733.37	
315 (NO 3-5)	733.37	1466.74
390	835.33	
359 (NO 3-5)	835.33	1670.66

Blocks	Hectares	Total Hectares
434	937.24	
403 (NO 3-5)	937.24	1874.48
478	1039.10	
447 (NO 3-5)	1039.10	2078.20
522	1140.91	
491 (NO 3-5)	1140.91	2281.82
627 G	352.14	
628 G	564.76	
629 G	103.30	1020.20
667 G	38.72	
710 G	261.01	
711 G	1946.93	2246.66
668 G	557.21	
669 G	1128.90	1686.11
669	1175.10	
670	802.62	
671	2.18	1979.90
673	219.13	
674	1948.28	2167.41
714 G	1662.97	
715 G	381.13	2044.10
716 G	10.36	
717 G	1488.01	1498.37
718	251.32	
719	1084.80	1336.12
719 G	1219.20	
720 G	53.16	1272.36
754	706.66	
798	144.58	
842	110.09	961.55
755 G	1550.18	
756 G	56.36	1606.54
761 G	641.19	
762 G	898.82	1540.01
764	1125.87	
668	555.79	1681.66

Blocks	Hectares	Total Hectares
799 G	537.52	
843 G	597.50	1135.02
804 G	251.06	
805 G	409.43	660.51
849 G	1430.41	
850 G	476.43	1906.84
886	805.29	
930	462.65	
974	677.52	1945.66
887 G	1986.33	
888 G	292.48	2278.81
892	16.56	
893	382.00	
894	62.08	
895	733.64	1194.28
895 G	1570.36	
896 G	123.55	1693.91
933 G	57.12	
934 G	1283.53	1340.65
935	119.05	
936	1733.18	1852.23
974 G	1626.48	
6 G (NO 2-8)	384.35	2010.83
975 G	1400.19	
976 G	20.84	1421.03
978	117.44	
979	1818.84	1936.28
1006	2257.53	
1007	0.09	2257.62

Official Protraction Diagram NO 3-5, (approved June 11, 1975):

(1) WHOLE or PARTIAL BLOCKS:

8-44	272-308	535-572	799-836
52-88	316-352	579-616	843-880
96-132	360-396	623-660	887-924
140-176	404-440	667-704	931-968
184-220	448-484	711-748	976-1012
228-264	492-528	755-792	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
974	0.09	
975	2257.53	2257.62

Official Protraction Diagram NO 2-7, (approved March 20, 1975):

(1) WHOLE or PARTIAL BLOCKS:

7-44	271-308	534-572	798-836
51-88	315-352	578-616	842-880
95-132	359-396	622-660	886-924
139-176	403-440	666-704	930-968
183-220	447-484	710-748	575-1012
227-264	490-528	754-792	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
6	54.84	
50	156.01	
94	257.14	
138	358.21	
182	459.23	
226	560.21	1845.64
270	661.13	
314	762.00	
358	862.83	2285.96
402	963.60	
446	1064.32	2027.92
973	1.14	
974	2267.94	2269.08

Official Protraction Diagram NO 2-8, St. George Island, (revised September 10, 1964):

(1) WHOLE or PARTIAL BLOCKS:

1-5	265-278	420-430	617-655
11-38	286-302	432-434	661-699
45-50	309-321	441-453	705-743
54-82	331-346	463-476	749-787
89-126	353-365	485-496	793-831
133-170	376-385	507-523	837-875
177-214	387-390	529-543	881-919
221-258	397-409	550-567	925-963
		573-611	969-1006

(2) SPLIT BLOCKS:

Blocks	Hectares
7 G	2066.36
8 G	2238.84
9 G	2233.93
10 G	837.32
51	2232.85
52	1862.64
53	2136.58
282	1311.25
283	1244.93
283 G	1059.07
284	1253.03
322 G	778.47
323 G	2201.63
324 G	1387.55
325 G	1419.67
326 G	1715.65
327 G	1628.64
328 G	1707.48
329 G	2244.55
330 G	819.00
366 G	1614.36
367 G	1133.08
375	2303.99
410	938.53
419	2303.02
454	2081.34
455	247.89
455 G	2056.11
499	2018.08
500	515.08
501 G	1850.24
504 G	1917.74
505	703.64
505 G	1600.36
506	2221.87
544	2204.96
546 G	1884.48
547 G	2094.20
549	2240.39

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
6	1919.65	
7	237.64	2157.29
9	69.72	
10	1466.68	1536.40
39	54.84	
83	156.01	
127	257.14	
171	358.21	
6 (NO 3-7)	54.84	
50 (NO 3-7)	156.01	
94 (NO 3-7)	257.14	
138 (NO 3-7)	358.21	1652.40
51 G	71.15	
52 G	441.36	
53 G	167.42	679.93
215	459.23	
259	560.21	
182 (NO 3-7)	459.23	
226 (NO 3-7)	560.21	2038.88

Blocks	Hectares	Total Hectares
279	1665.41	
323	4.20	1669.61
279 G	638.59	
280 G	1322.82	1961.41
280	981.18	
281	1025.16	2006.34
281 G	1278.84	
282 G	992.75	2271.59
284 G	1050.97	
285 G	301.84	1352.81
285	2002.16	
329	50.04	2052.20
303	661.13	
270 (NO 3-7)	661.13	1322.26
322	1525.53	
366	689.64	2215.17
330	1485.00	
374	217.24	1702.24
347	762.00	
314 (NO 3-7)	762.00	1524.00
373 G	859.12	
417 G	588.23	1447.35
374 G	2086.76	
375 G	0.01	2086.77
391	862.83	
358 (NO 3-7)	862.83	1725.66
410 G	1365.47	
454 G	222.66	1588.13
411 G	1646.76	
412 G	12.63	1659.39
418	111.94	
462	989.04	1100.98
418 G	2192.06	
419 G	0.98	2193.04

Blocks	Hectares	Total Hectares
435	963.60	
402 (NO 3-7)	963.60	1927.20
456 G	1590.31	
457 G	146.48	1736.79
460 G	260.84	
461 G	1877.70	2138.54
462 G	1314.96	
506 G	82.13	1397.09
479	1064.32	
446 (NO 3-7)	1064.32	2128.64
499 G	285.92	
500 G	1788.92	2074.84
502 G	853.81	
503 G	645.36	1499.17
544 G	99.04	
545 G	1212.68	1311.72
545	1091.32	
546	419.52	1510.84
547	209.80	
548	987.36	1197.16
548 G	1316.64	
549 G	63.61	1380.25
1007	2267.94	
1008	1.14	2269.08

Official Protraction Diagram NO 3-7, (approved November 29, 1974):

(1) WHOLE or PARTIAL BLOCKS:

7-44	447-484	666	802-807
51-88	494-496	670-673	810-836
95-132	499-528	677-704	842-843
139-176	534	710-712	846-848
183-220	539-540	716-720	851-852
227-264	543-572	722-748	854-880
271-308	578-581	754-756	886-887
315-352	587-616	761-762	891-893
359-396	622-628	765-792	895-924
403-440	632-660	798-800	930-968
			975-1012

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
973	1.14	
974	2267.94	2269.08

Official Protraction Diagram NN 2-2, (approved November 29, 1974):

(1) WHOLE or PARTIAL BLOCKS:

1-39	265-303	529-568	793-832
45-83	309-347	573-612	837-876
89-127	353-391	617-656	881-920
133-171	397-435	661-700	925-964
177-215	441-479	705-744	969-1008
221-259	485-524	749-788	

(2) BIDDING UNITS:

Blocks	Hectares	Total Hectares
40	65.15	
84	165.16	
128	265.13	
172	365.04	
5 (NN 3-1)	65.15	
49 (NN 3-1)	165.16	
93 (NN 3-1)	265.13	
137 (NN 3-1)	365.04	1720.96
216	464.91	
260	564.72	
181 (NN 3-1)	464.91	
225 (NN 3-1)	564.72	2059.26
304	664.46	
269 (NN 3-1)	664.46	1328.96
348	764.19	
313 (NN 3-1)	764.19	1528.38
392	863.85	
357 (NN 3-1)	863.85	1727.70
436	963.45	
401 (NN 3-1)	963.45	1926.90
480	1063.01	
445 (NN 3-1)	1063.01	2126.02

Official Protraction Diagram NN 3-1, Davidson Bank, (approved November 29, 1974):

WHOLE or PARTIAL BLOCKS:

6-44	402-409	606	841-853
50-88	413-420	608-615	856-880
94-132	425-440	621-646	885-897
138-176	446-464	652-660	900-924
182-220	469-484	665-704	929-942
226-264	489-510	709-748	944-960
270-308	512-527	753-765	963-968
314-352	533-559	769-792	973-1004
358-366	564-572	797-808	1006-1012
369-396	577-602	812-836	

Official Protraction Diagram NN 2-4, Okmuk Canyon, (revised September 11, 1984):

(1) WHOLE or PARTIAL BLOCKS:

1-40	265-304	529-569	793-833
45-84	309-348	573-613	837-877
89-128	353-392	617-657	881-921
133-172	397-436	661-701	925-963
177-216	441-480	705-745	969-1006
221-260	485-524	749-789	1013-1050

(2) SPLIT BLOCKS:

Blocks	Hectares
964	1756.76
965	1192.34
1007 G	975.48
1008 G	2202.55
1009 G	1647.51
1051 G	2006.26
1052 G	802.10

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
41	48.52	
85	147.35	
129	246.13	
173	344.85	
2 (NN 3-3)	48.52	
46 (NN 3-3)	147.35	
90 (NN 3-3)	246.13	
134 (NN 3-3	344.85	1573.70

Blocks	Hectares	Total Hectares
217	443.52	
261	542.14	
178 (NN 3-3)	443.52	
222 (NN 3-3)	542.14	1971.32
305	640.71	
266 (NN 3-3)	640.71	1281.42
349	739.23	
310 (NN 3-3)	739.23	1478.46
393	837.69	
354 (NN 3-3)	837.69	1675.38
437	936.10	
398 (NN 3-3)	936.10	1872.20
481	1034.46	
442 (NN 3-3)	1034.46	2068.92
525	1132.76	
486 (NN 3-3)	1132.76	2265.52
964 G	547.24	
965 G	920.54	
926 G (NN 3-3)	381.86	1849.64
1007	1328.52	
1008	1.53	
1051	297.74	1627.79

Official Protraction Diagram NN 3-3, Akutan, (revised September 11, 1984):

(1) WHOLE or PARTIAL BLOCKS:

3-42	267-306	530-550	794-799
47-86	311-349	574-592	838-842
91-130	355-381	618-631	882-886
135-174	399-423	662-672	927-929
179-218	443-464	706-714	972
223-262	487-507	750-756	1016

(2) SPLIT BLOCKS:

Blocks	Hectares	Blocks	Hectares
350	1683.56	971 G	608.98
350 G	620.44	1014 G	1138.18
926	1731.02	1015 G	1765.64
970 G	2144.64		

(3) BIDDING UNITS:

Blocks	Hectares	Total Hectares
970	35.60	
971	1696.02	
1015	538.36	2268.98

Official Protraction Diagram NN 2-6, Umnak, (revised September 11, 1984):

WHOLE or PARTIAL BLOCKS:

1-37	309-336	617-626	881-884
45-78	353-380	661-670	925
89-121	397-423	705-712	
133-164	441-466	749-755	
177-206	485-509	793-798	
221-249	529-541	837-841	
265-293	573-584		

13. Lease Terms and Stipulations.

(a) Leases resulting from this sale will have initial terms of 10 years. Leases will be issued on Form MMS-2005 (August 1982). Copies of the lease form are available from the Regional Supervisor, Leasing and Environment, Alaska OCS Region, at the first address stated in paragraph 2.

(b) Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale.

Stipulation No. 1--Protection of Cultural Resources

(a) "Cultural resource" means any site, structure, or object of historic or prehistoric archeological significance. "Operations" means any drilling or construction or placement of any structure for exploration, development, or production of the lease.

(b) If the Regional Supervisor, Field Operations (RSFO), believes a cultural resource may exist in the lease area, the RSFO will notify the lessee in writing. The lessee shall then comply with subparagraphs (1) through (3).

(1) Prior to commencing any operations, the lessee shall prepare a report, as specified by the RSFO, to determine the potential existence of any cultural resource that may be affected by operations. The report, prepared by an archeologist and a geophysicist, shall be based on an assessment of data

from remote-sensing surveys and other pertinent cultural and environmental information. The lessee shall submit this report to the RSFO for review.

(2) If the evidence suggests that a cultural resource may be present, the lessee shall either:

(i) Locate the site of any operation so as not to adversely affect the area where the cultural resource may be; or

(ii) Establish to the satisfaction of the RSFO that a cultural resource does not exist or will not be adversely affected by operations. This shall be done by further archeological investigation, conducted by an archeologist and a geophysicist, using survey equipment and techniques deemed necessary by the RSFO. A report on the investigation shall be submitted to the RSFO for review.

(3) If the RSFO determines that a cultural resource is likely to be present on the lease and may be adversely affected by operations, the RSFO will notify the lessee immediately. The lessee shall take no action that may adversely affect the cultural resource until the RSFO has told the lessee how to protect it.

(c) If the lessee discovers any cultural resource while conducting operations in the lease area, the lessee shall report the discovery immediately to the RSFO. The lessee shall make every reasonable effort to preserve the cultural resource until the RSFO has told the lessee how to protect it.

Stipulation No. 2--Orientation Program

The lessee shall include in any exploration or development and production plans submitted under 30 CFR 250.34 a proposed orientation program for all personnel involved in exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) for review and approval by the Regional Supervisor, Field Operations. The program shall be designed in sufficient detail to inform individuals working on the project of specific types of environmental, social, and cultural concerns which relate to the sale and adjacent areas. The program shall be formulated by qualified instructors experienced in each pertinent field of study and shall employ effective methods to ensure that personnel are informed of archeological, geological, and biological resources and habitats including endangered species, fisheries, bird colonies, and marine mammals and to ensure that personnel understand the importance of avoidance and nonharassment of wildlife resources. The program shall also be designed to increase the sensitivity and understanding of personnel to community values, customs, and lifestyles in areas in which such personnel will be operating and shall include information concerning avoidance of conflicts with commercial fishing operations and with commercial fishing gear.

The program shall be attended at least once a year by all personnel involved in on-site exploration or development and production activities (including personnel of the lessee's agents, contractors, and subcontractors) and all supervisory and managerial personnel involved in lease activities of the lessee and its agents, contractors, and subcontractors.

Stipulation No. 3--Protection of Biological Resources

If biological populations or habitats which may require additional protection are identified by the Regional Supervisor, Field Operations (RSFO), on any lease, the RSFO may require the lessee to conduct biological surveys to determine the extent and composition of such biological populations or habitats. The RSFO shall give written notification to the lessee of his decision to require such surveys.

Based on any surveys which the RSFO may require of the lessee or on other information available to the RSFO on special biological resources, the RSFO may require the lessee to: (1) relocate the site of operations; (2) establish to the satisfaction of the RSFO, on the basis of a site-specific survey, either that such operation will not have a significant adverse effect upon the resource identified or that a special biological resource does not exist; (3) operate during those periods of time, as established by the RSFO, that do not adversely affect the biological resources; and/or (4) modify operations to ensure that significant biological populations or habitats deserving protection are not adversely affected.

If any area of biological significance should be discovered during the conduct of any operations on the lease, the lessee shall immediately report such findings to the RSFO and make every reasonable effort to preserve and protect the biological resource from damage until the RSFO has given the lessee direction with respect to its protection.

The lessee shall submit all data obtained in the course of biological surveys to the RSFO with the locational information for drilling or other activity. The lessee may take no action that might affect the biological populations or habitats surveyed until the RSFO provides written directions to the lessee with regard to permissible actions.

Stipulation No. 4--Wellhead and Pipeline Requirements

Subsea wellheads on temporary abandonments or suspended operations that leave protrusions above the seafloor are potential hazards to fisheries trawling gear. They shall be constructed or protected if feasible and as appropriate in such a manner as to allow commercial fisheries trawling gear to pass over the structures without snagging or otherwise damaging the structures or the fishing gear. The lessee shall submit latitude and longitude coordinates of these structures and their water depths to the Regional Supervisor, Field Operations. The lessee shall also forward this information to the U.S. Coast Guard in accordance with Alaska OCS Order No. 1, Part 4. To determine the coordinates of such structures, the lessee shall use navigation systems with accuracy of at least ±50 feet at 200 miles.

All pipelines, unless buried, including gathering lines, shall have a smooth-surface design. If an irregular pipe surface is unavoidable because of the need for valves, anodes, or other structures, it shall, as appropriate, be protected in such a manner as to allow trawling gear to pass over the object without snagging or otherwise damaging the structure or the fishing gear.

Stipulation No. 5--Transportation of Hydrocarbons

Pipelines will be required: (a) if pipeline rights-of-way can be determined and obtained; (b) if laying such pipelines is technologically feasible and environmentally preferable; and (c) if, in the opinion of the lessor, pipelines can be laid without net social loss, taking into account any incremental costs of pipelines over alternative methods of transportation and any incremental benefits in the form of increased environmental protection or reduced multiple-use conflicts. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. In selecting the means of transportation, consideration will be given to any recommendation of the Regional Technical Working Group or other similar group with participation of Federal, State, and local governments and industry.

All pipelines, including both flow lines and gathering lines for oil and gas, shall be designed and constructed to provide for adequate protection from water currents, storms and ice scouring, subfreezing conditions, and other hazards as determined on a case-by-case basis. Following the development of sufficient pipeline capacity, no crude oil production will be transported by surface vessel from offshore production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Regional Supervisor, Field Operations.

Stipulation No. 6--Prohibition of Offshore Loading

(This stipulation will be included in leases issued on the following blocks:)

NN 2-2

8-30
54-72
99-115
146-156

NO 2-5

176	391-396	608-616	827-836
218-220	434-440	652-660	871-880
261-264	477-484	696-704	915-924
304-308	521-528	739-748	960-968
347-352	564-572	783-792	1004-1012

NO 2-6

8-16	309-335	617-646	807-822
48-63	353-380	661-690	837-843
90-109	397-424	705-734	848-868
133-154	441-469	749-756	881-888
177-200	485-513	761-778	891-912
221-245	529-556	793-799	925-931
265-290	573-602	804-805	933-957
			969-1002

NO 2-7

36-44	212-220	390-396	570-572
80-88	257-264	435-440	615-660
124-132	301-308	480-484	
168-176	346-352	525-528	

NO 2-8

1-35	309-344	441-457	705-739
45-79	353-367	460-476	750-783
89-124	373-385	485-520	794-626
133-168	387-388	529-564	839-869
177-212	397-412	573-608	884-913
221-256	417-430	617-652	929-956
265-300	432	661-695	974-999

NN 3-1

744-748	828-836	914-924	963-968
786-792	871-880	957-960	1000-1004
			1006-1012

NN 3-3

28-42	198-218	371-381	546-550
70-86	241-262	415-423	590-592
113-130	284-306	458-464	
155-174	328-350	502-507	

In order to protect the wildlife and subsistence resources of the Pribilof Islands and the Unimak Pass, offshore loading on this block of produced oil, except during testing for well producibility or in the case of an emergency, is prohibited if such a prohibition on offshore loading is technically and economically feasible, safe, and environmentally preferable.

14. Information to Lessees:

(a) Affirmative Action Requirements. Revision of Department of Labor regulations on affirmative action requirements for Government contractors (including lessees) has been deferred, pending review of those regulations (see Federal Register of August 25, 1981, at 46 FR 42865 and 42968). Should those changes become effective at any time before the issuance of leases resulting from this sale, section 18 of the lease form (Form MMS-2005, August 1982) would be deleted from leases resulting from this sale. In addition, existing stocks of the affirmative action forms described in paragraph 5 of this Notice contain language that would be superseded by revised regulations at 41 CFR 60-1.5(a)(1) and 60-1.7(a)(1). Pending the issuance of revised versions of Forms 1140-7 and 1140-8, submission of Form 1140-7 (June 1982) and Form 1140-8 (June 1982) will not invalidate an otherwise acceptable bid, and the revised regulation requirements will be deemed to be part of the affirmative action forms.

(b) U.S. Army Corps of Engineers Permits. The U.S. Army Corps of Engineers permits are required for construction of any artificial islands, installations, and other devices permanently or temporarily attached to the seabed located on the OCS in accordance with section 4(e) of the OCS Lands Act, as amended.

(c) Discharges of Drilling Wastes. Lessees are advised that the U.S. Environmental Protection Agency (EPA) National Pollutant Discharge Elimination System (NPDES) permits are required for discharge of drilling fluids, produced waters, and other drilling wastes generated during exploration and development/productions phases. The State of Alaska has advised that it will request coastal management consistency certifications be submitted to the State, pursuant to the Coastal Zone Management Act of 1972, as amended, for its concurrence prior to issuance of individual or general NPDES permits.

(d) Oil Spill Cleanup Capability. Approval of oil spill contingency plans will require information on the capability to detect, contain, clean up, and dispose of spilled oil in accordance with Best Available and Safest Technologies requirements as determined by the Regional Supervisor, Field Operations (RSFO).

(e) Offshore Pipelines. Lessees are advised that the Departments of the Interior and Transportation have entered into a Memorandum of Understanding, dated May 6, 1976, concerning the design, installation, operation, and maintenance of offshore pipelines. Lessees should consult both departments for regulations applicable to offshore pipelines.

(f) Unitization Agreements. Lessees are advised that in accordance with section 16 of each lease offered, the lessor may require a lessee to operate under a unit, pooling, or drilling agreement, and that the lessor will give particular consideration to requiring unitization in instances where one or more reservoirs underlie two or more leases.

(g) Exploration Plan Submittals For 10-Year Lease Terms. Lessees are advised that pursuant to 30 CFR 250.34-1(a)(3), the lessee shall submit to the MMS either an exploration plan or a general statement of exploration intention prior to the end of the ninth lease year.

(h) Fairway Designations. Blocks offered for lease may fall in or be adjacent to areas which may be included in fairways, precautionary zones, or traffic separation schemes which may be established, among other reasons, for the purpose of protecting maritime commerce. Lessees are advised that the United States may designate necessary fairways through leased areas pursuant to the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.).

(i) Areas of Special Biological Sensitivity. Lessees are advised that certain areas are especially valuable for their concentration of marine birds, marine mammals, and/or fishes. The Fox Islands, Unimak Pass, the Pribilof Islands, Chagulak Island, and Moffet, Nelson, and Izembek Lagoons are among areas of special biological sensitivity to be considered under terms of the oil spill contingency plan section of Alaska OCS Order No. 7. The State of Alaska has also identified the Pribilof Islands and the Aleutian Chain. Lessees are advised that additional areas of special biological sensitivity may be defined by the MMS, other Federal Agencies, local coastal management programs, and by local and regional organizations such as the Coastal Resource Service Area (CRSA) Boards, planning offices, village councils, and regional non-profit corporations. Lessees are advised that the review of oil spill contingency plans may result in special measures being required to protect the areas' biological resources and associated subsistence values.

(j) Coastal Zone Management. Lessees are advised that the Alaska Coastal Management Program (ACMP) may contain policies and standards which may be relevant to exploration, development, and production activities associated with leases resulting from this sale. In addition, approved local CMP's which are part of the ACMP may contain more specific policies related to energy facility siting; areas with particular geologic hazards, subsistence uses, habitats, and transportation uses; and areas which have historic or prehistoric resources.

Coastal districts with approved CMP's may have policies applicable to ACMP consistency reviews of postlease activities. Coastal districts near the lease area engaged in program development or implementation include: Yukon-Kuskokwim CRSA, the Bristol Bay CRSA, and the Aleutians East CRSA, Bristol Bay Borough and the Cities of Bethel, Akutan, and St. Paul. Early consultation and coordination with the State and coastal districts involved in coastal management review is encouraged.

The MMS anticipates that the State will review exploration plans and development and production plans, and pipeline rights-of-way applications for consistency with the State CMP pursuant to section 307(c)(3)(B) of the Coastal Zone Management Act. As specified in section 307(c)(3)(B), the State has the right to disagree with the lessee's certification of consistency for the lessee's plans for exploration, development, and production, or pipeline rights-of-way applications and may recommend additional measures be taken by the lessee, as a condition of certification, that will ensure that the transportation, storage, and loading of produced oil is consistent with the ACMP.

(k) Bering Sea Biological Task Force. In the enforcement of the Protection of Biological Resources stipulation, the RSFO will receive recommendations from the Bering Sea Biological Task Force (BTF) composed of designated representatives of the MMS, the U.S. Fish and Wildlife Service (FWS), the National Marine Fisheries Service, and EPA. Representatives from the State of Alaska are encouraged to participate in the proceedings of the BTF. The RSFO will consult with the Bering Sea BTF on the conduct of biological surveys by lessees, and the appropriate course of action after surveys have been conducted.

(l) Bird and Marine Mammal Protection. Lessees are advised that during the conduct of all activities related to leases issued as a result of this sale, the lessee and its agents, contractors, and subcontractors will be subject to, among others, the provisions of the Marine Mammal Protection Act of 1972, as amended; the Endangered Species Act of 1973, as amended; and International Treaties.

Lessees and their contractors should be aware that disturbance of wildlife could be determined to constitute harm or harassment, and thereby be in violation of existing laws. With respect to endangered species, disturbance could be determined to constitute a "taking" situation and be in violation of the Endangered Species Act. Under the Endangered Species Act, the term "take" has been defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." Violations under these acts and treaties may be reported to the National Marine Fisheries Service or the FWS, as appropriate. Behavioral disturbance of most birds and mammals found in or near the lease area would be unlikely if surface vessels maintained at least a 1-mile horizontal distance and aircraft maintained a 1,500-foot vertical distance from observed wildlife concentrations or from known wildlife concentration areas such as bird colonies and marine mammal haulout and breeding areas. Therefore, it is recommended that vessels operated by lessees maintain at least a 1-mile horizontal distance and that aircraft maintain a 1,500-foot vertical distance from observed or known wildlife concentrations.

Of particular concern are wildlife populations of the Pribilof Islands, Izembek Lagoon, and other coastal wilderness or refuge areas. For guidance regarding prohibited activities, attention of the lessees is directed particularly to existing National Wildlife Refuge System rules, 50 CFR Parts 27 and 215, and Part 36, rules for the Alaska National Wildlife Refuges (46 FR 31818, June 17, 1981), wherein 50 CFR 36.21(c) states: "The operation of aircraft at altitudes and in flight paths resulting in the herding, harassment, hazing, or driving of wildlife is prohibited."

To reduce potential effects to all cetacean species from noise and disturbance associated with vessel and aircraft activities, lessees are encouraged to reduce, minimize, or reroute vessel and/or aircraft operations to and from the lease area by aircraft and/or marine vessels. This includes aircraft, tugs, barges, supply ships, hovercraft, or other self-propelled surface vessels when whales are likely to be in the area. Lessees are advised that operations including geophysical surveys may be restricted or suspended, if appropriate, by the RSFO, on any lease, whenever endangered whales are present in the area or sufficiently near to be subject to disturbance from offshore oil and gas activities which would be likely to constitute a "taking" situation. A Notice to Lessees (NTL) has been issued to specify performance standards before any preliminary activities may be conducted on a lease. Human safety will take precedence at all times over these provisions.

Maps locating major wildlife concentration areas in the lease area are suitable for general route planning and are available from the RSFO.

(m) Aleutian Canada Goose. Lessees are advised that the Aleutian Canada goose (Branta canadensis leucopareia) is listed as an endangered species by the U.S. Department of the Interior (16 U.S.C. 1531 et seq.).

A potential for conflict may exist in this region between the onshore-support facilities of OCS exploration or development and production

activities, and the Aleutian Canada goose. No such conflict is anticipated if onshore-support facilities are not located near Chagulak or Kiliktagik Island, and if aerial-support flight paths are 1,500-feet vertically and vessel traffic 1-mile horizontally from those locations.

Lessees are advised that the FWS will review all exploration plans and development and production plans submitted by the lessee to the MMS. The FWS may apply certain restrictions to further protect the Aleutian Canada goose habitats as a result of this review. Lessees and affected operators should establish regular communication with MMS and FWS. Human safety will take precedence at all times.

(n) Endangered Whales (Noise Disturbance). Lessees are advised that the RSFO has the authority and intends to limit or suspend any noise-producing operations, including geophysical surveys, on a lease whenever endangered whales are near enough to be subject to noise disturbance from offshore oil and gas activities which would be likely to result in a "taking" situation. Under the Endangered Species Act, the term "take" has been defined to mean "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or to attempt to engage in any such conduct." An NTL has been issued to specify performance standards before any preliminary activities may be conducted on a lease.

(o) Endangered Whales (Oil Spills). Lessees are advised that the RSFO has the authority and may limit or suspend oil and gas drilling activities on any lease whenever endangered (especially gray or right) whales are present and near enough to be subject to probable oil spill risks. Exploratory drilling, testing, and other downhole activities below a predetermined threshold depth, with the exception of testing through casing, may be prohibited whenever these whales are in the vicinity of the drilling operation. Such prohibition would continue until it is determined that the whales are outside of the zone of probable influence or are no longer subject to likely risk of oil spills, unless the RSFO determines that continued operations are necessary to prevent a loss of well control or to ensure human safety.

(p) Potential Gear Conflict with Commercial Fishing Industry. To reduce potential fishing gear conflicts, the lessee is encouraged to keep commercial fishermen in the area advised of plans for seismic surveys, drill rig transport, or other vessel traffic, and meet with them to discuss mutually satisfactory ways to avoid fishing gear conflicts.

Additionally, designations for open-ocean-storage areas for crab pots are subject to change. Vessels crossing these areas should operate in such a manner as to prevent loss of these stored crab pots. Locations of storage areas can be provided by the Alaska Department of Fish and Game and the North Pacific Fishery Management Council.

(q) Orientation Program. Lessees are advised that the orientation training program required by Stipulation No. 2 should be designed to incorporate the views and concerns of local individuals and communities. Lessees are encouraged to provide opportunities to local individuals, organizations, and governments, including local coastal resource districts, to participate in the development of the environmental training program.

(r) Hiring of Alaska Residents. Lessees are encouraged to hire Alaska residents to perform work done by and for them within the State of Alaska. Lessees are advised that there is considerable local interest in employment associated with petroleum exploration, development, and production activities. Lessees are encouraged, through affirmative action programs or otherwise, to provide opportunities to local individuals and organizations. Lessees are also advised that employment of local individuals and organizations may be one method of mitigating certain local social and economic effects.

(s) Oil Spill Response. Lessees are advised that OCS Order No. 2 provides that exploration plans and development and production plans must include provisions to meet emergency situations, such as: a means of drilling a relief well should a blowout occur; loss or disablement of a drilling unit or a drilling rig; loss of or damage to support craft; and hazards unique to the site of drilling operations. Lessees are further advised that oil spill contingency plans are required by 30 CFR 250.34 and OCS Order No. 7 to be sumitted with exploration plans and development and production plans. These plans must contain provisions to assure equipment and human resources are known and can be committed during an oil spill. Identification and inventory of applicable equipment, materials, and supplies which are available locally and regionally, and the time required for deployment of the equipment should be kept current. Periodic updates may be required (including the name, location, and current status, and the estimated mobilization time for the drilling unit which would be used to drill a relief well).

(t) Mitigating Socioeconomic Effects. Lessees are advised that exploration, development, and production activities may directly and indirectly have significant social and economic effects on local individuals and communities. Lessee are encouraged to consult with local individuals, organizations, and governments, including local coastal districts, to identify direct and indirect social and economic effects of exploration, development, and production activities prior to undertaking those activities. Lessees are encouraged to consult with and enter into agreements with local individuals, organizations, and governments to compensate for direct and indirect social and economic effects of exploration, development, and production activities.

Lessees are advised that this may include, among others, support to, or provision of, local community recreation facilities, mental health, drug and alcohol treatment services and facilities, or community safety services and capital improvements projects.

15. OCS Orders. Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all Alaska OCS Orders, and any other applicable OCS Order. Final Alaska OCS Orders were published in the Federal Register at 47 FR 47180, on October 22, 1982.

[FR Doc. 85-12342 Filed 5-21-85; 8:45 am]
BILLING CODE 4310-MR-C

Federal Register

Wednesday
May 22, 1985

Part VII

National Archives and Records Administration

36 CFR Parts 1220 et al.
Establishment of NARA Regulations Relating to Records Management; Proposed Rule

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Parts 1220, 1222, 1224, 1228, 1230, 1232, 1234, and 1238

Establishment of NARA Regulations Relating to Records Management

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: NARA proposes to establish Government-wide records management regulations relating to records creation, maintenance and use, adequate documentation of agencies' programs, and proper disposition to ensure the preservation of permanent records and their eventual transfer to NARA. These regulations will replace and supersede regulations contained in the Federal Property Management Regulation. The proposed regulations reflect the division of records management responsibilities between GSA and NARA in accordance with Pub. L. 98–497, the National Archives and Records Administration Act of 1984.

DATES: Comments must be received by June 21, 1985.

ADDRESS: Comments should be sent to Director, Program Policy and Evaluation Division, National Archives and Records Administration (NAA), Washington, DC 20408.

FOR FURTHER INFORMATION CONTACT: Nancy Allard, telephone 202–523–3214 (FTS 523–3214).

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 98–497, which became effective April 1, 1985, established the national Archives and Records Administration (NARA) as an independent agency in the executive branch, and transferred the National Archives and Records Services of the General Services Administration to the agency. The Act also provided that NARA would have records management authorities relating to adequacy of documentation and disposition of records, and GSA would retain responsibility for promoting economy and efficiency in records management. NARA is publishing its records management regulations in 36 CFR Chapter XII, Subchapter B, which was established at 50 FR 15722, April 19, 1985. GSA is publishing its regulations in the Federal Information Resources Management Regulation (FIRMR) located in 41 CFR Chapter 201.

This proposed rule will establish NARA policies and procedures for agency records management programs relating to records creation, maintenance and use, adequate documentation of agency programs, and the proper disposition of the records. The subject matter of the proposed rule includes documentation standards, files management, records disposition, micrographics, audiovisual records management, ADP records management, program assistance, and program evaluation.

Except for audiovisual records management and ADP records management, the material in the proposed new NARA regulation is similar to the coverage of these subjects in the FPMR records management regulations. Section 1232.6, Centralized audiovisual services, has been revised to reflect the revised OMB Circular A–114 issued on March 20, 1985. The coverage of ADP records management in Part 1234 has been updated to emphasize the importance of careful handling and storage of magnetic media so that information will not be destroyed.

Regulations relating to disposition of records formerly contained in FPMR Subpart 101.11.4 were established at Part 1228 by the final rule published at 50 FR 15722, April 19, 1985. The proposed rule makes the following changes to Part 1228:

1. The name of the organization responsible for records appraisal has been changed to the Records Appraisal and Disposition Division (NIR).

2. Section 1228.12 has been revised to remove references to agency disposition standards. Agencies develop disposition instructions that are in conformance with NARA disposition standards.

3. Section 1228.20 has been revised to change the amount of time that new agencies have to complete a comprehensive records schedule from one year to 2 years. The definition of nonrecord materials has been clarified. Other nonsubstantive editorial changes have also been made in the section.

4. Section 1228.62 is revised to clarify that disposal lists are limited to records already in existence which will not continue to accumulate.

5. Section 1228.72 is amended to grant temporary extensions of retention periods for records when special circumstances *alter* the normal administrative, legal, or fiscal value of the records. The section currently allows extension when special circumstances *affect* the records' normal value.

6. Section 1228.124 is amended to require a justification statement whenever an agency wishes to transfer custody of any of its records to another agency. The current regulation requires a justification statement only when the records being transferred are more than 5 years old. There is no change in the other information which must be submitted to NARA for approval of the transfer.

7. Section 1228.158, Surveying records for transfer to records centers, is removed since the service is covered in Part 1238, Program Assistance.

8. Section 1228.188 is amended to reference the new Part 1234, clarify the format for machine-readable records being transferred to the National Archives, to change the forms required for documentation of machine-readable records being transferred to the National Archives, and to change the name of the organization which provides guidelines for determining the adequacy of documentation.

9. Section 1228.198 is amended to clarify the imposition of restrictions on records transferred to the National Archives.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small entities.

List of Subjects in 36 CFR Parts 1220, 1222, 1224, 1228, 1230, 1234, 1238:

Archives and records.

For the reasons set forth above, it is proposed to amend Chapter XII of Title 36 of the Code of Federal Regulations as follows: The following distribution table reflects the old regulations in 41 CFR Part 101–11 and the new rewritten regulations in 36 CFR Chapter XII.

DISTRIBUTION TABLE

FPMR sections	NARA sections
PART 101-11	
101-11.000	1220.1
Subpart 101-11.1	Part 1220
101-11.101	Subpart A
101-11.101-1	1220.10
101-11.101-2	1220.12
101-11.101-3	1220.14
101-11.101-4	1220.16
101-11.101-5	1220.18
101-11.102	Subpart B
101-11.102-1	1220.30
101-11.102-2	1220.32
101-11.102-3	1220.34
101-11.102-5	1220.36
101-11.102-6	1220.38
101-11.103	Subpart C
101-11.103-2	1220.50
101-11.103-3	1220.52
101-11.103-4	1220.54
101-11.104	1220.56
Subpart 101-11.2	Part 1222
101-11.202-1	1222.10
101-11.202-2	1220.20
Subpart 101-11.5	Part 1230
101-11.500	1230.1
101-11.501	1230.2
101-11.502	1230.4
101-11.506	Subpart A
101-11.506-1	1230.10
101-11.506-2	1230.12
101-11.506-3	1230.14
101-11.507	Subpart B
101-11.507-1	1230.20
101-11.507-2	1230.22
101-11.508	1230.24
101-11.509	1230.26
101-11.510	Subpart C
101-11.510-1	1230.50
101-11.510-3	1230.52

DISTRIBUTION TABLE—Continued

FPMR sections	NARA sections
Subpart 101–11.10	Part 1238
101–11.1000	1238.1
101–11.1005	1238.2
Subpart 101–11.13	Part 1232
101–11.1300	1232.1
101–11.1302	1232.2
101–11.1303	1232.4
101–11.1304	1232.6

1. Parts 1220, 1222, and 1224 are added to read as follows:

SUBCHAPTER B—RECORDS MANAGEMENT

PART 1220—FEDERAL RECORDS; GENERAL

Sec.

1220.1 Scope of subchapter.
1220.2 Responsibility for records management programs.

Subpart A—General Provisions

1220.10 Authority.
1220.12 Applicability.
1220.14 General definitions.
1220.16 Reports to the Congress and the Director of the Office of Management and Budget.
1220.18 Inspection of records subject to the Privacy Act of 1974.

Subpart B—Agency Records Management Programs

1220.30 Authority.
1220.32 Program content.
1220.34 Creation of records.
1220.36 Maintenance and use of records.
1220.38 Disposition of records.
1220.40 Liaison offices.

Subpart C—Agency Program Evaluation

1220.50 Evaluation by NARA.
1220.52 Agency evaluation review and followup procedures.
1220.54 Agency internal evaluation.
1220.56 Interagency program evaluations and studies.

Authority: 44 U.S.C. 2104(a) and Chapter 29.

§ 1220.1 Scope of subchapter.

Subchapter B prescribes policies for Federal agencies' records management programs relating to records creation and maintenance, adequate documentation, and proper records disposition.

§ 1220.2 Responsibility for records management programs.

Pub. L. 98–497 amended the records management statutes to divide records management responsibilities between the National Archives and Records Administration (NARA) and the General Services Administration (GSA). Under the Act, NARA is responsible for adequacy of documentation and records disposition and GSA is responsible for economy and efficiency in records management. NARA regulations are codified in this Subchapter. GSA records management regulations are codified in 41 CFR Parts 201–2, 201–22, and 201–45. Federal agency records management programs must be in compliance with regulations promulgated by both NARA and GSA.

Subpart A—General Provisions

§ 1220.10 Authority.

The regulations in this part are issued under the provisions of the National Archives and Records Administration Act of 1984 (Pub. L. 98–497, 44 U.S.C. 101 note).

§ 1220.12 Applicability.

The regulations in Subchapter B apply to all Federal agencies as defined in § 1220.14.

§ 1220.14 General definitions.

As used in Subchapter B—

"Disposition" means the action taken with regard to records following their appraisal by NARA. 44 U.S.C. 2901(5) defines "records disposition" as any activity with respect to:

(a) disposal of temporary records no longer necessary for the conduct of business by destruction or donation;

(b) transfer of records to Federal agency storage facilities or records centers;

(c) transfer to the National Archives of the United States of records determined to have sufficient historical or other value to warrant continued preservation; or

(d) transfer of records from one Federal agency to any other Federal agency.

"Executive agency" means any executive department or independent establishment in the executive branch of the Government, including any wholly-owned Government corporation.

"Federal agency" means any executive agency or any establishment in the legislative or judicial branch of the Government (except the Supreme Court, Senate, the House of Representatives, and the Architect of the Capitol and any activities under his direction). (44 U.S.C. 2901(14)).

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

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

"Records management," as used in Subchapter B, means the planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition in order to achieve adequate and proper documentation of the policies and transactions of the Federal Government and effective and economical management of agency operations.

"Records maintenance and use," as used in Subchapter B, means any activity involving location of records of a Federal agency or the storage, retrieval, and handling of records kept at office file locations by or for a Federal agency.

"Series" means file units or documents arranged according to a filing system or kept together because they relate to a particular subject or function, result from the same activity, have a particular physical form, or because of some other relationship arising out of their creation, receipt, or use.

§ 1220.16 Reports to the Congress and the Director of the Office of Management and Budget.

Under 44 U.S.C. 2904(c)(8), the Archivist of the United States is required to report to Congress and the Office of Management and Budget annually on the results of records management activities, including evaluations of responses by Federal agencies to any recommendations resulting from studies or inspections conducted by NARA.

§ 1220.18 Inspection of records subject to the Privacy Act of 1974.

In accordance with 44 U.S.C. 2906, when NARA inspects an agency record which is contained in a system of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), the records shall be maintained by the Archivist or his designee as a record contained in a system of records or considered to be a record contained in a system of records for the purposes of subsections (b), (c), and (i) of section 552a of title 5.

Subpart B—Agency Records Management Programs

§ 1220.30 Authority.

Section 3101 of Title 44 of the United States Code requires the head of each Federal agency to make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

§ 1220.32 Program content.

Agency programs shall, among other things, provide for:

(a) Cooperation with NARA in developing and applying standards, procedures, and techniques designed to improve the management of records, promote the maintenance and security of records deemed appropriate for permanent preservation, and facilitate the segregation and disposal of temporary records.

(b) Compliance with sections 2101–2117, 2501–2507, 2901–2909, 3101–3107, and 3301–3314 of title 44 of the United States Code and with NARA regulations issued in Title 36 of the Code of Federal Regulations.

§ 1220.34 Creation of records.

Adequate records management controls over the creation of Federal agency records shall be instituted to ensure that agency functions are adequately and properly documented. Federal agencies shall also comply with GSA regulations on creation of records found in 41 CFR 201–22.002–3.

§ 1220.36 Maintenance and use of records.

Adequate records management controls over the maintenance and use of records shall be instituted to ensure that permanent records can be located when needed and that they are preserved for eventual transfer to the National Archives of the United States. Agencies shall also be in compliance with GSA regualtions on the maintenance and use of records found in 41 CFR Subpart 201–45.2.

§ 1220.38 Disposition or records.

Provision shall be made to ensure that permanent records are preserved but that records no longer of current use to an agency are promptly disposed of or retired. Effective techniques for the accomplishment of these ends are the development of records disposition schedules; the transfer of records to records centers and to the National Archives of the United States; the conversion of the information to other media; and the disposal of valueless records. Disposition of any records requires the approval of the Archivist of the United States (see Part 1228 of this Chapter).

§ 1220.40 Liaison offices.

An office or offices with in each Federal agency shall be assigned responsibility for the development of the records management program required by this part. The office to which responsibility is assigned shall be reported to the Office of Records Administration, National Archives (NIA), Washington, DC 20408. The name, title, and telephone number of the official or officials authorized by the head of the agency to approve records disposition schedules and transfers of records to the custody of the National Archives shall also be sumbitted to the Office of Records Administration.

Subpart C—Agency Program Evaluation

§ 1220.50 Evaluation by NARA.

In accordance with Chapter 29 of Title 44, United States Code, NARA will periodically evaluate agency records management programs for adequate and proper documentation of the agency's organization, functions, and activities; for the selective retention and proper maintenance of permanent records; and for the prompt disposal of records of temporary value in accordance with approved disposition schedules and disposal requests. The objectives of these inspections are to:

(a) Determine agency compliance with the regulations in Subchapter B.

(b) Evaluate the effectiveness of agency records management programs and practices relating to adequacy of documentation, maintenance and use, and records dispostion.

§ 1220.52 Agency evaluation review and followup procedures.

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

(b) A Federal agency shall submit an action plan to the Archivist of the United States implementing the recommendations in an evaluation report not later than 90 calendar days after the date of transmittal of the final report to the agency head. The agency action plan shall include:

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

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

(c) A Federal agency shall submit a progress report on implementation of the action plan every 6 months to the Office of Records Administration until the agency action plan is implemented. Interagency report control number 0153-NAR-AR has been assigned to this report in accordance with 41 CFR Subpart 201–45.6.

(d) NARA will:

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

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

(3) Assist the agency in implementing recommendations; and

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

§ 1220.54 Agency internal evaluation.

Each agency should periodically evaluate its records management programs relating to adequacy of documentation, maintenance and use, and records disposition. These evaluations should determine compliance with NARA regualtions in Subchapter B and assess the effectiveness of the agency's programs. Criteria for agency self-evaluations are available from the Office of Records Administration (NIA).

§ 1220.56 Interagency program evaluations and studies.

Section 2904 of title 44, United States Code, authorizes the Archivist of the United States to conduct inspections or surveys of records and records management programs and practices within and between Federal agencies.

PART 1222—CREATION OF RECORDS; ADEQUACY OF DOCUMENTATION

Sec.

1222.10 Authority.

122.20 Documentation standards.

Authority: 44 U.S.C. 2904 and 3101.

§ 1222.10 Authority.

(a) Section 2904 of title 44, United States Code, vests in the Archivist of the United States responsibility for developing and issuing standards to improve the management of records.

(b) Section 3101 of title 44, United States Code, requires that the head of each Federal agency "shall make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency and designed to furnish the information necessary to protect the legal and financial rights of the Government and of persons directly affected by the agency's activities.

§ 1222.20 Documentation standards.

To ensure that adequate and proper records are made and preserved in the Federal Government, the following documentation standards shall apply in each Federal agency:

(a) The record of the transaction of public business by any Federal official or employee is to be complete to the extent required to facilitate informal action by the incumbents and their successors in office; to make possible a proper scrutiny by the Congress, other duly authorized agencies of the Government, and other persons properly and directly concerned, of the manner in which public business has been discharged; and to protect the financial, legal, and other rights of the Government and of persons affected by the Government's actions.

(b) With particular regard to the formulation and execution of basic Government policy, Federal officials are responsible for incorporating in the records of their agencies all essential information on their actions. Significant decisions and commitments reached orally (person to person, by telephone, or in conference) should be documented and included in the record. Minutes should be taken at important board, committee, and staff meetings, and these, together with a copy of the agenda and all documents considered at or resulting from such meetings, should be made part of the record.

(c) The programs, policies, and procedures of Federal agencies shall be adequately documented in appropriated directives. A record copy of each such directive (including those superseded) shall be maintained as a part of the official rules.

(d) Papers of a private or nonofficial character which pertain only to an individual's personal affairs that are kept in the office of a Federal official shall be clearly designated by him or her as nonofficial and shall at all times be filed separately from the official records of the office. In cases where matters requiring the transaction of official business are received in private personal correspondence, the portion of such correspondence that pertains to official business shall be extracted and made a part of the official files.

PART 1224—FILES MANAGEMENT

Sec.
1224.1 Purpose.
1224.2 Agency program requirements.

Authority: 44 U.S.C. 2904 and 3101.

§ 1224.1 Purpose.

To ensure the availability of and preservation of adequate and proper documentation of Government activities, each Federal agency shall organize its files so that complete records are maintained, records can be found when needed, the identification and retention of records of permanent value are facilitated, and the disposition of temporary records is accomplished promptly.

§ 1224.2 Agency program requirements.

(a) Each Federal agency shall establish an appropriate program for the mangement of its files. Agencies should also consult 41 CFR 201–45.204 for GSA files management regulations in developing their programs. Each Federal agency, in providing for effective controls over the creation of records and the management of agency files, shall:

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

(2) Formally specify official file locations and prohibit the maintenance of files at unofficial locations;

(3) Standardize reference service procedures to facilitate the finding, chargeout, and refiling of agency records;

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

(5) Review its records management program periodically to determine the adequacy of its filing program. Audit a representative sample of the files for duplication, misclassification, or misfiles.

PART 1228—DISPOSITION OF FEDERAL RECORDS

2. In Part 1228, remove the words "Records Disposition Division" wherever they appear and insert the words "Records Appraisal and Disposition Division (NIR)" in their place, and remove the reference § 1228.2" wherever it appears and insert the reference "§ 1220.14".

§ 1228.2 [Redesignated as § 1220.14]

3. Section 1228.2 is redesignated into §1220.14 and the definitions arranged in alphabetical sequence and the definitions of "National Archives" and "permanent record" are revised and the definition of "temporary records" is amended by removing the words "(nonarchival)" and "archival" from the first sentence as follows:

* * * * *

"National Archives of the United States" means those official records which have been determined by the Archivist of the United States to have sufficient historical or other value to warrant their continued preservation by the Federal Government and which have been accepted by the Archivist of the United States for deposit in his custody. (44 U.S.C. 2901 (11))

"Permanent record" means any record that has been determined by NARA to have sufficient value to warrant its preservation by the National Archives and Records Administration. Such a determination may take the form of:

(a) An approved offer to transfer records to the National Archives and Records Administration (§ 1228.34);

(b) A series of records designated "permanent" in an agency records schedule approved by NARA after May 14, 1973 (§ 1228.20).

4. Section 1228.12 is revised to read as follows:

§ 1228.12 Basic elements of disposition programs.

The primary steps in the development of a records disposition program are given below. Details of each element are contained in the NARA Records Managment Handbook Disposition of Federal Records (NSN 7610–01–055–8704).

(a) Inventory all records in the custody of the agency.

(b) Formulate specific disposition instructions for each series of records, including retention periods for temporary records, transfer periods for permanent records, and instructions for the retirement of records to Federal records centers when applicable.

(c) Assemble the disposition instructions for each series of records into a comprehensive agency records disposition schedule.

(d) Obtain approval of the records disposition schedule from NARA.

(e) Apply the approved records disposition schedule to all records of the agency.

5. Section 1228.20 is revised to read as follows:

§ 1228.20 Comprehensive agency records disposition schedules.

(a) *General.* Agency records schedules approved by the Archivist of the United States specify the proper disposition for all agency records. Recurring series of records of continuing value will be scheduled for retention and eventual transfer to the custody of the National Archives, and recurring series of all other records will be scheduled for destruction after a specific period of time based on administrative, fiscal, and legal values. Formulation and application of these schedules is mandatory (44 U.S.C. 3303 and 3303a). Agencies shall forward 20 copies of all formally published schedules to the National Archives (NIR), Washington, DC 20408.

(b) *Formulation of comprehensive schedules.* Each Federal agency shall prepare a comprehensive records schedule for all records in its custody. New Federal agencies shall complete comprehensive schedules within 2 years of their establishment. All schedules must follow the guidelines provided below:

(1) Schedules shall identify and describe clearly each series of records and shall contain disposition instructions that can be readily applied. Schedules must be prepared so that each office will have standing instructions detailing the destruction, transfer, or retention of records. Upon request by NARA, records recommended for retention longer than 10 years solely for administrative purposes must be justified in accordance with the procedures in § 1228.72.

(2) Each item describing a series of permanent records shall include an arrangement statement, an estimate of the volume of records accumulated annually, as well as the total volume to date.

(3) Only new or revised records series or disposition instructions, or deviations from the General Records Schedules (see § 1228.22) require NARA approval. If any items on a proposed schedule have been previously scheduled, the procedures contained in § 1228.70 must be followed.

(4) All schedules shall take into account the filing system so that destruction or transfer can be handled in blocks.

(5) The disposition of nonrecord material should be controlled by instructions in the comprehensive schedule. Non-record materials, such as extra copies of documents preserved solely for reference and stocks of processed documents shall be maintained separately from official agency files to aid in records disposition.

(6) Schedules shall be reviewed and, if necessary, updated annually. Agencies shall schedule the records of new programs within 1 year of their implemention.

(c) *Provisions of comprehensive schedules.* Records schedules shall provide for:

(1) The destruction of records that have served their statutory, fiscal, or administrative uses and no longer have sufficient value to justify further retention. Procedures for obtaining disposal authorizations are prescribed in § 1228.62;

(2) The removal to a Federal records center (or to an agency records center approved under Subpart J) of records not eligible for immediate destruction or other disposition which are no longer needed in office space and equipment. These records are maintained by the records center until they are eligible for further disposition action;

(3) The retention of the minimum volume of current records in office space and equipment consistent with efficient operations; and

(4) The identification of records of continuing value in accordance with Subpart C, and the establishment of cutoff periods after which such records are offered to the National Archives and Records Administration.

(d) *Certification.* The signature of the authorized agency representative on the Standard Form 115, Request for Records Disposition Authority, shall constitute certification that the records recommended for disposal do not or will not have sufficient administrative, legal, or fiscal value to the agency to warrant retention beyond the expiration of the specified period and that records described as having continuing value will be offered to the National Archives of the United States upon expiration of the stated period.

(e) *Disapproval of requests for disposition authority.* Requests for records disposition authority may be returned to the agency if the SF 115 is improperly prepared. The agency shall make the necessary corrections and resubmit the form to the National Archives and Records Administration (NIR). The disposition request for any item may be disapproved and the agency notified in writing if after appraisal of the records NARA determines that the proposed disposition is not consistent with the value of the records.

(f) *Withdrawn items.* Agencies may request that items listed on SF 115 be withdrawn in order to aid in the processing (appraisal) of the remaining items on the schedule.

(1) If, during the course of the appraisal process, NARA determines that records series described by an item(s) on the proposed schedule do not exist or are not arranged as stated on the schedule, NARA may request the agency to withdraw the item(s) from consideration, if the agency is unable to offer sufficient clarification.

(2) If NARA and the agency cannot readily agree on the retention period for an item(s), the item(s) may be withdrawn at the request of NARA or the agency. In these cases, the agency will submit an SF 115 with a revised proposal for disposition within 6 months of the date of approval of the original SF 115.

(g) *Applicability.* (1) Records described by items marked "disposition not approved" or withdrawn may not be destroyed until a specific disposition has been approved by NARA.

(2) Disposition authority for items on approved SF 115s that specify an organizational component of the agency as the creator or custodian of the records may be applied to the same records after internal reorganization, but only if the nature, content, and functional importance of the records remains exactly the same. Authority approved for items described in a functional format may be applied to any organizational component within the agency that is responsible for the relevant function.

(3) Disposition authorization approved for one agency may not be applied by another. Agencies that acquire records from another agency and/or continue creating the same series of records previously created by another agency through interagency reorganization must submit an SF 115 to NARA for disposition authorization for the records within one year of the reorganization.

(h) *Application of comprehensive schedules.* The head of each Federal agency shall direct the application of records schedules to ensure maximum economy of space, equipment, and personnel. Three copies of each directive or other issuance affecting an agency's records disposition program at the bureau or higher organization level shall be sent to the National Archives and Records Administration (NIR).

6. Section 1228.60 is revised to read as follows:

§ 1228.60 Authority.

No records of the Government shall be destroyed or otherwise alienated from the Government except in accordance with procedures described in this Part 1228 (44 U.S.C. 3314).

7. Section 1228.62 is revised to read as follows:

§ 1228.62 Request for authorization to dispose of temporary records.

Requests for authorization to dispose of records shall be initiated by Federal agencies by submitting Standard Form 115, Request for Records Disposition Authority, to the National Archives and Records Administration. A SF 115 is used for submitting a schedule (§ 1228.20) or a list (§ 1228.24). Authority contained in an approved disposal list is limited to records already in existence which no longer accumulate. A schedule is a continuing authorization and should be used in all instance where the types of records described in the request continue to accumulate.

§ 1228.72 [Amended]

8. Section 1228.72 is amended by revising the second sentence of paragraph (b) to read: "These extensions of retention periods will be granted for records which are required to conduct Government operations because of special circumstances which alter the normal administrative, legal, or fiscal value of the records."

§ 1228.74 [Amended]

9. Section 1228.74 is amended by removing the words "44 U.S.C. 3314" in paragraph (a) and inserting the words "44 U.S.C. 3302" in their place.

10. Section 1228.124 is amended by revising paragraph (f) to read:

§ 1228.124 Agency request.

* * * * *

(f) A justification for the transfer.

§ 1228.152 [Amended]

11. Section 1228.152 is amended by removing the work "disposal" whenever it appears in paragraph (e) and inserting the word "disposition" in its place.

§ 1228.158 [Removed]

12. Section 1228.158 is removed.

13. Section 1228.188 is revised to read as follows:

§ 1228.188 Machine-readable records.

(a) *Magnetic tape.* Computer magnetic tape is a fragile medium, highly susceptible to the generation of error by improper care and handling. To ensure that permanently valuable information stored on magnetic tape is preserved, Federal agencies should scheduel files for disposition as soon as possible after the tapes are written. When NARA has determined that a file is worthy of preservation, the agency should transfer the file to the National Archives as soon as it becomes inactive or whenever the agency cannot provide proper care and handling of the tapes (see Part 1234 of this chapter) to guarantee the preservation of the information they contain. The tapes to be transferred to the National Archives shall be on one-half inch 7 or 9 track tape reels, written in ASCII or EBCDIC, with all extraneous control characters removed from the data (except record length indicators for variable length records, or marks designating a datum, word, field, block, or file), blocked no higher than 30,000 bytes per block, at 800, 1600, or 6250 bpi. The tapes on which the data are recorded shall be new or recertified tapes (see Part 1234 of this chapter) which have been passed over a tape cleaner before writing and shall be rewound under controlled tension.

(b) *Other magnetic media.* When a machine-readable file that has been designated for preservation by NARA is maintained on a direct access storage device, the file shall be written on new or recertified one-half inch 7 or 9 track tapes, written in ASCII or EBCDIC, with all extraneous control characters removed from the data (except record length indicators for variable length records, or marks designating a datum, word, field, block, or file), blocked no higher than 30,000 bytes per block, at 800, 1600, or 6250 bpi. This tape copy shall be transferred to the National Archives.

(c) *Documentation.* Documentation adequate for servicing and interpreting machine-readable records that have been designated for preservation by NARA shall be transferred with them. This documentation shall include, but not necessarily be limited to completed Standard Form 277, Computer Magnetic Tape File Properties, and NAR Form 1428, Magnetic Tape Record Inventory, or their equivalents. Where it has been necessary to strip data of extraneous control characters (see paragraphs (a) and (b) of this section), the codebook specifications defining the data elements and their values must match the new format of the data. Guidelines for determining adequate documentation may be obtained from the office of Records Administration (mailing address: National Archives (NI), Washington, DC 20408).

14. Section 1228.198 is amended by removing in paragraph (b) the words "Regional Archives" and by revising paragraph (a) to read:

§ 1228.198 Use of records transferred to the National Archives.

(a) In accordance with 44 U.S.C. 2108, restrictions lawfully imposed on the use of transferred records will be observed and enforced by NARA to the extent that they do not violate 5 U.S.C. 552. Statutory and other restrictions on transferred records remain in force until the records have been in existence for 30 years, unless the Archivist of the United States, after consulting with the head of the transferring agency, determines that the restrictions shall remain in force for a longer period of time for specific bodies of records. The regulations in Subchapters B and C of this title, insofar as they relate to the use of records in the National Archives or in a Federal records center, apply to official use of the records by Federal agencies as well as to the public.

* * * * *

15. Parts 1230, 1232, 1234, and 1238 are added to read as follows:

PART 1230—MICROGRAPHICS

Sec.

1230.1 Scope of part.
1230.2 Authority.
1230.4 Definitions.

Subpart A—Standards for Creation of Microform Records

1230.10 Authorization.
1230.12 Preparation.
1230.14 Microfilming.

Subpart B—Standards for the Maintenance, Use, and Disposition of Microform Records

1230.20 Storage.
1230.22 Inspection.
1230.24 Use of microform records.
1230.26 Disposition of microform records.

Subpart C—Centralized Micrographic Services

1230.50 Services available.
1230.52 Fees for services.

Authority: 44 U.S.C. 2907, 3302 and 3312

§ 1230.1 Scope of part.

This part provides standards for using micrographic technology in the creation, use, storage, retrieval, preservation, and disposition of Federal records. Agencies should also consult 41 CFR Subpart 201–45.3 for GSA requirements relating to micrographic records management programs.

§ 1230.2 Authority.

As provided in 44 U.S.C. Chapters 29 and 33, the Archivist of the United States is authorized to establish standards for the photographic and micrographic production and reproduction of records by Federal agencies with a view to disposal of the original records; to establish uniform standards within the Government for the storage, use, and disposition of processed microfilm records; and to establish, maintain, and operate centralized microfilming services for Federal agencies.

§ 1230.4 Definitions.

For the purpose of this part, the following definition shall apply:

Archival microfilm. Silver halide microfilm meeting the requirements of Federal Standard No. 125D, Film Photographic and Film, Photographic Processed (for permanent records use); American National Standards Institute (ANSI) Standard PH1.25–1984 Safety Photographic Film, Specification for; PH1.28–1984 Photographic Film for Archival Records, Silver Gelatin Type on Cellulose Ester Base, Specifications for; PH1.41–1984 Photographic Film for Archival Records, Silver Gelatin Type on Polyester Base, Specifications for ; when tested by ANSI Standard PH4.8–1984, Methylene Blue Method for Measuring Thiosulfate and Silver Densitometric Method for Measuring Residual Chemicals in Films, Plates, and Papers; and stored in accordance with ANSI Standard PH1.43-1983, Storage of Processed Safety Photographic Film, Practices for.

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

Facility. An area set aside for equipment and operations required in the production or reproduction of microforms either for internal use or for the use of other organizational elements of the Federal Government.

Microfilm. (a) Raw (unexposed and unprocessed) film with characteristics that make it suitable for use in micrographics;

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

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

Microform. A term used for any form containing microimages.

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

Permanent record. Any record (see definition in 44 U.S.C. 3301) that has been determined by the Archivist of the United States to have sufficient historical or other value to warrant its continued preservation by the Government.

Unscheduled records. Any record that has not been appraised by NARA, i.e., a record that has neither been approved for disposal nor designated as permanent by the Archivist of the United States.

Subpart A—Standards for Creation of Microform Records

§ 1230.10 Authorization.

(a) Agencies proposing to microfilm permanent records or unscheduled records shall submit Standard Form (SF) 115, Request for Records Disposition Authority, in accordance with Part 1228 of this chapter. The SF 115 shall provide for the disposition of original records and microforms.

(1) Agencies proposing microfilming methods and procedures meeting the standards in § 1230.14 shall include on the SF 115 the following certification: "This certifies that the records described on this form will be microfilmed in accordance with the standards set forth in 36 CFR Part 1230."

(2) Agencies having proposed microfilming methods and procedures that do not meet the standards in § 1230.14 shall include on the SF 115 a description of the system and standards proposed for use.

(b) The approved retention period for temporary records shall be applied to microform copies of those records; the original records shall be destroyed upon verification of the microfilm, unless legal requirements preclude early destruction of the originals. NARA approval is not required prior to implementation of this provision.

(c) Agencies proposing to retain and store the silver original microforms of permanent records after disposal of the original records shall include on the SF 115 a statement that storage conditions shall adhere to the standards of § 1230.20. Such agencies shall also indicate when the first inspection of microfilm required by § 1230.22 will be conducted.

§ 1230.12 Preparation.

(a) The integrity of the original records authorized for disposal shall be maintained by ensuring that the original microforms are adequate substitutes for the original records and serve the purpose for which such records were created or maintained. Copies shall be complete and contain all records information shown on the originals.

(b) The records shall be arranged, identified, and indexed so that any individual document or component of the records can be located. At a minimum, the records shall include information identifying the agency and organization; the title of the records; the number of identifier for each unit of film; the security classificaiton, if any; and the inclusive dates, names, or other data identifying the records to be included on a unit of film.

§ 1230.14 Microfilming.

(a) *Film stock standards.* The film stock used to make microforms of permanent records for the pupose of disposal of the original shall conform to Federal Standard No. 125D and be on safety-base permanent record film as specified in ANSI PH1.25–1984, Safety Photographic Film, Specifications for; PH1.28–1984, Photographic Film for Archival Records, Silver Gelatin Type on Polyester Base, Specifications for; and tested according to PH1.29–1971, Curl of Photographic Film, Methods for Determining the; and PH1.31–1973, Brittleness of Photographic Film, Method of Determining the. Procedures for testing are covered in Federal Standard No. 170B, Film Photographic, Black and White, Classification and Testing Methods, which cites ANSI standards. To ensure protection for permanent records, agencies using microfilm systems which do not produce silver halide originals meeting these standards shall submit with the SF 115 required by § 1230.10 a schedule for the production of silver duplicates meeting the standards.

(b) *Index placement.* All indexes, registers, or other finding aids, if microfilmed, shall be placed in the first frames at the beginning of a roll of film or in the last frames of a microfiche or microfilm jacket. Computer-generated microfilm shall have the indexes following the data on a roll of film or in the last frames of a microfiche or microfilm jacket. Other index locations may be used only if dictated by special system constraints.

(c) *Original permanent microfilm records.* Systems that produce original permanent records on microfilm with no paper original; e.g., COM, shall be designed so that they produce microfilm which meets the standards of this section.

(d) *Microfilm processing.* (1) Microfilm of permanent records where the original will be disposed of shall be processed so that the residual thiosulfate ion concentration will not exceed 0.007 grams per meter in a clear area. Agencies or services that conduct tests for Federal agencies shall meet this requirement by performing the methylene blue test specified in ANSI PH4.8–1984.

(2) If the processing is to be of the reveral type, it shall be full photographic reversal; i.e., develop, bleach, expose, develop, fix, and wash.

(e) *Quality standards.* (1) The method for determining minimum resolution on microforms of source documents shall conform to the Quality Index Method for determining resolution and anticipated

losses when duplicating as described in the Association for Information and Image Management (AIIM) Recommended Practice MS104.

(i) For permanent records, a Quality Index of five is required at the third generation level.

(ii) For nonpermanent records, a Quality Index of five is required at the level of the specific munber of generations used in the system.

(iii) Resolution tests shall be performed using the NBS 1010a Microcopy Resolution Test Chart or equal and the patterns will be read following the instructions provided with the chart.

(iv) The character used to determine the height used in the Quality Index formula shall be the smallest character used to display record information.

(2) The background photographic densities on microforms shall be appropriate to the type of documents being filmed. Recommended background densities are as follows:

Classification	Description of documents	Background density
Group 1	High-quality printed books, periodicals, and dense typing.	1.1–1.3
Group 2	Fine-line originals, letters typed with a worn ribbon, pencil writing with of soft lead, and documents with small printing.	1.0–1.1
Group 3	Pencil drawings, faded printing, graph paper with pale, fine colored lines, and very small printing such as footnotes.	90–1.0
Group 4	Very weak pencil manuscripts and drawings, and poorly printed, faint documents.	.60–.90
Group 5	COM	1.2–1.5

The procedure for density measurement is described in AIIM Recommended Practice MS104–1972.

(3) Computer Output Microforms shall meet the AIIM Standard MSI–1971, Quality Standards for Computer Output Microfilm.

(f) *Microfilm and formats.* (1) The following formats are mandatory standards for microforms produced by or for Federal agencies:

(i) The formats described in ANSI Stantard MS14–1978, Specifications for 16 and 35mm Microfilms in Roll Form, shall be used for microfilming source documents on 16mm roll film. A reduction ratio of 24:1 shall be used whenever document size permits.

(ii) The formats described in ANSI Standard MS14–1978, Specifications for 16 and 35 mm Microfilms in Roll Film, shall be used for microfilming source documents on 35mm roll film. When microfilming on 35mm film for aperture card applications, format 2 prescribed in MIL–STD 399A, Military Standard Microform Formats, shall be mandatory.

(iii) Format 3 prescribed in MIL–STD 399A shall be used for aperture cards.

(iv) For microfilming source documents on microfiche, the formats prescribed in MIL–STD 399A and the standards and specifications referenced therein shall be used where appropriate for the size of documents being filmed.

(v) Mandatory Federal COM format standards are contained in Federal Information Processing Standards (FIPS) Publication Number 54 which is hereby incorporated by reference.

(2) The outside dimensions for microfilm jackets shall be 148.00+0.00−1.00mmX105.00+0.00−0.75.

(g) *Microfilm duplicating.* The production of more than 250 duplicates from an original microform, i.e., one roll of microfilm 100 feet in length or one microfiche, requires the approval of the Joint Committee on Printing, as set forth in the Government Printing and Binding Regulations. Administrative records and accounting reports are exempted from this requirement.

Subpart B—Standards for the Maintenance, Use and Disposition of Microform Records

§ 1230.20 Storage.

Nonpermanent microform records can be safely maintained under the same conditions as most paper records. The following standards as specified in ANSI PH1.43–1983 are required for storing permanent record microforms:

(a) *Roll form.* Microforms stored in roll form shall be wound on cores or reels made of noncorroding materials such as nonferrous metals or inert plastics. Other metals may be used provided that they are coated with a corrosion-resistant finish. Plastics and coated metals that may exude fumes during storage shall not be used for confining film on reels or cores. If paper bands are used, the paper shall meet the specifications of ANSI PH1.53–1984.

(b) *Storage containers.* Storage containers for microforms shall be made of inert materials such as metal or plastic. Containers made of paper products should be avoided unless the conditions prescribed in ANSI Standard PH1.53–1984 are met. The containers shall be closed to protect the microforms from environmental impurities and improper humidities.

(c) *Storage rooms.* Storage rooms or vaults for archival microforms shall be fire-resistant and must not be used for other purposes such as office space, working areas, or storage of other materials. The National Fire protection Association (NFPA) publication NFPA 232, Protection of Records, 1970, provides further guidance. Protection from damage by water shall be accomplished by storing permanent record microforms above reasonably anticipated flood stages.

(d) *Environmental conditions required.* (1) The relative humidity of the storage room or vault shall range from 20 to 40 percent with an optimum of 30 percent. Rapid and wideranging humidity changes will be avoided and shall not exceed a 5 percent change in a 24-hour period.

(2) Temperature shall not exceed 70° F. Rapid and wideranging temperature changes shall be avoided and shall not exceed a 5 percent change in a 24-hour period. A storage temperature of 35° F, or below should be used for color film.

(3) Solid particles, which may abrade film or react with the image, shall be removed by mechanical filters from air supplied to housings or rooms used for archival storage. The mechanical filters are preferably of dry media type having an arrestance or cleaning efficiency of not less than 85 percent as determined by the stain test described in ASHRAE Standard 52–68(11).

(4) Gaseous impurities such as peroxides, oxidizing agents, sulphur dioxide, hydrogen sulfide, and others which cause deterioration of microforms shall be removed from the air by suitable washers or absorbers. Archival microforms shall not be stored in the same room with nonsilver gelatin films. They also shall not be stored in another room using the same ventilation system because gases given off by the other films may damage or destroy the images on the silver archival films.

§ 1230.22 Inspection.

(a) Master films of permanent record microforms and records microfilmed to dispose of the original record shall be inspected every 2 years during their scheduled life. The inspection shall be made using a 1 percent randomly selected sample in the following categories: 70 percent—microforms not previously tested, 20 percent—microforms tested inthe last inspection, and 10 percent—control group. The control group shall represent samples of microforms from the oldest microforms filmed through the most current. The results of the inspection shall be reported to the Office of Records Administration, National Archives (NI), Washington, DC 20408, 30 days after the inspection is completed. Reports shall include (1) the quantity of microform records on hand: i.e., number of rolls and number of microfiche; (2) the quantity of microforms inspected; (3) the condition of the microforms; (4) any

defects discovered; and (5) corrective action taken.

(b) The elements of the inspection shall consist of (1) an inspection for aging blemishes following the guidelines in the National Bureau of Standards Handbook 96, Inspection of Processed Photographic Record Films for Aging Blemishes; (2) a rereading of resolution targets; (3) a remeasurement of density; and (4) a certification of the environmental conditions under which the microforms are stored, as shown in § 1230.10.

(c) An inspection log shall be maintained. Information to be contained in the log shall include (1) a complete description of all records tested (title; number or identifier for each unit of film; and inclusive dates, names, or other data identifying the records on the unit of film); (2) the record category; i.e., newly tested, previously tested, or control group; (3) the date of inspection; (4) the elements of inspection; (5) the defects uncovered; and (6) the corrective action taken. In addition, the log shall contain the results of all archival film tests required by § 1230.14.

(d) An agency having in its custody a master microfrom that is deteriorating, as shown by the inspection, shall prepare a silver duplicate to replace the deteriorating master.

(e) Agencies are responsible for the inspection of agency microfilm records transferred to Federal records centers.

§ 1230.24 Use of microform records.

(a) The master microform shall not be used for reference purposes. Duplicates shall be used for reference and for further duplication on a recurring basis or for large-scale duplication, as for distribution of records on microform. Agency procedures shall ensure that master microforms remain clean and undamaged during the duplication process.

(b) Agencies retaining the original record in accordance with an approved records disposition schedule may apply agency standards for the use of microform records.

§ 1230.26 Disposition of microform records.

The disposition of microform records shall be carried out in the same manner prescribed for other types of records in Part 1228 of this chapter with the following additional requirements:

(a) The silver halide original (or a silver halide duplicate microform record created in accordance with § 1230.14), plus one copy (silver, diazo, or vesicular), for permanent records, of each record microfilmed by an agency, shall be verified for completeness and accuracy. The microforms may be transferred to an approved agency records center, the National Archives, or to a Federal records center, at the time that the records are to be retired in accordance with the approved records control schedule.

(b) The microforms shall be accompanied by information identifying the agency and organization; the title of the records; the number or identifier for each unit of film; the security classification, if any; the inclusive dates, names, or other data indentifying the records to be included on a unit of film; and a certification by an agency official that the microforms were produced in the normal course of agency operations and that care has been taken to ensure that the microforms are a complete and accurate copy of the original.

Subpart C—Centralized Micrographic Services

§ 1230.50 Services available.

NARA provides reimbursable microfilming services at many of its Federal records centers, including the preparation, indexing, and filming of records, inspection of film, and labeling of film containers. Agencies desiring microfilming services should contact the Office of Federal Records Centers, National Archives (NC), Washington, DC 20408, or the director of the Federal records center serving the agency's records (see § 1228.150 of this chapter).

§ 1230.52 Fees for services.

The fees for microfilming services will be announced in NARA bulletins. For microfilming services not listed, contact the office shown in § 1230.50.

PART 1232—AUDIOVISUAL RECORDS MANAGEMENT

Sec.

1232.1 Scope of part.
1232.2 Objectives.
1232.4 Agency program responsibilities.
1232.6 Centralized audiovisual services.

Authority: 44 U.S.C. 2904 and 3101.

§ 1232.1 Scope of part.

This part prescribes policies and procedures for managing audiovisual records to ensure adequate and proper documentation and appropriate disposition of audiovisual records.

§ 1232.2 Objectives.

The objectives of audiovisual records management are to achieve the effective creation, maintenance, use, and disposition of audiovisual and related records by identifying audiovisual and related records to be created and maintained; establishing standards for maintenance and disposition of audiovisual and related records; establishing standards for the physical security and preservation of audiovisual records; and reviewing audiovisual recordkeeping practices on a continuing basis to improve procedures.

§ 1232.4 Agency program responsibilities.

(a) Each Federal agency, in providing for effective controls over the creation, maintenance, use and disposition of records, shall establish an appropriate program for the management of audiovisual records. This audiovisual records management program shall:

(1) Prescribe the types of records to be created and maintained so that audiovisual operations and their products are properly documented (guidelines describing the appropriate types of records are found in § 1228.184 of this chapter);

(2) Issue standards for the maintenance and disposition of audiovisual and related records;

(3) Issue standards for the physical security and preservation of audiovisual records;

(4) Review agency audiovisual recordkeeping and exploit opportunities for improvement.

(b) Each agency should establish agency standards for its audiovisual operations and issue appropriate instructions. These standards should include:

(1) Identifying the various generations of audiovisual records through clasification and labeling;

(2) Filing, controlling, and scheduling audiovisual and related records;

(3) Preserving the physical integrity of audiovisual records through proper use and storage conditions; and

(4) Establishing contract specifications for contractor-produced audiovisual records which protect the Government's legal title and control over all audiovisual media and related documentation.

§ 1232.6 Centralized audiovisual services.

(a) *National Audiovisual Center.* The National Audiovisual Center (NAC) serves as a central information source to the general public and Federal agencies concerning the availability of audiovisual products produced by or for the Government. NAC rents and sells Federal audiovisual productions to the public and Federal agencies. NAC compiles and publishes Government-wide catalogs and uses other information dissemination techniques to inform the public about audiovisual products available for sale and rent. NAC develops criteria, establishes

appropriate terminology, and recommends Government-wide practices for the cataloging and indexing of audiovisual productions, and maintains a data bank containing information on Federal audiovisual productions.

(b) *Agency requirements.* Agencies must check commercial and Government sources before authorizing audiovisual productions or procurements.

(1) *Subject search.* Prior to authorizing any type of audiovisual production, all agencies will attempt to determine if existing productions are available to satisfy their needs. Agencies should use the resources of NAC to determine what Federal productions exist by requesting subject searches. Standard Form 282, Mandatory Title Check, may be used for this purpose. Agencies should also review commercial media collections, either through catalogs or computer-based resources. If there are no existing or commercial productions available, the agency may produce, within existing budget limitations, additional productions to support program responsibilities.

(2) *Federal Audiovisual Production Report* (SF 202). (i) Standarld Form 202, Federal Audiovisual Production Report, shall be prepared for all productions by each agency when production is authorized, except as noted in OMB Circular A–114. Interagency report control number 0151–NAR–XX has been assigned to this report in accordance with 41 CFR Part 201–45. Prior to production, pre-productioon sections of the report, with information about materials planned or in process shall be completed and sent to NAC. Upon completion of an audiovisual production, the post-production sections of the SF 202 shall be completed and forwarded to NAC. This information will become part of the Center's data base. Information from the data base will be provided to other Federal agencies and the public.

(ii) The Department of Defense will compile its own production data using DOD Form 1955, DOD Audiovisual Production Report. Information about these productions will be made available to NAC through the Defense Audiovisual Information System (DAVIS).

(3) *Annual Audiovisual Report.* Agencies shall file Standard Form 203, Annual Audiovisual Report, detailing all audiovisual activity each fiscal year. The report is due December 31 each year for the previous fiscal year, and shall be forwarded to the National Audiovisual Center, National Archives and Records Administration, 8700 Edgeworth Drive, Capitol Heights, MD 20743–3701. All audiovisual productions, including productions excluded from other reporting requirments of OMB Circular A–114, shall be reported on the SF 203. Interagency report control number 0152–NAR–AN has been assigned to this report in accordance with 41 CFR Part 201–45. The report is used to acquire data on Federal audiovisual activities, including overhead for in-house expenses. This information, when compiled, will be made available, upon request, to all agencies and to the public. Copies of SF 203 may be obtained from NAC. Agencies shall ensure, through management control and cost accounting systems, the accuracy and consistency of audiovisual production budget data provided to OMB and the SF 203 data furnished to NAC.

(4) *Evaluation.* Agency management should perform appropriate evaluation of audiovisual productions and include evaluation in audiovisual management control systems to ensure goals and objectives of the productions were met.

(i) Each agency shall develop an evaluation program to assess the value and effectiveness of its audiovisual productions.

(ii) The complexity and cost of evaluations should be commensurate to the cost and program impact of the audiovisual production being evaluated. Evaluation methods may range from a simple tally sheet to record sample responses to a more complex survey with interviews and testing forms.

(5) *Liaison.* Each agency shall forward the name, mailing address, and telephone number of the office which is assigned responsibility for management oversight of the agency's audivisual activities to the Office of Federal Procurement Policy (OFPP), with an information copy to NAC (mailing address: National Audiovisual Center, National Archives and Records Administration, 8700 Edgeworth Drive, Capitol Heights, MD 20743–3701). These designated offices shall serve as the main point of between NAC and Federal agenontact for OFPP and NAC in all matters relating to Government-wide audiovisual policies.

(6) *Stock footage.* Agencies, except the Department of Defense, shall offer to the Special Archives Division (NNS), NARA, motion picture out-takes, trims, and other unedited motion picture footage (with stock footage value) accumulated in the production of audiovisual products. The footage will be made available to other Federal agencies and the public through services provided by the Special Archives Division (mailing address: National Archives (NNS), Washington, DC 20408).

PART 1234—ADP RECORDS MANAGEMENT

Sec.

1234.1 Scope of part.
1234.2 Program requirements.
1234.4 Care, handling, and storage of magnetic computer tapes and portable disk packs.

Authority: 44 U.S.C. 2904 and 3101.

§ 1234.1 Scope of part.

This part establishes requirements for agency records management programs for ADP records and standards for the care and handling of magnetic media to ensure the proper creation, maintenance, use and disposition of permanent ADP records and ADP records which have not been scheduled for disposition. Additional guidance about the care and handling of magnetic media should be requested from the Office of Records Administration, National Archives (NIA), Washington, DC 20408. Agencies should also consult 41 CFR 201–45.106 and 201–34.006 for GSA requirements relating to ADP records management programs.

§ 1234.2 Program requirements.

Each Federal agency shall establish an appropriate program for the management of ADP records to include:

(a) Identifying the records to be used and maintained to document the ADP operation;

(b) Specifying the types of machine readable records created, together with the necessary classification, labeling, recording, and filing standards;

(c) Maintenance standards for the records used in ADP records management;

(d) Preserving machine-readable records through the use of proper media, storage facilities, and maintenance techniques;

(e) Following NARA and GSA guidance on the care and handling of diskettes (floppy disks);

(f) Scheduling the disposition of machine-readable records and the records used in ADP records management; and

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

§ 1234.4 Care, handling, and storage of magnetic computer tapes and disk packs.

Magnetic computer media needs special handling to prevent the loss of information. The following standards should be observed in centralized computer rooms as well as decentralized computer support activities.

(a) Test and certify media no more than 6 months before using them to record information designated for permanent retention.

(b) When writing tapes, verify them as error free.

(c) Annually read a 3 percent statistical sample of all reels of tape to identify any loss of data and to discover its causes. If errors are detected, attempt to eliminate them and the causes of the errors. Replace tapes with 10 or more errors and, when possible, restore lost data.

(d) Ensure that information is not lost because of changing technology or deteriorating magnetic media by updating magnetic media to provide compatibility with the agency's hardware and software.

(e) Label magnetic media externally to include the name of the organizational unit responsible for the data; file title(s); dates of creation and coverage; the recording density; type of internal labels, if applicable; data set name(s), if applicable; volume serial number; number of tracks; character code/software dependency; records length; block size; and reel sequence number, if the file is part of a multi-reel set.

(f) Separate magnetic media containing permanent records from those containing temporary records.

(g) Maintain adequate and up-to-date technical documentation with the file. Minimum documentation is a narrative description of the file(s); physical file characteristics; recording mode information, including the coding structure (code books); recording system information; and a record layout. The record layout should break down the file by fields. Each field will have a name, size, starting position, and a description of the form of the data (alphabetic, zoned decimal, packed decimal, or numeric).

(h) Keep a duplicate copy of the data at an off-site location for security backup.

(i) Maintain the operating, storage, and test areas for computer magnetic media at the following recommended temperatures and relative humidities:

Constant Temperature—60° to 72°F.
Constant Relative Humidity—40% to 50%

(j) Allow only authorized personnel to enter storage libraries and computer rooms. Prohibit smoking, eating, and drinking in computer rooms, storage libraries, and rehabilitation areas, and keep them as clean as possible.

(k) Transfer the original or a duplicate copy of the file to the National Archives at the time specified in the records disposition schedule in accordance with instructions found in § 1228.188. Transfer may take place at an earlier date if convenient for both the agency and the National Archives.

PART 1238—PROGRAM ASSISTANCE

Sec.
1238.1 Scope of part.
1238.2 Requests for assistance.

Authority: 44 U.S.C. 2904 and 3101.

§ 1238.1 Scope of part.

The National Archives and Records Administration publishes handbooks, conducts workshops and other training sessions, and furnishes information and guidance to Federal agencies about the creation of records, their maintenance and use, and their disposition.

§ 1238.2 Requests for assistance.

Agencies desiring information or assistance related to any of the areas covered by Subchapter B should contact the Agency Services Division, Office of Records Administration, National Archives (NIA), Washington, DC 20408. Agency field organizations may contact the director of the Federal records center serving the field organization's records (see § 1228.150).

Dated: May 6, 1985.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 85-12471 Filed 5-21-85; 8:45 am]
BILLING CODE 7515-01-M

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S.J. Res. 61 / Pub. L. 99-42.

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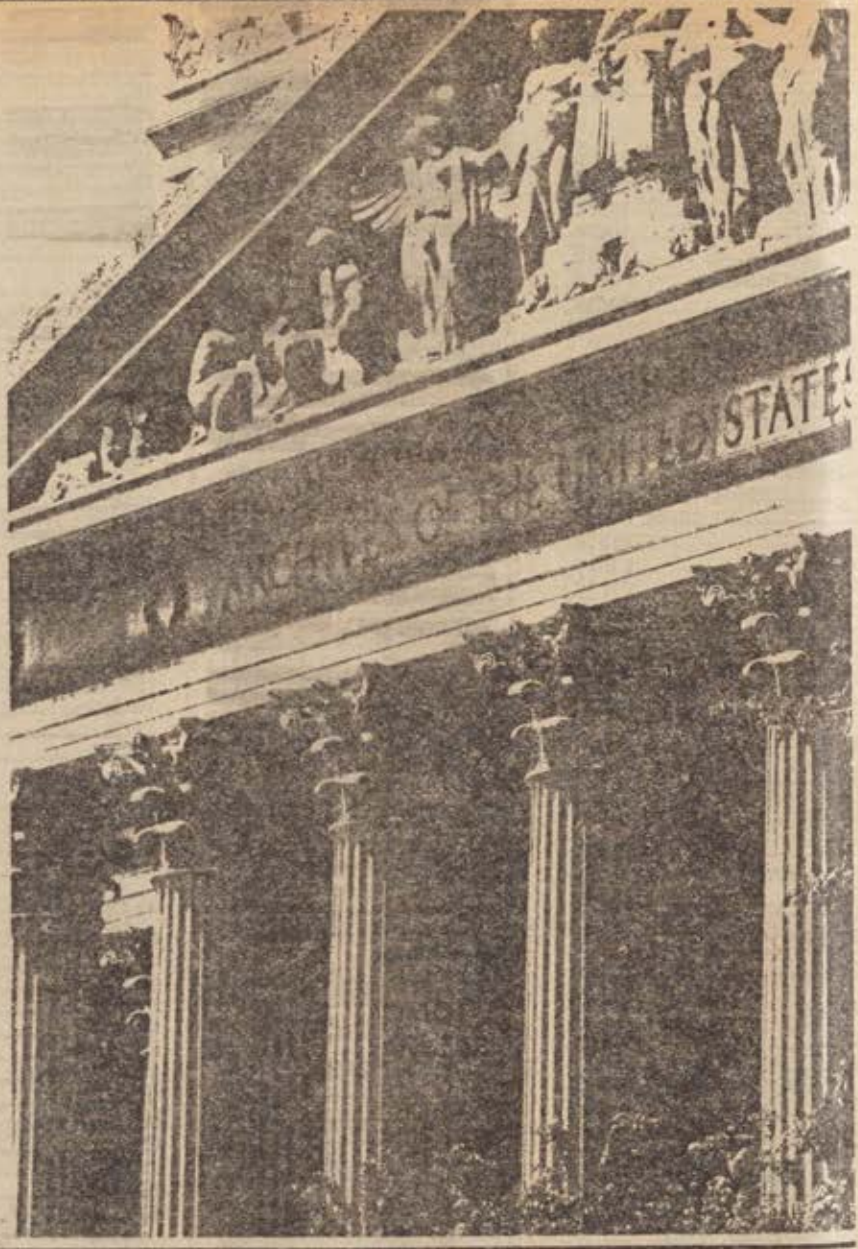

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