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Thursday
August 15, 1985

Briefings on How To Use the Federal Register—
For information on briefings in Washington, DC, see announcement on the inside cover of this issue.

Selected Subjects

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Selected Subjects

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

THE FEDERAL REGISTER: WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WASHINGTON, DC

WHEN: September 6 and 27; at 9 am (identical sessions).

WHERE: Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.

RESERVATIONS: Call Martin Franks, Workshop Coordinator, 202-523-5239.

FUTURE WORKSHOPS: Additional workshops are scheduled bimonthly in Washington starting in November. The January 1986 workshop will include facilities for the hearing impaired. Dates will be announced later.

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Separate Parts in this Issue

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

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 50, No. 158
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OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 530

Special Salary Rate Schedules for Recruitment and Retention

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management is amending its regulations concerning the establishment, adjustment, and termination of special salary rate schedules. Specifically, the changes include a description of the factors we consider when establishing, adjusting, or terminating special salary rate schedules, and provide that such special salary rate schedules be published for comment in the Federal Register. In addition, the regulations have been updated and reorganized for clarity and contain certain technical changes.

EFFECTIVE DATE: September 16, 1985.

FOR FURTHER INFORMATION CONTACT: William M. Gualtieri, (202) 632-7858.

SUPPLEMENTARY INFORMATION:

Law

Section 5303 of title 5, United States Code, authorizes the President to establish special minimum rates of basic pay for one or more grades, occupational groups, series, classes, or subdivisions of classes subject to statutory pay schedules, in one or more areas or locations, when the pay rates in private enterprise are so substantially above the statutory pay rates for the positions concerned as to handicap significantly the Government's recruitment or retention of well-qualified persons.

Executive order

Section 301(a) of Executive Order 11721 of May 23, 1973, as amended, authorizes us to exercise the authority conferred upon the President by the provisions of section 5303 of title 5, United States Code, to establish and revise special minimum pay rates and to prescribe conversion rules for adjusting an employee's pay for positions classified under the General Schedule and certain other pay systems.

Regulations

We published proposed regulations on May 23, 1985 (50 FR 21266). The regulations revised Subpart C of Part 530 to describe the factors we consider in determining whether special rates should be established or adjusted, and in deciding at what level to set such special rates. The regulations provided an additional option for the construction of special salary rate schedules involving increasing some, but not all, of the rates of the regular schedule. The regulations also proposed a number of technical and editorial changes that clarified and reorganized the existing regulations.

The public comment period ended on June 24, 1985. We received eight written comments—one from an employee, three from agencies, three from unions, and one from a professional association. In addition, we received a number of comments by telephone. There were a number of suggestions for specific improvements in the regulations that have been adopted, either in whole or in part, in these final regulations. Specific comments received and related decisions are summarized below.

Comments

A labor organization was concerned that the use of the term "certain employees" in § 530.301 is vague since it does not specifically mention nurses as being among those employees. However, we disagree with this conclusion since "certain employees" is already more specifically defined to include nurses in the following section, § 530.302(b). The labor organization's suggestion to modify § 530.301 was, therefore, not adopted.

One agency requested that we include language in § 530.302(b) to explicitly define the scope of coverage of the regulations as applying only to special salary rates authorized under section 5303 of title 5, United States Code. As written, the agency felt the proposed regulations could be mistakenly interpreted to apply to special salary rates authorized by the Veterans Administration under section 4107(g) of title 38, United States Code. We agree and language was added to § 530.301 for clarification.

The same agency noted that § 101(a)(1) of Pub. L. 98-528, Veterans Health Care Act of 1984, expanded the coverage of 38 U.S.C. 4107(g) to include Veterans Administration police officers. In response, we have modified § 530.302(b) accordingly.

A labor organization was concerned with the inability of § 530.303(a) to deal with circumstances other than pay (for example, hospitals located in high-crime urban areas) as causes of staffing problems which would be alleviated through the establishment of special salary rates, and suggested liberalizing the proposed regulations to account for such circumstances. However, we cannot adopt this suggestion since the statute upon which the regulations are based specifically limits the basis upon which special salary rates may be approved to higher pay rates in private enterprise.

An employee disagreed with our including in the proposed § 530.303(a) a provision allowing us to increase some, but not all, of the rates of a regular rate schedule whenever special minimum rates are initially authorized. The employee argued that the implementation of such a proposal would not result in cost savings and, further, would confuse personnelists responsible for setting salaries. We disagree with both comments. We believe savings will result in all cases in which there are employees on the rolls having rates above the special minimum rate since such employees will not receive the increase. Regarding pay administration, an issue of concern to one union as well, we do not expect personnelists to become confused by any change in the construction of special salary rate schedules. In addition, to assure that confusion does not occur, we plan to issue additional procedural guidance at such time as the specially constructed schedules are authorized. Further, actual use of this alternative will be preceded by a period for comment in the Federal Register, during which time interested parties can

bring potential pay administration problems to our attention.

Also with respect to § 530.303(a), an agency and a labor organization were concerned with how a special salary rate schedule of less than 10 steps would be applied to occupations for which special salary rates were authorized at the full performance level of the occupation. We share their concern, and for this reason we do not anticipate that we will authorize a special salary rate schedule of less than 10 steps for such occupations. Rather, we expect special salary rate schedules of less than 10 steps to be authorized, if at all, for occupations/grades where employees typically spend only 1 or 2 years before being promoted. (For example, a pharmacist, frequently hired at GS-9, is typically promoted within a year or two, assuming satisfactory performance.) Nonetheless, we are not precluding the possibility of using this alternative at the full performance level of an occupation when there is a clear cost benefit for the Government to do so; for example, when there is a severe recruitment problem, but no retention problem, at the full performance level.

A professional organization suggested that all requests to establish or adjust special salary rates should be transmitted to our regional offices, rather than to the central office, as proposed in § 530.303(c). However, we have determined that this function should be centralized, with regard to both us as the approving authority and the agencies as the requesting authority, to ensure that these decisions are made in full cognizance of the Government's and the agencies' budgetary goals.

One union was concerned that the actual rates of pay for comparable positions in private enterprise was not listed as a criterion in § 530.303(d) for determining special pay rates. Because of the statute's clear reference to "pay rates in private enterprise" (5 U.S.C. 5303(a)), our consideration of private pay rates in determining the cause of any staffing problems was implied in the proposed regulations. Nonetheless, we have revised it to explicitly show private pay rates as being a criterion.

This union, and an agency, were concerned with our use of quit and, especially, quit for pay rates as criteria for establishing special salary rates. The union went further to suggest that we should limit ourselves to considering only private sector pay in determining whether to establish special salary rates. However, such a proposal is clearly inconsistent with the statute, which specifically states that the "Government's recruitment and retention" of individuals must be considered. We are, therefore, obliged to collect data on agencies' ability to retain their employees. The statute's clear reference to higher private sector pay as being the reason for staffing problems just as clearly requires us to attempt to determine the extent to which non-competitive Federal pay is the cause of any retention problems. Agencies are well aware of our requirement that they collect quit and quit for pay data to document their requests for new or adjusted special salary rates, and it is their responsibility to develop management systems which can be relied upon to produce accurate retention data on their employees. Retention data, combined with other indicators of both retention and recruitment problems, allow us to determine the full extent of agencies' staffing difficulties.

Also regarding § 530.303(d), a professional organization recommended adding elements reflecting the quality of applicants, who have either quit or refused appointments because of salary considerations, to the list of those items considered when establishing or adjusting special rate schedules. However, we believe the reference to "well qualified" personnel already mentioned in § 530.303(a) is sufficient and, for the sake of avoiding redundancy, we are not making any changes in § 530.303(d) as a result of this suggestion.

A professional association was concerned that the wording of § 530.303(f) (which explains that none of the factors outlined in paragraphs (d) or (e) to establish or adjust special salary rate schedules requires those schedules to be established or adjusted to any given level) will lend itself to the impression that our determinations are arbitrary and capricious. To the extent that this mistaken impression would be implied by the wording of the paragraph as it was proposed, we have revised paragraph (f) to avoid that impression.

One union suggested that we should publish our reasons for denying agencies' special salary rate requests. The decision to request special salary rates is an agency management decision, based on the need to adequately staff the positions which it could not otherwise fill because of non-competitive Federal pay compared to pay in private enterprise in a labor market. While special salary rates, when approved, would coincidentally benefit employees, the decision to submit a request for special salary rates is not based on an agency management's desire to confer additional benefits on its employees. For this reason, if we deny special salary rate requests we explain our reasons to the requesting agency, not to its employees. It is the agency's prerogative to decide whether and to what extent it should inform its employees of our negative special salary rate determination.

A labor organization was concerned that §§ 530.304(a) and 530.305 do not provide for public comment on proposed special salary rate adjustments. In stating in these sections, as well as in § 530.303(a), that notice of special salary rate schedules will be published in the **Federal Register**, it was our intention to have periods for public comment. Since there seems to be some doubt as to our intentions in this regard, we have revised the above sections to specifically state that public comments will normally be invited on special salary rate proposals. However, in emergency situations—such as those involving national security—schedules may be established or increased on an interim basis, as provided for in the Administrative Procedure Act (5 U.S.C. 551 et seq.).

A union also suggested that the regulations governing special rate schedules need to include a provision for OPM to publish the findings of the data gathering. While we do not intend to publish the findings related to each approved request to initially establish or to increase a special salary rate schedule, we will make those findings available for public inspection. We will normally accept comments on all proposed special salary rates, and the **Federal Register** notice showing the proposed and final rates will appear as posting bulletins in the Federal Personnel Manual.

One agency stated that the language in § 530.304(c) should be changed to provide for a decrease in the pay schedules identified in § 530.301. We have recently addressed the possibility of a decrease in the General Schedule in another rulemaking (50 FR 20422, May 16, 1985). For the sake of completeness then, the agency suggested that the fact that a decrease does not affect a special salary rate schedule should be mentioned. The agency also suggested we explain how increases in the General Schedule could affect special rate schedules. We agree with these comments. Special salary rates are administratively set by a legal mechanism (5 U.S.C. 5303 for General Schedule rates) separate from the statutes under which the regular rates are adjusted (5 U.S.C. 5305 for General Schedule positions). An increase or decrease in any of the schedules in § 530.301, therefore, has no effect on

special salary rate schedules. However, except for an employee receiving a rate of basic pay under Part 540 of this chapter, a special salary rate may not be less than the rate for the corresponding numerical step or rate in the regular rate range for the grade or level involved. These changes are reflected in § 530.304(c).

A labor organization was also concerned that § 530.304(c) does not provide for an automatic increase in special salary rate schedules when any of the regular pay schedules are increased. As stated above, special rate schedules are adjusted based on a separate provision of law. It would therefore not be appropriate to adopt the association's suggestion to provide for an automatic increase.

Upon further review, we have made a technical revision in § 530.306(a)(2)(ii). This change clarifies our intent that when a special rate is initially established or increased, an employee in a position subject to the new special rate who is retaining a rate above the old maximum under an authority other than Part 536 of this chapter will receive an increase equal to the amount of the increase in the maximum rate. This provision includes employees receiving a retained special rate resulting from the reduction or termination of a special salary rate schedule before the first pay period beginning on or after January 11, 1979.

In addition to this revision, the parenthetical expression in § 530.306(a)(2)(ii) was revised to add the words "day of the first" which were omitted at the time of printing.

We have also made technical revisions in § 530.306(a)(2) (i) and (ii) in response to an agency's comment. This change clarifies our intent that when a special salary rate is initially established or increased, an employee in a position subject to the new special salary rate who is retaining a rate above the old maximum under Part 536 of this chapter or 5 U.S.C. 3594 will receive an increase equal to 50 percent of the increase in the maximum rate of the applicable rate range.

One agency pointed out the perceived inconsistency in § 530.306(b)(iii) in entitling special rate employees to receive pay retention when their basic pay is in excess of the maximum rate for the regular or decreased special rate schedule, when at the same time regular General Schedule employees would not be so entitled by virtue of a proposed change (50 FR 20422) in the regulations on pay retention. (The purpose of that proposed change was to clarify that pay retention does not apply when there is a statutory reduction in scheduled rates of pay under General Schedule, including a reduction authorized by a presidential alternative pay plan.) As stated earlier, special salary rate are administratively set by a legal mechanism separate from the statutes under which the regular rates are adjusted. An increase or decrease in any of the schedules in § 530.301, therefore, has no effect on special rate schedules.

A union was concerned with the clarity of § 530.306(b)(2). This section addresses two different rates, but the last clause of the last sentence concludes, "The employee shall be entitled to *this rate* as provided . . ." While it is possible to determine which rate that means, we have clarified the paragraph to remove all doubt. In addition, a statement was added clarifying the effect of decreased or discontinued special salary rates on employees receiving a rate of basic pay below the minimum rate of the regular schedule and established under Part 540.

Executive Order 12291, Federal Regulation

I have determined that this is not a major rule as defined under section 1(b) of Executive Order 12291, Federal Regulation.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities, because they apply only to Federal employees and agencies.

List of Subjects in 5 CFR Part 530

Government employees, Wages, Administrative practice and procedure.

U.S. Office of Personnel Management.

Loretta Cornelius,

Acting Director.

Accordingly, OPM is revising Subpart C of Part 530 of Title 5, Code of Federal Regulations, to read as follows:

PART 530—PAY RATES AND SYSTEMS (GENERAL)

* * * * *

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

Sec.

Authority: 5 U.S.C. 5303; E.O. 11721, as amended.

Subpart C—Special Salary Rate Schedules for Recruitment and Retention

§ 530.301 Applicability.

Except as provided in § 530.302(b) of this subpart, this subpart applies to agencies having positions that would otherwise be covered by (a) the General Schedule, under section 5332(a) of title 5, United States Code; (b) the pay scales for certain employees in the Department of Medicine and Surgery of the Veterans Administration, under chapter 73 of title 38, United States Code; and (c) the pay schedules for personnel paid under section 403 of the Foreign Service Act of 1980.

§ 530.302 Authority.

(a) In lieu of the pay schedules identified in § 530.301, the Office of Personnel Management (OPM) may establish, and agencies must pay, special salary rates under section 5303 of title 5, United States Code, Executive Order 11721, and this subpart.

(b) The Veterans Administration may use other authorities to establish and pay special salary rates. Special salary rates may be established for (1) Department of Medicine and Surgery General Schedule employees providing direct patient care or services incident to direct patient care under 38 U.S.C. 4107(g); (2) employees who are Veterans Administration police officers providing services under section 218 of title 38 of the United States Code; and (3) nurses and certain other employees of the Department of Medicine and Surgery appointed under chapter 73 of title 38, United States Code.

§ 530.303 Establishing and adjusting special salary rate schedules.

(a) OPM may increase the minimum rates otherwise payable under the pay schedules identified in § 530.301 in one or more areas or locations to the extent it considers necessary to overcome significant handicaps in the recruitment and retention of well-qualified personnel when these handicaps result from pay rates in private enterprise that are substantially above the pay rates of those schedules. When a minimum rate is increased under this authority, increases may also be made in one or more of the remaining rates of the affected grade or level. In no event may an increased minimum rate exceed the maximum rate prescribed by law for the grade or level. Notice of these special salary rate schedules will be published in the **Federal Register**. Comments will normally be invited on special salary rate proposals.

(b) An agency may propose to OPM that special salary rates be established or adjusted. The agency initiating such a request, and all other agencies wishing to be included, are responsible for submitting complete supporting data, as specified by OPM, including, after consulting with OPM, a survey of prevailing pay rates in private enterprise in the relevant labor market.

(c) All requests to establish or adjust special salary rate schedules must be transmitted directly to OPM's central office by the agency's headquarters. Each request must include a certification by the head of the agency that the special salary rates are necessary to ensure staffing adequate to the accomplishment of the agency's mission and that funds are available to cover the increased expenditures for salaries and benefits that would result from the approval of the request. (If the special salary rate request covers fewer that 200 employees and would increase annual salary costs by less than $200,000, this certification may be provided by a headquarters official designated to act on behalf of the head of the agency.)

(d) In establishing or adjusting special salary rate schedules, OPM considers—

(1) The number of vacant positions and the length of time they have been vacant;

(2) The number of employees who have quit, including the number quitting for higher paying positions in private enterprise;

(3) The number of vacancies the agency tried to fill compared with the number of hires and offers made;

(4) The degree to which the agency has considered relevant non-pay solutions to the staffing problems, such as conducting an adequate recruiting program, using appropriate appointment authorities, redesigning jobs, establishing training programs, and improving working conditions;

(5) The impact of the staffing problem on the agency's mission; and

(6) The level of rates paid by private enterprise for comparable positions.

(e) In determining at what level to set special salary rates, OPM considers—

(1) The level of rates it believes necessary to recruit or retain an adequate number of well-qualified persons;

(2) The offsetting costs that will be incurred if special salary rate schedules are not authorized; and

(3) The level of rates paid by private enterprise for comparable positions.

(f) No one factor or combination of factors specified in paragraphs (d) or (e) of this section requires special salary rate schedules to be established or to be adjusted to any given level. Each agency request to establish or adjust special salary rate schedules is judged on its own merits based on the extent to which it meets the criteria specified in paragraphs (c) and (d) of this section.

§ 530.304 Annual review.

(a) OPM reviews special salary rate schedules annually to determine whether there is a continuing need for them. Notice of adjustments to existing special salary rate schedules made as a result of this review will be published in the **Federal Register**. Comments will normally be invited on proposed adjustments.

(b) In conducting the annual review, OPM will designate lead agencies for assistance in coordinating the collection of relevant data. All agencies are responsible for submitting complete supporting data upon request to OPM or the lead agency, as appropriate.

(c) An adjustment in a pay schedule identified in § 530.301 has no effect on special salary rate schedules authorized under this subpart. However, except for an employee receiving a rate of basic pay under Part 540 of this chapter, a special salary rate may not be less than the rate for the corresponding numerical step or rate in the regular rate range for the grade or level involved.

§ 530.305 Revising or discontinuing special salary rate schedules.

OPM and agencies shall initiate action to discontinue or revise special salary rate schedules when it is determined that these schedules are no longer needed, or no longer needed at existing levels, to ensure satisfactory recruitment and retention. No employee's pay shall be reduced because of such discontinuation or revision. Notice of decreased or discontinued schedules will be published in the **Federal Register** and comments will be invited on these proposed adjustments.

§ 530.306 Determining employee rates.

(a) *Initial establishment and increases.* (1) Except as otherwise provided in this section, when an employee is in a position to which a special rate schedule becomes initially applicable or for which the the special salary rate schedule is increased, the agency shall fix this employee's rate of basic pay at the step in the new or increased special salary rate schedule that corresponds to the employee's existing numerical step or rate of the grade or level.

(2) When a special salary rate schedule becomes initially applicable to, or increased for, a position occupied by an employee who is receiving basic pay at a rate in excess of the maximum rate of the applicable rate schedule, the agency shall increase the employee's rate of basic pay as follows:

(i) If the employee is retaining a rate under Part 536 of this chapter or section 3594 of title 5, United States Code, the agency shall increase the employee's rate of basic pay by an amount equal to 50 percent of the increase in the maximum rate of the applicable rate range, except as provided in § 536.205(d).

(ii) If the employee is retaining a rate under an authority other than Part 536 of this chapter (including a retained special rate resulting from the reduction or termination of a special salary rate schedule before the first day of the first pay period beginning on or after January 11, 1979), or section 3594 of title 5, United States Code, the agency shall increase the employee's rate of basic pay by the amount of the increase in the maximum rate of the applicable rate range.

(3) When a special salary schedule becomes initially applicable to, or increased for, a position occupied by an employee covered by the Performance Management and Recognition System, the employee's rate of basic pay shall be determined under § 540.106.

(b) *Decreased and discontinued rates.* (1) Except as provided in paragraph (b)(2) of this section, when the special salary rate schedule for a position is discontinued or decreased, the agency shall determine the rate of basic pay for an employee in the position as follows:

(i) If the employee is receiving a rate of basic pay equal to one of the rates in the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at that rate.

(ii) If the employee is receiving a rate of basic pay at a rate between two rates in the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at the two rates.

(iii) If the employee is receiving a rate of basic pay at a rate in excess of the maximum rate for the regular or decreased special salary rate schedule for the employee's grade or level, the agency shall fix the employee's rate of basic pay at his or her existing rate, and the employee shall be entitled to this rate as provided in § 536.104(a)(3).

(2) If the employee is receiving a rate of basic pay established under Part 540 of this chapter, the employee shall receive his or her existing rate. This rate may be lower than the minimum rate of the regular schedule as provided in § 540.106(c)(3). If the employee's existing

rate exceeds the maximum rate for the regular or decreased special salary rate schedule for the employee's grade or level, the employee shall be entitled to the existing rate, as provided in § 536.104(a)(3).

(c) *Initial appointments.* (1) The agency shall determine the rate of basic pay for an individual receiving an initial appointment (including an appointment after a break in service of at least 1 work day) to a position to which a special salary rate schedule applies under the regulations governing the pay system under which the employee is appointed without regard to the special salary rate schedule, and shall use the step or rate thus determined to fix the employee's rate at the corresponding step or rate in the special salary rate schedule.

(2) A special salary rate may not be considered an employee's highest previous rate, except as provided in § 531.203(d)(3).

(d) *General exception.* Except as provided in paragraphs (e), (f), and (g) of this section, all other actions of promotion, reduction in grade, transfer, or reassignment are governed by the pay-fixing rules established for the appropriate pay system to which, or in which, the personnel action is taken.

(e) *Reassignments and transfers.* When an employee is reassigned or transferred at the same grade or level under the same pay system to a position to which a special salary rate schedule applies, the agency shall fix the employee's rate in the special salary rate schedule at the step or rate in the special salary rate schedule for the employee's grade or level which corresponds to the employee's existing numerical step or rate in the salary rate schedule for the employee's grade or level.

(f) *Promotions.* When an employee in a position to which a special salary rate schedule does not apply is promoted to a position to which a special salary rate schedule applies, the agency shall first determine the employee's step or rate in the higher grade or level without regard to the special salary rate schedule, and then shall fix the employee's rate at the corresponding numerical step or rate in the special salary rate schedule for the grade to which promoted.

(g) *Reductions in grade.* When an employee not entitled to a retained grade or rate under appropriate authority is reduced in grade to a position to which a special salary rate schedule applies, the agency shall first determine the employee's step or rate in the lower grade without regard to the special salary rate schedule, and then shall fix the employee's rate at the corresponding numerical step or rate in the special salary rate schedule for the grade to which reduced.

[FR Doc. 85-19504 Filed 8-14-85; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

Cherries Grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia and Maryland; Amendment of Subpart—Rules and Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Finalization of interim final rule.

SUMMARY: The Department of Agriculture (USDA) has decided to leave in effect an interim final rule which amended rules and regulations pertaining to procedures for cherry growers' applications to divert cherries from reserve pool participation, and methods of sale by which cherries are released from reserve pools. The revisions were designed to enable growers to make management decisions with respect to diverting or placing cherries in the reserve pool, and handlers to make necessary decisions pertaining to the sale of reserve pool cherries.

EFFECTIVE DATE: September 16, 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 action 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 interim final rule with request for comments was issued on June 11, 1985, and published in the **Federal Register** (50 FR 24899) on June 14, 1985. Comments were due by July 15, 1985. None were received. The rule amended § 930.101 (Diversion application), § 930.102 (Diversion fees), § 930.103 (Diversion), and § 930.591 (Conditions governing the sale of reserve pool cherries).

These amendments of the rules and regulations were issued under Marketing Order 930 (7 CFR Part 930), regulating the handling of tart cherries grown in Michigan, New York, Wisconsin, Pennsylvania, Ohio, Virginia, West Virginia, and Maryland. The marketing order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). These amendments were based upon the recommendations and information submitted by the Cherry Administrative Board at its April 10, 1985 meeting, and upon other available information. It is hereby found that this action will tend to effectuate the declared policy of the act.

List of Subjects in 7 CFR Part 930

Marketing Agreements and Orders, Cherries.

PART 930—[AMENDED]

1. The authority citation for 7 CFR Part 930 continues to read as follows:

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

2. The interim final rule published in the **Federal Register** (June 14, 1985; 50 FR 24899) amending §§ 930.101, 930.102, 930.103, and 930.591 is adopted as a final rule.

Dated: August 12, 1985.

Thomas R. Clark,

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

[FR Doc. 85-19486 Filed 8-14-85; 8:45 am]
BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1941

Operating Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation concerning Operating Loans. This action is being taken to renumber an Agency administrative form referenced in the regulation. The intent of this action is to renumber an administrative form into the current agency numbering system.

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: William J. French, Management Analyst, Organization, Management and Training Division, Farmers Home Administration, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: (202) 475-4741.

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. 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 regard to such rules. The amended regulation reflects a change in a form number from Form FmHA 141–2, "Notice of Visit or Meeting" to Form FmHA 2006–9. This form is completed by FmHA personnel for the purpose of establishing a date for a visit or meeting. The recipient of the notice may use the form to reply to FmHA concerning establishment of such visit or meeting. Therefore, this action is not published for proposed rulemaking since it involves only the renumbering of the form for administrative purposes and publication for comment is unnecessary.

The Catalogue of Federal Domestic Assistance Number for Operating Loans is 10.406.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

This final action has been reviewed in accordance with FmHA Instruction 1940–G, "Environmental Program." FmHA has determined that this final 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 1941

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

PART 1941—OPERATING LOANS

1. The authority citation for Part 1941 is revised to read as follows:

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

2. Subpart A of Part 1941, Chapter XVIII, Title 7, Code of Federal Regulations is amended by revising the forms list in section B. of Exhibit A by changing "141–2" to "2006–9" as follows:

Exhibit A of Subpart A—Processing Guide—Insured Operating Loans

* * * * *

B. Field Visit

* * * * *

Form No.	Name	
2006–9	Notice of visit or meeting	(x)

* * * * *

Dated: June 18, 1985.

Dwight O. Calhoun,

Acting Associate Administrator, Farmers Home Administration.

[FR Doc. 85–19402 Filed 8–14–85; 8:45 am]

BILLING CODE 3410–07–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 520

Oral Dosage Form New Animal Drugs Not Subject to Certification; Methylprednisolone Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Tech-America Group, Inc., providing for safe and effective oral use of 1- and 2-milligram methylprednisolone tablets in dogs and cats as an anti-inflammatory agent.

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Marcia K. Larkins, Center for Veterinary Medicine (HFV–112), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–3430.

SUPPLEMENTARY INFORMATION: Tech-America Group, Inc., P.O. Box 338, Elwood, KS 66024, filed NADA 135–774 providing for oral use of 1- and 2-milligram methylprednisolone tablets as an anti-inflammatory agent for treatment of dogs and cats. Based on data and information submitted, the NADA is approved and the regulations are amended to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 520

Animal drugs, oral use.

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, Part 520 is amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 520 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. In § 520.1408 by revising paragraphs (a) and (b), to read as follows:

§ 520.1408 Methylprednisolone tablets.

(a) *Specifications.* Each table contains 1, 2, or 4 milligrams of methylprednisolone.

(b) *Sponsor.* See No. 000009 in § 510.600(c) of this chapter for use of 1- and 4-milligram tablets; see No. 013983 for use of 1- and 2-milligram tablets.

* * * * *

Dated: August 8, 1985.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 85–19374 Filed 8–14–85; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1977

Section 11(c) Complaint Filing Period

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Final interpretative rule.

SUMMARY: A provision of 29 CFR Part 1977, an interpretative rule issued under section 11(c) of the Occupational Safety and Health Act of 1970, is being deleted in order to conform the rule to Supreme Court case law. The deleted provision, contained in 29 CFR 1977.15(d)(3), states that the 30-day period for filing a section 11(c) complaint is tolled where the complaining employee has, within the

30-day period, resorted in good faith to the grievance-arbitration procedures set forth in the collective bargaining agreement, or filed a complaint regarding the same general subject with another agency. The revised rule does not permit the 30-day period to be tolled during the pendency of grievance-arbitration proceedings, or filing with another agency.

DATE: This interpretation is effective August 15, 1985.

FOR FURTHER INFORMATION CONTACT: James Foster, Director, Office of Information and Consumer Affairs, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–3637, Washington, D.C. 20210 (202–523–8151).

SUPPLEMENTARY INFORMATION: I. Reasons for Issuance of the Interpretative Rule. Sections 11(c) (1) and (2) of the Occupational Safety and Health Act of 1970 (hereinafter the "OSH Act"), 29 U.S.C. 660(c) (1) and (2), provide:

(c)(1) No person shall discharge or in any manner discriminate against any employee because such employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by such employee on behalf of himself or others of any right afforded by this Act.

(2) Any employee who believes that he has been discharged or otherwise discriminated against by any person in violation of this subsection may, within thirty days after such violation occurs, file a complaint with the Secretary alleging such discrimination. Upon receipt of such complaint, the Secretary shall cause such investigation to be made as he deems appropriate. If upon such investigation, the Secretary determines that the provisions of this subsection have been violated, he shall bring an action in any appropriate United States district court against such person. In any such action the United States district courts shall have jurisdiction, for cause shown to restrain violations of paragraph (1) of this subsection and order all appropriate relief including rehiring or reinstatement of the employee to his former position with back pay.

On January 29, 1973 the Assistant Secretary of Labor for Occupational Safety and Health issued several interpretations of section 11(c). The interpretations were published in 29 CFR Part 1977—Discrimination Against Employees Exercising Rights under the Williams-Steiger Occupational Safety and Health Act of 1970. 38 FR 2681. One of the interpretations, 29 CFR 1977.15, discussed the time period within which discrimination complaints must be filed with the Secretary of Labor. Paragraphs (d) (1) and (2) of 29 CFR 1977.15 provide as follows:

(d) *Time for filing.* (1) Section 11(c)(2) provides that an employee who believes that he has been discriminated against in violation of section 11(c)(1) "may, within 30-days after such violation occurs," file a complaint with the Secretary of Labor.

(2) A major purpose of the 30-day period in this provision is to allow the Secretary to decline to entertain complaints which have become stale. Accordingly, complaints not filed within 30 days of an alleged violation will ordinarily be presumed to be untimely.

Furthermore, paragraph (d)(3), the provision being modified by this interpretative rule, provides for tolling, i.e., suspending, the 30-day period under the following circumstances:

(3) However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; where the employee has, within the 30-day period, *resorted in good faith to grievance-arbitration proceedings under a collective bargaining agreement or filed a complaint regarding the same general subject with another agency;* or where the discrimination is in the nature of a continuing violation. In the absence of circumstances justifyng a tolling of the 30-day period, untimely complaints will not be processed (Emphasis added)

The emphasized provision is no longer valid in light of Supreme Court precedent, discussed below, under Title VII of the Civil Rights Act of 1964, as amended, an analogous employment discrimination statute whose precedent has guided the courts in section 11(c) cases. See *Marshall* v. *N.L. Industries, Inc.*, 618 F.2d 1220 (7th Cir. 1980).

The grievance-arbitration tolling provision in § 1977.15(d)(3) was issued at a time when some courts had ruled that the pendency of grievance-arbitration proceedings or other method of collateral review tolled the filing period under 42 U.S.C. 2000e–5(e), section 706(d) of the Civil Rights Act of 1964, as amended. *See Malone* v. *North American Rockwell Corp.*, 457 F.2d 779 (9th Cir. 1972); *Culpepper* v. *Reynolds Metals Co.*, 421 F.2d 888 (5th Cir. 1970); *Hutchings* v. *United States Industries, Inc.*, 428 F.2d 303 (5th Cir. 1970).

In 1976 the United States Supreme Court ruled in *International U. of Elec. Wkrs.* v. *Robbins & Myers*, 429 U.S. 229 (1976), that the statutory period for filing a Title VII claim with the Equal Employment Opportunity Commission (EEOC) was not tolled during the pendency of grievance or arbitration procedures under a collective bargaining agreement, or some other method of collateral review. The holding was based on the principle that the statutory right under Title VII and other rights, such as those under collective bargaining agreements, had legally independent origins and were equally available to employees. This principle had been enunciated in *Alexander v. Gardner-Denver Co.*, 415 U.S. 36, 54 (1974) (an arbitrator's decision under a collective bargaining agreement to deny relief does not bar a subsequent suit in federal court under Title VII) and *Johnson* v. *Railway Express Agency*, 421 U.S. 454, 461 (1975) (the timely filing of a charge with the EEOC does not toll the running of the statute of limitations applicable to an action, based on the same facts, brought under 42 U.S.C. 1981).

Relying on *Alexander*, the Court in *Robbins & Myers* also rejected the argument that substantial policy considerations, based on the central role of arbitration in labor-management relations, dictated a finding that the Title VII limitations period must be tolled during the pendency of proceedings under a collective-bargaining agreement. The Court also did not find that the danger of a possible conflict resulting from the concurrent pursuit of both collective-bargaining and Title VII remedies warranted the tolling of the Title VII limitations period while the collective-bargaining case proceeded to conclusion. It stated that one proceeding may be stayed while the other one proceeds, but, more importantly, that Congress had created a Title VII remedy independent of other remedies. The Court also dismissed the contention that tolling would impose almost no costs, since the delays occasioned by the grievance-arbitration process would be "slight." Thus, the Court concluded that ". . . Congress has already spoken with respect to what it considers acceptable delay when it established a 90-day (now 180-day) limitations period, and gave no indication that it considered a 'slight' delay followed by 90 days equally acceptable." 429 U.S. at 240.

In 1980 the Supreme Court again faced the tolling issue in *Delaware State College* v. *Ricks*, 449 U.S. 250, 261 (1980). The Court, reaffirming *Robbins & Myers*, held:

(We) already have held that the pendency of a grievance, or some other method of collateral review of an employment decision, does not toll the running of the limitations period.

The holdings and reasoning of *Robbins & Myers* and *Delaware State College* compel the conclusion that the pendency of a grievance-arbitration proceeding under a collective bargaining agreement or filing with another agency

does not toll the running of the 30-day period for filing complaints with the Secretary of Labor under section 11(c), a statutory employment discrimination provision analogous to Title VII. Section 11(c), like Title VII, is a statutory remedy independent of remedies under a collective bargaining agreement. Indeed, in *N.L. Industries*, 618 F.2d. at 1222, the Seventh Circuit held that:

> Like Title VII, this legislation the OSH Act was passed to mobilize the resources of the federal government in an effort to eradicate a specific group of problems confronting workers nationwide. See *Whirlpool Corp. v. Marshall*, —— U.S. at ——, 100 S.Ct. at 890. Enacted after the Supreme Court developed its policies encouraging deference to arbitration in a pure collective bargaining context, the OSHA legislation was intended to create a separate and general right of broad social importance existing beyond the parameters of an individual labor agreement and susceptible of full vindication only in a judicial forum.

Thus, the current interpretation of section 11(c) set forth in 29 CFR 1977.15(d)(3) providing for the tolling of the 30-day period for filing complaints due to the pendency of grievance-arbitration proceedings or filing with another agency no longer comports with relevant Supreme Court case law. It is essential to make our interpretation consistent with the law and to inform employees of the new interpretation in order to avoid causing confusion among employees regarding when their section 11(c) complaints must be filed. Therefore, the grievance-arbitration and filing with another agency tolling provisions are being deleted from 20 CFR 1977.15(d)(3) and that paragraph is being modified to expressly state that the pendency of grievance-arbitration proceedings or filing with another agency does not toll the 30-day period for filing of section 11(c) complaints.

II. Regulatory Impact Analysis

In accordance with Executive Order 12291 (46 FR 13193, February 17, 1981), OSHA has carefully assessed the potential impact of this change in the interpretation of section 11(c). Based on the guidelines of the Executive Order, OSHA has concluded that the interpretation is not a "major" action which would necessitate further economic impact evaluation and the preparation of a regulatory analysis. Requiring employees who invoke the grievance-arbitration procedures under their collective bargaining agreements, or who file with other agencies to file their section 11(c) complaints within 30 days following the discrimination will impose minimal costs, if any, on OSHA, employers, or employees. Although some complaints may be filed under the new interpretation which would not have been filed under the prior interpretation, the number of such complaints is expected to be small. Moreover, little additional investigative costs are expected to accrue since most of the grievance-arbitration procedures will have been completed before OSHA has expended significant time and resources in conducting an investigation. Since some employees will find the results of their grievance-arbitration procedures to be satisfactory, or get positive results from another agency, further investigation by OSHA will therefore be unnecessary.

Finally, OSHA finds that the provisions fo the Regulatory Flexibility Act of 1980 (Pub. L. 96-353, 94 Stat. 1164, 5 U.S.C. 601 et seq.), which require an assessment of the impact of certain regulatory actions upon small entities, are inapplicable to this interpretative rule.

III. Procedure

This rule is an interpretative rule because it interprets, or explains, section 11(c)(2) of the OSH Act in conformance with Supreme Court precedent under an analogous statute. Therefore, pursuant to 5 U.S.C. 553(b)(A), notice of proposed rule making and an opportunity for comments are not required. Similarly, pursuant to 5 U.S.C. 553(d)(2), this interpretative rule may be made effective upon publication in the **Federal Register**.

IV. State Plan Applicability

Section 11(c) applies throughout the United States. In addition, 25 States with their own OSHA-approved occupational safety and health plans have provisions prohibiting retaliation against employees for occupational safety or health activity, which, may differ from section 11(c). The States with approved plans are: Alaska, Arizona, California, Connecticut (State and local government employees only), Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, New York (States and local government employees only), North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Virgin Islands, Washington, Wyoming.

V. Authority

This document was prepared under the direction of Robert A. Rowland, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210. This interpretation is issued pursuant to sections 8(g)(2) and 11(c)(2) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657(g)(2), 660(c)(2)), 5 U.S.C. 553, and Secretary of Labor's Order No. 9-83 (48 FR 35736)).

List of Subjects in 29 CFR Part 1977

Civil rights, Equal employment opportunity, Labor-management relations, Occupational safety and health.

PART 1977—DISCRIMINATION AGAINST EMPLOYEES EXERCISING RIGHTS UNDER THE WILLIAMS-STEIGER OCCUPATIONAL SAFETY AND HEALTH ACT OF 1970

Accordingly, 29 CFR Part 1977 is amended as set forth below.

1. The authority citation for Part 1977 is revised to read as follows:

Authority: Secs. 11(c)(2) and 8(g)(2) of the Occupational Safety and Health Act of 1970, 29 U.S.C. 660(c)(2) and 657(g)(2), 5 U.S.C. 553, and Secretary of Labor's Order 9-83 (48 FR 35736, August 5, 1983)

2. Section 1977.15 is amended by revising paragraph (d)(3) to read as follows:

§ 1977.15 Filing of complaint for discrimination.

* * * * *

(d) *Time for filing.* * * *

(3) However, there may be circumstances which would justify tolling of the 30-day period on recognized equitable principles or because of strongly extenuating circumstances, e.g., where the employer has concealed, or misled the employee regarding the grounds for discharge or other adverse action; or where the discrimination is in the nature of a continuing violation. The pendency of grievance-arbitration proceedings or filing with another agency, among others, are circumstances which do not justify tolling the 30-day period. In the absence of circumstances justifying a tolling of the 30-day period, untimely complaints will not be processed.

Signed at Washington, D.C., this 15th day of July, 1985.

Patrick R. Tyson,

Acting Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. 85-17208 Filed 8-14-85; 8:45 am]

BILLING CODE 4510-26-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 904

Approval of Permanent Program Amendment From the State of Arkansas Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Arkansas as an amendment to the State's permanent regulatory program (hereinafter referred to as the Arkansas program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed program amendment submitted by Arkansas on May 21, 1985, would allow for a violation abatement period of more than 90 days under certain conditions and would establish procedures for conducting informal assessment conferences. On June 25, 1985, OSM published a notice in the Federal Register, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 26221–26222). The public comment period ended July 25, 1985.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director of OSM has determined that the amendment meets the requirements of SMCRA and the Federal regulations and is approving it. The Federal rules at 30 CFR Part 904 codifying decisions concerning the Arkansas program are being amended to implement this action. This final rule is being made effective immediately in order to expedite the State program amendment process and to encourage States to implement the Federal standards without undue delay; consistency of the State and Federal standards is required by SMCRA.

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Markey, Field Office Director, Tulsa Field Office, Office of Surface Mining, 333 West 4th Street, Room 3432, Tulsa, Oklahoma 74103; Telephone: (918) 745–7927.

SUPPLEMENTARY INFORMATION:

I. Background on the Arkansas State Program

On February 18, 1980, Arkansas submitted its proposed regulatory program to OSM. On November 21, 1980, following a review of the proposed programs outlined in 30 CFR Part 732, the Secretary approved the program subject to the correction of four minor deficiencies (45 FR 77003–77013).

II. Submission of the Proposed Amendments

Arkansas submitted to OSM on May 21, 1985, a proposed amendment to the Arkansas regulatory program which would allow the extension of a violation abatement period for more than 90 days and which would establish procedures for conducting informal assessment conferences (Administrative Record No. AR–290). Specifically, Arkansas amended its regulations at 843.12 to allow the permittee to request an abatement period of more than 90 days under certain conditions. In addition, Arkansas included regulatory language at 845.18, 845.19 and 845.20 which establishes procedures for assessment conferences and for appeal of the proposed penalty and fact of violation, and which sets forth the requirements for final assessment and payment of penalties.

On June 25, 1985, OSM published a notice in the Federal Register announcing receipt of the amendment, inviting public comment, and providing the opportunity to request a public hearing on the proposed amendment (50 FR 26221–26222). Since no one requested a hearing, none was held. The public comment period ended July 25, 1985. No public comments were received during the comment period.

III. Director's Findings

In accordance with SMCRA and 30 CFR 732.15 and 732.17, the Director finds that the program amendment submitted by Arkansas on May 21, 1985 meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

A. Extension of Abatement Period Beyond 90 Days

The Arkansas rules at 843.12 establish procedures for granting an extension of violation abatement periods beyond 90 days under certain circumstances. Specifically, the Arkansas regulations at 843.12(c) have been amended to allow for an abatement period of more than 90 days under the conditions set forth at 843.12(f). These conditions include: (1) Circumstances in which the permittee has applied for and is diligently pursuing a permit renewal or other necessary approval that will not be issued within 90 days; (2) situations in which a valid judicial order precluding abatement within 90 days exists, provided the permittee is pursuing all rights of appeal and as to which there is no other effective legal remedy; (3) situations where the permittee cannot abate within 90 days because of a labor strike; (4) circumstances where abatement within 90 days would require the permittee to take actions that violate safety standards established by the Mine Safety and Health Act; and (5) climatic conditions precluding abatement within 90 days. Extensions may be granted for climatic conditions only if abatement would cause more environmental harm than it would prevent. No extension granted under these States provisions may exceed 90 days.

The Federal rule at 30 CFR 843.12 also requires all permittees to meet certain conditions before they are granted an extension of violation abatement periods beyond 90 days. The Arkansas rule does not permit extensions under conditions other than those permitted in the Federal regulations. Therefore, the Director finds that the Arkansas regulations at 843.12 (c) and (f) are no less effective than the Federal regulations.

B. Procedures for Conducting Informal Assessment Conferences

Arkansas added regulations at 845.18 to establish procedures for conducting informal assessment conferences. Specifically, the Arkansas regulations allow the Arkansas Department of Pollution Control and Ecology (ADPCE) to hold informal assessment conferences to review the proposed assessment or reassessment upon written request of the person to whom the notice or order was issued, if the request is received within 15 days from the date the proposed assessment or reassessment was mailed.

The Arkansas regulations at 845.18(b)(1) require that the assessment conference be held within 60 days from the date of issuance of the proposed assessment or the end of the abatement period, whichever is later, but provided, that a failure by the ADPCE to hold such a conference within 60 days shall not be grounds for dismissal of all or part of an assessment unless the person against whom the proposed penalty has been assessed proves actual prejudice as a result of the delay.

Arkansas has also revised its regulations at 845.19 to alter the procedures by which persons charged with a violation may request a hearing. Specifically, the person charged with the violation may contest the proposed penalty or the fact of violation by submitting a petition and an amount equal to the proposed penalty or, if a conference has been held, the

reassessed or affirmed penalty to the Director of ADPCE within 30 days of receipt of the proposed assessment or reassessment or within 15 days from the date of service of the conference officer's action, whichever is later.

In addition, Arkansas revised regulatory language at 845.20 to state that if the final decision in the administrative and judicial review results in an order reducing or eliminating the proposed penalty assessment, ADPCE will, within 30 days of receipt of the order, refund to the person assessed all or part of the escrowed amount.

The Director finds that the Arkansas regulations at 845.18, 845.19 and 845.20 are no less effective than 30 CFR 845.18, 845.19, and 845.20, and no less stringent than section 518(c) of SMCRA.

IV. Public Comments

Of those Federal agencies invited to comment pursuant to section 503(b) SMCRA and 30 CFR 732.17(h)(10)(i), acknowledgments were received from the Department of Agriculture, Soil Conservation Service and the Department of the Interior, U.S. Fish and Wildlife Service. The comments were limited and did not identify any deficiencies in the proposed program amendment.

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

V. Director's Decision

The Director, based on the above findings, is approving the Arkansas program amendment, provided that Arkansas promulgates these regulations in a form identical to that submitted to OSM on May 21, 1985. The Director is amending Part 904 of 30 CFR Chapter VII to implement this decision.

VI. Procedural Requirements

1. Compliance With the National Environmental Policy Act

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1929(d), no environmental impact statement need be prepared on this rulemaking.

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

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

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

3. *Paperwork Reduction Act*

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

List of Subjects in 30 CFR Part 904

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

Dated: August 9, 1985

Jed D. Christensen,

Acting Director, Office of Surface Mining.

Part 904—ARKANSAS

1. The authority citation for Part 904 continues to read as follows:

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

2. 30 CFR 904.15 is amended by adding a new paragraph (b) as follows:

§ 904.15 Approval of regulatory program amendments.

* * * * *

(b) The following amendment submitted to OSM on May 21, 1985, is approved effective August 15, 1985: Modifications to the Arkansas regulations at section 843.12, 845.18, 845.19 and 845.20. This approval is contingent upon the State's promulgation of the proposed regulations in the identical form submitted for OSM's review and approval.

[FR Doc. 85–19449 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 938

Approval of Permanent Program Amendment From the State of Pennsylvania Under the Surface Mining Control and Reclamation Act of 1977

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of a program amendment submitted by Pennsylvania as an amendment to the State's permanent regulatory program (hereinafter referred to as the Pennsylvania program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment provides for the mandatory suspension or revocation of a blaster's license upon a finding by the Department of Environmental Resources, the State agency which administers the Pennsylvania program, of an operator's willful conduct with respect to certain actions.

Pennsylvania submitted the proposed program amendment by letter dated April 19, 1985 (Administrative Record No. PA 551). An earlier opinion from the State dated February 27, 1985 (Administrative Record No. PA547) established that "due cause" for suspension or revocation under section 210.2(f) of the State regulations includes but is not limited to the same basis for suspension or revocation set forth in 30 CFR 850.15(b)(1). Pennsylvania's April 19, 1985 letter establishes that it is the State's policy that, in cases of willful conduct, including the bases for suspension or revocation set for in 30 CFR 850.15(b)(1), suspension or revocation is mandatory. OSM published a notice in the **Federal Register** on June 18, 1985, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 25267). The public comment period ended July 18, 1985.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules at 30 CFR Part 938 codifying decisions concerning the Pennsylvania program are being amended to implement this action.

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

EFFECTIVE DATE: August 15, 1985.

FURTHER INFORMATION CONTACT: Robert Biggi, Director, Harrisburg Field Office, Office of Surface Mining, 101 South Second Street, Suite L–4, Harrisburg, Pennsylvania 17101; Telephone: (717) 782–4036.

SUPPLEMENTARY INFORMATION:

I. Background

The Pennsylvania program was conditionally approved by the Secretary of the Interior on July 31, 1982. Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Pennsylvania program can be found in the July 30, 1982 Federal Register (47 FR 33050–33083).

II. Submission of Program Amendment

On April 4, 1985, the Director announced his approval of an amendment to the Pennsylvania program which established a program for the training, examination and certification of blasters (50 FR 13315). The Director found the State's program to be consistent with the Federal standards for certification of blasters at 30 CFR Part 850 with one exception unlike 30 CFR 850–15(b)(1). The State's blaster certification program did not provide for mandatory license suspension or revocation upon a finding of willful conduct with respect to any of the following actions:

1. Noncompliance with any order of the regulatory authority.
2. Unlawful use in the work place of, or current addiction to, alcohol, narcotics or other dangerous drugs.
3. Violation of any provision of State or Federal explosives laws or regulations.
4. Providing of false information or a misrepresentation for purpose of obtaining a license.

Therefore, as set forth under 30 CFR 938.16(a), the Director required Pennsylvania to submit a program amendment by June 3, 1985, which would provide for mandatory license suspension or revocation in a manner consistent with the Federal regulation at 30 CFR 850.15(b).

In satisfaction of this requirement, Pennsylvania submitted to OSM a letter dated April 19, 1985, which sets forth the Department's policy with respect to mandatory suspension or revocation of a blaster's license (Administrative Record No. PA 551). The letter states that in cases involving willful conduct it is DER's policy to suspend or revoke a blaster's license, following a hearing. The letter further states that this policy represents DER's application of section 210.2(f) of Chapter 210 of Title 25 of the Pennsylvania Code.

In its letter the Department indicated that it was preparing a program guidance memorandum which would state that in cases of willful conduct, the Department shall suspend or revoke a blaster's license following the conduct of a hearing.

III. Director's Findings

In accordance with SMCRA and 30 CFR 732.15 and 732.17, the Director finds that the program amendment submitted by Pennsylvania on April 19, 1985 meets the requirements of SMCRA and 30 CFR Chapter VII.

Specifically, the Director finds that the Pennsylvania Department of Environmental Resources' policy statement provides mandatory license suspension or revocation provisions which are no less effective than the Federal requirements at 30 CFR 850.15(b)(1).

IV. Public Comments

Of the Federal agencies invited to comment, only the U.S. Soil Conservation Service responded, and that agency provided no comments. No other public comments were received.

The disclosure of Federal agency comments is made pursuant to Section 503(b) (1) and (2) of SMCRA of 30 CFR 732.17(h)(10(i).

V. Director's Decision

Based on the above findings, the Director is approving the amendment to the Pennsylvania program as submitted on April 19, 1985. The Director is amending Part 938 of 30 CFR Chapter VII to implement this decision.

VI. Procedural Matters

1. Compliance with the National Environmental Policy Act

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

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

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from Sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a Regulatory Impact Analysis and this action does not require regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 938

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

Dated: August 9, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 938—PENNSYLVANIA

30 CFR Part 938 is amended as follows:

1. The authority citation for Part 938 continues to read as follows:

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

2. 30 CFR 938.15 is amended by adding a new paragraph (h) as follows:

§ 938.15 Approval of regulatory program amendments.

* * * * *

(h) The following amendment submitted to OSM on April 19, 1985 is approved effective August 15, 1985: Amendment to Pennsylvania's blaster certification program, as contained in the Pennsylvania Department of Environmental Resources' policy statement as submitted by Pennsylvania on April 19, 1985.

3. 30 CFR 938.16 is amended by removing and reserving paragraph (a) as follows:

§ 938.16 Required program amendments.

* * * * *

(a) [Reserved]

[FR Doc. 85–19450 Filed 8–14–85; 8:45 am]
BILLING CODE 4310–05–M

30 CFR Part 946

Approval of Amendment to the Virginia Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSM is announcing the approval of an amendment submitted by the Commonwealth of Virginia as a modification to its permanent regulatory

program (hereinafter referred to as the Virginia program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment consists of State statutory changes altering the criteria used to determine whether a surface coal mining operation affects two acres or less. On June 26, 1985, OSM published a notice in the **Federal Register**, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 26387–26388). The public comment period ended July 26, 1985.

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations and is approving it. The Federal rules at 30 CFR Part 946 codifying decisions concerning the Virginia program are being amended to implement this action.

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

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Robert Penn, Acting Director, Big Stone Gap Field Office, Office of Surface Mining Reclamation and Enforcement, P.O. Box 626, Big Stone Gap, Virginia 24219, Telephone: (703) 523–4303.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior conditionally approved the Virginia program on December 15, 1981. Information pertinent to the general background, revisions, modifications and amendments to the permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Virginia program can be found in the December 15, 1981 **Federal Register** (46 FR 61088–61115).

On April 22, 1983, OSM published a final rule in the **Federal Register** disapproving Sections 45.1–364.A.1, 45.1–364.A.3 and 45.1–364.A.4 of Chapter 23 of the Code Virginia and the implementing regulations thereunder (48 FR 17558). This action was taken by the Director of OSM because he determined that the above cited sections of Chapter 23 (governing mines two acres or smaller in size) were inconsistent with SMCRA, the Federal regulations at 30 CFR 700.11 and 701.5 and the permanent regulatory program administered by Virginia under Chapter 19 of the Code of Virginia. Also, on April 22, 1983, OSM published a proposed rulemaking in the **Federal Register** to supersede and preempt the above sections of Chapter 23 and its implementing regulations (48 FR 17562). Subsequently, the Secretary of the Interior, pursuant to section 505(b) of SMCRA and 30 CFR 730.11(a), published a final rule in the **Federal Register** to supersede and preempt those specific sections of Chapter 23 and its implementing regulations (October 11, 1983, 48 FR 46028).

II. Submission of Amendment

By letter dated May 1985, Virginia submitted Chapter 331 of the Virginia Acts of Assembly, 1985 session, as enacted on March 17, 1985. The proposed amendment, as received by OSM on June 6, 1985, would repeal section 45.1–364 of Chapter 23 of the Code of Virginia and replace it with a new section 45.1–364.1. These revisions establish new criteria to be used in determining whether a surface coal mining operation will be regulated under Chapter 23, or whether it is subject to the permanent program requirements of Chapter 19. Specifically, section 45.1–364.1 provides that the criteria established in Chapter 19 and the regulations issued thereunder shall be used to determine the size of the affected area.

On June 26, 1985, OSM published a notice in the **Federal Register** which announced procedures for a public comment period and for requesting a public hearing on the substantive adequacy of the proposed amendment (50 FR 26387–26388). The public hearing scheduled for July 22, 1985, was not held since no requests were made to conduct the hearing. The public comment period on the proposed amendment ended on July 26, 1985.

III. Director's Findings

In accordance with SMCRA and pursuant to 30 CFR 732.15 and 732.17, the Director finds that the program amendment submitted by Virginia in May 1985, meets the requirements of SMCRA and 30 CFR Chapter VII, as discussed below.

The statutory amendment which repeals section 45.1–364 of Chapter 23 and adds a new 45.1–364–1 establishes new criteria to be used in determining whether a surface coal mining operation will be regulated under Chapter 23 or whether it is subject to the permanent program requirements of Chapter 19. Specifically, the new section provides that in determining the size of the affected area for the purposes of Chapters 23 and 19, the criteria established in Chapter 19 or regulations promulgated thereunder shall control. The Director finds the revisions consistent with the actions taken by the Department of the Interior on April 22, 1983 (48 FR 17558) and October 11, 1983 (48 FR 46028). Further, the revisions are in accordance with section 528 of SMCRA and are no less effective than the Federal regulations at 30 CFR 700.11.

IV. Public Comments

No comments were received on this proposed amendment.

V. Director's Decision

The Director, based on the above findings, is approving the Virginia program amendment submitted to OSM in May 1985. The Director is amending Part 946 of 30 CFR Chapter VII to implement this decision and to modify the existing disapproval and preemption and supersession sections to reflect this action.

VI. Procedural Requirements

1. Compliance with the National Environmental Policy Act

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

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

On August 28, 1981, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7 and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action, OSM is exempt from the requirement to prepare a Regulatory Impact Analysis, and this action does not require regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 946

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

Dated: August 9, 1985.

Jed D. Christensen,

Acting Director, Office of Surface Mining.

PART 946—VIRGINIA

1. The authority citation for Part 946 continues to read as follows:

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

2. 30 CFR 946.12 is revised to read as follows:

§ 946.12 State program provisions disapproved.

(a) The following provisions are disapproved effective April 22, 1983: Paragraphs 3.01(a)(1), 3.01(a)(4) and 3.01 (a)(5) of the Virginia Coal Surface Mining and Reclamation Regulations for Operations Disturbing Two Surface Acres or Less.

3. 30 CFR 946.13 is revised to read as follows:

§ 946.13 State program provisions set aside.

(a) Paragraphs 3.01(a)(1), 3.01(a)(4) and 3.01(a)(5) of the Virginia Coal Surface Mining and Reclamation Regulations for Operations Disturbing Two Surface Acres or Less are inconsistent with and less effective than the Federal provisions for the two-acre exemption and are set aside in their entirety under the provisions of section 505(b) of the Surface Mining Control and Reclamation Act of 1977.

4. 30 CFR 946.15 is amended by adding a new paragraph (p) as follows:

§ 946.15 Approval of regulatory program amendments.

* * * * *

(p) The following amendment is approved effective August 15, 1985: Repeal of section 45.1-364 of Chapter 23 of the Code of Virginia and addition of a new section 45.1-364.1, as enacted by the General Assembly of Virginia on March 17, 1984, and submitted to OSM in May 1985.

[FR Doc. 85-19451 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 297

[DoD Instruction 5120.4]

DoD Newspapers and Civilian Enterprise Publications

AGENCY: American Forces Information Services, DoD.

ACTION: Final rule.

SUMMARY: The last revision of DoD Instruction 5120.4 was dated March 15, 1973. Between then and the November 14, 1984 publication of the latest update, there were changes in laws and DoD policies and practices relating to DoD Newspapers and Civilian Enterprise (CE) publications. Improvements in mission support and cost-effectiveness of DoD newspapers were needed. There were voids in policy and procedural guidance for the editorial and administrative or business operations of both command/installation newspapers and the overseas *Stars & Stripes* which were detrimental to mission accomplishment by these medial. Finally, many of the policies and procedures outlined in the 1973 Instruction were not sufficiently clear. All of these factors combined to form the impetus for the 1984 update of the Instructions.

DATE: Effective date is November 14, 1985.

ADDRESS: Department of Defense, American Forces Information Service, 1735 N. Lynn Street, Arlington, VA 22209-2086.

FOR FURTHER INFORMATION CONTACT: Colonel Stanley F. Jensen, telephone (202) 696-5271/2/3.

SUPPLEMENTARY INFORMATION: Since the publications governed by DoD Instruction 5120.4 are directed at the internal Department of Defense audience, there is minimal impact on the public. A few provisions of this Part provide guidelines for contracting by installation commanders with commercial publishers for the publication of Civilian Enterprise publications.

The Instruction was published originally of September 21, 1954. Subsequent revisions have been issued on September 5, 1957, September 27, 1960, April 30, 1970, March 15, 1973, and now November 14, 1984.

List of Subjects in 32 CFR Part 297

Government publications, Newspaper and magazines.

Title 32 of the Code of Federal Regulations is amended by adding a new Part 297 to read as follows:

PART 297—DoD NEWSPAPER AND CIVILIAN ENTERPRISE PUBLICATIONS

Sec.

Authority: 10 U.S.C. 121 and 133.

§ 297.1 Purpose.

This part reissues DoD Instruction 5120.4, "Policies and Guidelines Governing Armed Forces Newspapers and Civilian Enterprise Publications," March 15, 1973 implements DoD Directive 5122.10 "American Forces Information Service," March 19, 1980 and updates policy, procedures, and responsibilities concerning DoD newspaper and civilian enterprise (CE) publications other than newspapers in support of the DoD Internal Information Program.

§ 297.2 Applicability.

This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies (hereafter referred to collectively as "DoD Components"). The term "Military Services," as used herein refers to the Army, Navy, Air Force, and the Marine Corps.

§ 297.3 Definitions.

(a) *CE publications other than newspapers.* Authorized publications containing advertising which are prepared and published under contract with commerical publishers. The right to circulate this advertising in these publications to the DoD readership constitutes contractual consideration instead of money to pay for these DoD publications. They become property of the command, installation, or intended recipient upon delivery in accordance with terms of the contract. Categories of these publications are:

(1) *Guides or Directories.* Publications that provide DoD personnel information

about the mission of their command; the availability of command, installation or community services; local geography; historical background; and other information.

(2) *Installation Maps.* Publications designed for orientation of new arrivals or for visitors.

(b) *DoD Newspapers.* Authorized publications that support DoD command communication requirements. Usually, they are distributed daily or weekly. DoD newspapers contain most of the following elements to communicate with the intended DoD readership: commanders' comments, letter-to-the-editor columns, news, features, editorials, sports, announcements, entertainment items, photography, and artwork. The term includes also publications in other formats that contain these categories of information. These publications are within the purview of this part. DoD newspapers do not necessarily reflect the offical views of endorsement of content by the Department of Defense.

(1) *CE Newspapers.* Newspapers published by commercial publishers under contract with DoD Components or their subordinate commands. Normally, the news and editorial content is prepared by the internal information section of the public affairs staff. These newspapers contain advertising sold by the commercial publisher on the same basis as for CE publications other than newspapers. They become property of the command, installation or intended recipient upon delivery in accordance with terms of the contract.

(2) *Funded Newspapers.* Newspapers published by DoD Components or their subordinate commands using appropriate funds. Normally, the editorial content of these newspapers is prepared by the internal information section of the public affairs staff. Usually, these newspapers are printed under contract by a commercial publisher in accordance with DoD or Component printing regulations.

(3) *Overseas UC Newspapers.* Newspapers such as *S&S*, approved by the Secretary of Defense to provide world, U.S. and regional news from commercial sources, syndicated columns, editorial cartoons, and applicable U.S. Government, DoD, Component, and subordinate command news and information.

(4) *News Bulletins and Summaries.* Publications of isolated commands and ships compiled from national and international news and opinion obtained from authorized sources. News bulletins or summaries may be authorized by the next higher echelon of command when no daily English language newspapers are readily available.

(c) *Organizational Terms.*—(1) *Command.* A unit or units, an organization or an area under the command of one individual. In this part this term includes organizations headed by senior civilians which require command information type media.

(2) *DoD Components.* See § 297.2.

(3) *Installation.* A military facility or ship which serves as the base for one or more commands. Media covered by this part may serve the command communication needs of one or several commands located at one installation.

(4) *Major Command.* A designated command such as the Air Force Strategic Air Command or the Army Forces Command which serve as the headquarters for subordinate commands or installations which have the same of related missions.

(5) *Subordinate Echelons.* Lower levels of command.

(d) *Supplements.* Sections of comic strips, cartoons, features, or advertising printed with or inserted into publications for distribution.

§ 297.4 Policy.

Department of Defense policy is that a free flow of news and information shall be provided to all military personnel without censorship or news management. The calculated withholding of unfavorable news is prohibited.

§ 297.5 Procedures.

(a) *General.* (1) National security information shall be protected in accordance with DoD Directive 5200.1 and DoD 5200.1–R. Certain unclassified information may be released under DoD Directive 5400.7 and DoD 5400.7–R.

(2) Specific items of internal information content of interest to DoD personnel and their dependents prepared for publication in DoD newspapers may be made available to requesters under DoD Directive 5400.7 and DoD 5400.7–R.

(3) DoD newspaper shall be operated according to principles that govern U.S. commercial newspapers.

(4) Editorial policies of DoD newspapers and CE publications other than newspapers shall be designed to improve the ability of DoD personnel to execute the missions of the Department of Defense.

(5) DoD newspaper editors shall conform to applicable regulations and laws involving libel, copyright, and U.S. Government printing and postal regulations.

(6) DoD newspapers and CE publications other than newspapers shall comply with DoD Directive 5400.11.

(b) *News Coverage and Content.* (1) News coverage and content in DoD newspapers and publications shall be factual and objective. News and headlines shall be selected using the dictates of good taste. Morbid, sensational, or alarming details not essential to factual reporting shall be avoided.

(2) Newspapers shall distinguish between facts and opinion both of which may be a part of a news story. When an opinion is expressed, the person or source shall be identified. Accuracy and balance in coverage are paramount.

(3) News content shall be based on releases, reports, and materials provided by commercial news-gathering agencies, when authority exists to use such services; DoD Components, their subordinate echelons; and members of the staffs of DoD newspapers

(4) Overseas Unified Command (UC) newspaper may purchase or contract for and carry news stories, features, syndicated columns, and editorial cartoons from commercial services or sources. A balanced selection of commercial news or opinion shall appear in the same issue and same page, whenever possible, but in any case, over a reasonable time period. Selection of commercial news sources, syndicated columns, and editorial cartoons to be purchased or contracted for shall be approved by the UC Commanders based on evaluation and recommendations of the *Stars and Stripes (S&S)* Advisory Board. The Board shall review the balance of news, features, and editorial column and cartoon content of the newspaper at least semiannually.

(5) Funded or CE command or installation newspapers normally shall not be authorized the use of commerical news and opinion sources. The use of such sources is beyond the scope of the mission of command or installation newspapers and puts them in direct competition with commercial newspaper. The use of such sources may be authorized for a specific Funded or CE newspaper by the cognizant DoD Component only when other sources of national and international news and opinions are not available.

(6) The masthead of all DoD newspapers and CE publications shall contain the following disclaimer printed in type no smaller than 6-point:

(i) "This (type of DoD newspaper or CE publication other than newspaper) is an authorized (for *S&S* add "unofficial") publication for members of the Military

Services (add "overseas" in publications outside the United States). Contents of (name of the DoD newspaper or CE publication other than newspaper) are not necessarily the official views of, or endorsed by, the U.S. Government, the Department of Defense, or (the name of the publishing DoD Component)." Those publications containing advertising shall contain the following statements:

(A) "The appearance of advertising in this publication, including inserts or supplements, does not constitiute endorsement by the Department of Defense, or (name of commercial publisher) or products or services advertised."

(B) "Everything advertised in this publication shall be made available for purchase, use, or patronage without regard to race, color, religion, sex, national origin, age, marital status, physical handicap, political affiliation, or any other nonmerit factor of the purchaser, user of patron." If a violation or rejection of this equal opportunity policy by an advertiser is confirmed, the publisher shall refuse to print advertising from that source until the violation is corrected.

(C) In CE Publications add: "Published by (name), a private form in no way connected with the (Department of Defense, the U.S. Army, the U.S. Navy, the U.S. Air Force or the U.S. Marine Corps) under exclusive written contract with (DoD Component or subordinate echelon)."

(7) Overseas UC newspapers, news bulletins and news summaries authorized to carry national and world news include coverage of U.S political campaign mews from commercial news sources. Presentation of such political campaign news shall be made on a balanced, impartial, and nonpartisan basis.

(8) Funded newspaper and CE publications may not contain campaign news or editorials dealing with candidates or issues. CE newspapers may carry paid political advertisements by legitimate candidates or parties provided equal opportunity to advertise is afforded.

(9) During election years, DoD newspapers shall support the Federal Voting Assistance Program by carrying factual information about registration and voting laws, especially those on absentee voting requirements of the various states, the District of Columbia, Puerto Rico and U.S. territories and possessions. These newspapers shall use voting materials provided by the Director, Federal Voting Assistance Program, the OSD, and the Military Departments. Such information is designed to encourage DoD personnel to register as voters and to exercise their right to vote as outlined in DoD Directive 1000.4.

(10) DoD newspapers and CE publications shall comply with DoD Instruction 1100.13 pertaining to polls, surveys, and stray votes.

(i) DoD Components and subordinate echelons may authorize polls on matters of local interest, such as, soldier of the week, and favorable athlete.

(ii) No DoD newspaper or CE publication may conduct a poll, a survey, or a straw vote relating to a political campaign.

(c) *Advertising.* (1) No DoD newspaper or CE publications other than newspapers may:

(i) Contain any material that implies that DoD Components or their subordinate echelons, endorse or favor a specific commercial product, commodity, or service.

(ii) Subscribe, even at no cost, to a commercial or feature wire or other service whose primary purpose is the advertisement or promotion of commercial products, commodities, or services.

(iii) Carry any advertisement that implies discrimination (see b 2(6)(i)(B) above).

(2) It is DoD editorial policy that commercial sponsors shall be mentioned routinely with other pertinent facts in news stories and announcements on Armed Forces Professional Entertainment Program events in DoD newspapers.

(3) Book, radio, television, movie, and other entertainment reviews may be carried if written objectively and if there is no implication of endorsement by the Department of Defense or any of its Components of their subordinate echelons.

(d) *Establishment of DoD Newspapers.* (1) Commanders are encouraged to establish Funded (enclosure 1), or CE newspapers (enclosure 2), when:

(i) A valid mission requirement exists:

(A) Command or installation newspapers provide the commander a primary means of communicating mission-essential information to members of the command. They provide feedback through such forums as letters to the editor columns. This alerts the commander to the emotional status and state of military knowledge of the command. The newspaper is used as a return conduit for command information to improve attitudes and correct knowledge shortcomings.

(B) News and feature treatment on individuals and organizational elements of the command provides a crossfeed of military information which improves internal cooperation and mission performance. Recognition of excellence in individual or organizational performance motivates and sets forth expected norms for mission accomplishment.

(C) The newspaper improves morale by quelling destructive rumors, and keeping members informed on personnel and other military information which will affect their futures. It provides information and assistance to dependents which improves their spirits and thereby the effectiveness of their member. The newspaper encourages participation in various positive leisure-time activities to improve member's morale and steer them away from alcohol abuse and other pursuits which will impair their ability to perform.

(D) The newspaper discourages command members from using drugs and other activities which will detract from mission performance.

(E) CE newspapers provide advertisements which guide command members to outlets where they may fulfill their purchasing needs. A by-product of this commercial contact is increased installation-community communication which enhances mutual support.

(F) The newspaper increases command cohesiveness and effectiveness by providing a visual representation of the essence of the command itself.

(G) Good journalistic practice is vital, but is not an end itself. It is the primary means to enchance receptivity of command communication through the newspaper.

(H) These newspapers exist to facilitate accomplishment of the command or installation mission. That is the only basis for the expenditure of DoD resources to produce them.

(ii) A newspaper is determined by the commander and the next higher echelon of command to be the most cost-effective means to fulfill the command communication requirement.

(2) The use of appropriated funds is authorized to establish a Funded newspaper if a CE newspaper is not feasible.

(3) Funded and CE newspapers are mission activities. The use of nonappropriated funds for any aspect of their operations is not authorized.

(4) Appropriated funds may not be used to pay any part of the commercial publisher's costs incurred in publishing a CE publication.

(5) Only one DoD newspaper is authorized for each command or installation.

(6) If a newspaper is required at a location where more than one command, or headquarters is collocated, the host commander shall be responsible for publication of one Funded or CE newspaper for all. The host command shall provide balanced and sufficient coverage of the other commands, their personnel, and activities in that locality. These commands, or headquarters shall assist the staff of the host newspaper with coverage. If required by unusual circumstance, a commander other than the host may public the single authorized newspaper when the majority of affected organizations concur. This provision is not intended to prohibit the headquarters of a geographically dispersed Major command that receives its local coverage to the host-command newspaper from publishing a command-wide newspaper.

(7) When, in the opinion of the Assistant Secretary of Defense (Public Affairs), or the UC Commander, a UC newspaper is needed, establishment shall be directed by the Secretary of Defense. Both appropriated and nonappropriated funds may be used in the publication of overseas UC newspapers (for (*S&S*) see enclosure 3).

(e) *Establishment of CE Publications Other than Newspapers.* When valid communication requirements exist, publications in this category may be established by the commander, if feasible (see enclosure 1). Only one publication of each category other than newspapers is authorized for each command or installation. The requirements of § 297.5(d)(1)(i)(F) of this section apply to CE publications other than newspapers. These publications shall be approved by the next higher echelon. Care shall be exercised by approval authorities not to overburden community advertisers.

(f) *Use of Trademark.* DoD Components and their subordinate echelons are encouraged to trademark the names of their publications.

(g) Mailing Requirements and Sales and Distribution of Non-DoD Publications: See enclosure 4.

(h) American Forces Press and Publications Service (AFPPS): See enclosure 5.

§ 297.6 Responsibilities.

(a) *The Assistant Secretary of Defense (Public Affairs) (ASD(PA)),* consistent with DoD Directive 5122.5 shall:

(1) Develop policies and provide guidance on the administration of the DoD Internal Information Program.

(2) Provide policy and operational direction to the Director, American Forces Information Service (AFIS).

(3) Monitor and evaluate overall mission effectiveness within the Department of Defense for matters under this part.

(b) The *Director, American Forces Information Service (AFIS),* shall:

(1) Develop and oversee the implementation of policies and procedures pertaining to the management, content, and publication of DoD newspapers and CE publications other than newspapers.

(2) Serve as DoD point of contact with the Joint Committee on Printing, Congress of the United States, for matters under this Part.

(3) Serve as the DoD point of contact in the United States for UC newspaper matters.

(4) Monitor effectiveness of business and financial operations of DoD newspapers and provide business counsel and assistance, as appropriate. Ensure that officers being assigned to supervise *S&S* business operations have a masters degree in business administration, funding if necessary.

(5) Provide guidance to the UCs and Military Departments pertaining to DoD newspapers and CE publications other than newspapers.

(6) Sponsor a DoD Interservice Newspaper Committee composed of representatives of the Military Services to coordinate DoD command or installation newspaper matters.

(7) Provide a press service on joint-Service news and information for use by military editors DoD-wide.

(c) The *Secretary of each Military Department* shall:

(1) Provide policy guidance and assistance to the Department's DoD newspaper and CE publications.

(2) Encourage the use of CE newspapers when they are the most cost-effective means of fulfilling the command communication requirement.

(3) Ensure that adequate resources are available to support authorized command communications media under this Part.

(4) Designate a member of his public affair to serve on the DoD Interservice Newspaper Committee.

(d) The *Secretary of the Army* shall provide administrative and logistic support to overseas UC newspapers administered as nonappropriated fund instrumentalities.

(e) *Commanders of Overseas Unified Commands* shall:

(1) Publish overseas UC newspapers, if authorized. In discharging this responsibility the UC Commander shall ensure that policy, direction, resources, and administrative support are provided, as required, to produce a professional quality newspaper to support the command mission.

(2) If the UC newspaper is *S&S:*

(i) Select and appoint the Editor-in-Chief and the Deputy or Assistant Editors-in-Chief, who shall be military officers.

(ii) Establish and maintain an *S&S* Advisory Board.

(iii) Establish and maintain and *S&S* Fund Council.

(3) Monitor and evaluate overall mission effectiveness and ensure compliance with applicable directives.

(4) Ensure that the UC newspaper is prepared to support U.S. forces in the command area during contingencies, and armed conflict.

Enclosure 1—Funded Newspapers

A. Purpose

Funded newspapers support the command communication requirements of the DoD Components and their subordinate commands. Normally, printing is accomplished by a commercial printer under contract or in government printing facilities in accordance with DoD or component printing regulations. The editorial content of these newspapers and distribution are accomplished by the contracting command. Overseas, Funded newspapers are authorized to be printed under contract with the *S&S.* Where printing by *S&S* is not feasible because of distance or other factors, Funded newspapers may be printed by other means.

B. Name

The name of the publication may include the name of the command or installation, or, the name of the command or installation may appear separately in the nameplate. The emblem of the command or installation may be included in the nameplate, also.

C. Assignment of Personnel

Military and DoD civilian personnel may not be assigned to duty at the premises of the commercial publisher to perform any job function of officials or employees which are part of the business activities or contractual responsibilities of the commercial publisher. The public affairs officer and staff members who produce editorial content may work on the premises as liaison and monitor to specify and coordinate layout and other details of production provided for in the command contract with the commercial printer. A member of the public affairs staff shall review proof copy to prevent mistakes. Text-editing-system pagination and copy terminals owned by the commercial printer may be placed in the command or installation public affairs office by the publisher to enable the newspaper staff to specify layout and prepare editorial materials.

D. Masthead

The masthead shall include the following: "The editorial content is edited, prepared, and provided by the Public Affairs Office of

(name of command or installation)." The names and editorial titles of military and civilian personnel assigned the duty of preparing the command or installation news and information content may be listed in a section of the masthead entitled "(name of command or installation) Editorial Staff."

E. Sources of News Materials

Only the commander of public affairs staff shall provide the news, information, photographs, editorial, and other materials to be used. Other authorized news and information sources include the Office of the Assistant Secretary of Defense, Public Affairs (OASD(PA)), AFIS, the Military Services and their subordinate echelons of command. The paper may publish civilian community service news and announcements for the benefit of personnel assigned to the command or installation and their dependents.

F. Funding

Normally, the expense of publishing and distributing Funded newspapers is charged to appropriated funds of the contracting command.

G. Contracting for Printing

The contract for printing of a Funded newspaper shall be handled in accordance with DoD Component printing regulations in conjunction with public affairs as the office of primary interest.

H. Distribution

Funded newspapers may be distributed through official channels. Appropriated funds and manpower may be used for distribution of Funded newspapers, as required.

I. Advertising

Noncommercial news stories and announcements concerning nonappropriated fund activities and commissaries may be published in Funded newspapers. Funded newspapers may carry no commercial advertising. As a service, the Funded newspaper may carry nonpaid listings of personal items and services for sale by members of the command.

J. Employment and Gratuities

DoD personnel may not accept employment by or gratuities from commercial printers under contract to print Funded newspapers.

Enclosure 2—Civilian Enterprise Publications

A. Purpose

CE publications are economical communication vehicles that support command communication within the DoD Components and their subordinate commands. The DoD Component or subordinate command provides the editorial content. The commercial publisher prints the publications, sells advertising to cover costs and secure earnings, and may make all or part of the distribution. Periodically, qualified commercial publishers have the opportunity to compete for the contract with particular DoD Components or their subordinate commands to publish these publications. The essence of these contracts is an exchange of rights as consideration rather than payment of funds. Appropriated or nonappropriated monies may not be used to pay for any part of the commercial publisher's costs incurred in publishing a CE publication.

B. Name

The name of the publication may include the name of the command or installation, or the name of the command or installation may appear separately in the nameplate. The emblem of the command or installation may be included in the nameplate, also.

C. Assignment of Personnel

Military and DoD civilian personnel may not be assigned to duty at the premises of the commercial publisher to perform any job functions which are part of the business activities or contractual responsibilities of a commercial publisher, his official or employees. The public affairs officer and staff who produce the non-advertising content may work on the premises as installation liaison and monitor to specify and coordinate layout and other details provided for in the command contract with the commercial publisher to obtain the most effective possible presentation of the news and information content. One or more members of the public affairs staff shall review proof copy to prevent mistakes. Text-editing-system pagination and copy terminals owned by the commercial publisher may be placed in the command or installation public affairs office for use by the public affairs staff to specify layout and prepare editorial materials. All costs of these terminals shall be borne by the commercial publisher.

D. Masthead

The masthead shall include the following in addition to that required in § 297.5(b)(5) of this part. "The editorial content is edited, prepared, and provided by the Public Affairs Office of (name of command or installation)." The names and editorial titles of military and civilian personnel assigned the duty of preparing the command editorial content may be listed in a section of the masthead entitled "(name of the command or installation) Editorial Staff."

E. Sources of News Materials

Only the commander or the public affairs staff shall provide the news, information, photographs, editorial, and other materials to be used in a CE publication in the space allotted for that purpose by written contract with the commercial publisher. Other authorized news and information sources include the OASD(PA), AFIS, the Military Services and their subordinate echelons of command. The paper may publish civilian community service news and announcements for the benefit of command or installation personnel and their dependents. Only the publisher shall utilize the space agreed upon for advertising.

F. Contracting for a CE Publication

1. DoD Components and their subordinate commands are authorized to contract for CE publications. The underlying premise of the CE concept is that DoD Components and their subordinate command will save money by transferring certain publishing and distribution burdens to a private sector publisher selected by competitive bid. Rights and authorizations as legal contractual consideration, instead of money, pay for each CE publication, which is printed and delivered to the command, installation, or its readership, in accordance with terms of a written contract. The right to sell and circulate advertising to the complete readership in the CE publication provides the publisher revenue to cover costs and secure earnings. The contracting organization guarantees first publication and distribution of the editorial content in the publication. The publication becomes the property of the command, installation, or intended reader upon delivery in accordance with the terms of the contract.

2. In negotiating CE contracts, DoD Components and their subordinate commands shall seek to have the publisher perform as many of the publishing and distribution functions as possible to generate maximum savings. In the contractual relationship command comunication needs and requirements shall be paramount.

3. A written contract with the selected commercial publisher shall be established by the commander for each CE publication. The contract will include provisions which reflect appropriate guidance from this Instruction and cover local requirements. Only reputable firms shall be used. Disreputable business activity in connection with CE publications can damage relationships with the civilian community.

4. A selection group shall be formed to select a commercial publisher. The chairperson shall be a senior member of the command or activity. Membership shall include legal, procurement, printing, and other functional specialists with skills relevant to the selection and contracting process. The public affairs officer shall serve as executive secretary and advisor. The contracting officer shall execute the contract in accordance with applicable directives. This group shall hear presentations and review written data by prospective commercial publishers or their representatives, secure and review independent data, and make onsite inspections to gather information upon which to base their selection. They shall investigate the competence, reliability, technical, production, and business capabilities and resources of each viable bidder prior to selection. Since exchange of rights is consideration in a CE contract, the best obtainable product and service in exchange for those rights will be the primary criteria for selection. If there is only one bidder, the group may decide that the offer if not sufficient to warrant producing the publication and make no selection. The group may negotiate through the chairperson with a single bidder to obtain the best possible service and product before deciding to accept the bid for contract.

5. A CE commercial publisher will not be required to pay money to the command or installation, or to provide goods, services, or considerations not directly related to the CE publications he has contracted to provide. In selecting a publisher, fair and equal opportunity shall be afforded any

responsible, qualified bidder who may wish to submit a proposal to publish the CE publication. The command shall advertise for proposals from the widest possible selection of commercial publishers available. Modern technology may make feasible invitations to bid by commercial publishers located a considerable distance from the command or installation.

6. CE contracts may be entered into for one year with annual options for renewals based on satisfactory performance for up to 4 years, after which they must be rebid. The contract shall not be renewed if the commercial publisher has not executed the provisions of the contract in a satisfactory manner. Contracts will contain a provision for termination for cause whenever the products and services to be provided under the contract become unsatisfactory or contract provisions are not met. The conditions for termination will be included in each contract. Unsatisfactory performance must be documented.

The selection group will perform reviews to decide on annual contract option renewals and terminations for cause. If a CE newspaper contract is terminated, it may be necessary to establish a Funded newspaper temporarily to maintain command communication. If one or more bidders for a CE newspaper contract are not available, it may be necessary to establish a permanent Funded newspaper.

7. Invitations for bid proposals for CE publications must include a description of the categories of news, comics, features, and factural information to be carried plus other required provisions of the contract.

8. A separate contract is not required for CE comics or feature supplements intended for distribution with the CE newspaper by the commercial publisher provided that the contract stipulates that any such supplement shall have the prior approval of the commander.

9. All CE contracts will contain a provision which prohibits CE commercial publishers from entering exclusive advertising agreements with any firm, broker, or individual.

10. In reviewing bids of publishers seeking to enter CE agreements and in negotiating actual agreements, the amount of advertising that will allow the publisher to perform the publishing burdens and still make a reasonable profit shall be taken into consideration. All CE contracts will specify ground rules for inclusion of advertising in each publication. Advertising may be run of the publication, printed in sections within the publication, or included as supplements printed with the publication or inserted, or combinations of these methods. The Military Departments will coordinate a standard set of ratios of editorial to advertising copy for multiples of pages for the use of run of the publication advertising in CE newspapers that will be included in all DoD Component regulations supplementing this Instruction. Contract provisions will be formulated to prohibit the amount of advertising a publisher sells from forcing the contracting command or installation public affairs staff to produce editorial content exceeding that required for the command communication mission of the publication.

11. CE contracts shall provide that the commander or public affairs officer shall specify design and layout of editorial content. They shall require that the commercial publisher do design, layout, typesetting, pasteup, distribution and other work. The commander or public affairs officer may specify advertising layout to enhance communications effectiveness of the publication. Maximum command-contractor cooperation is mandatory to produce maximum command communication effectiveness.

12. The Military Departments shall develop in conjunction with AFIS, a standard list of required and recommended contract provisions for inclusion in DoD Component regulations supplementing this Part. These standardized provisions shall be issued by AFIS and utilized by DoD Components and their subordinate commands which contract for CE publications.

G. Distribution of CE Publications

1. A Funded newspaper may not be distributed as an insert to a CE newspaper, nor may a CE newspaper be distributed as an insert to a Funded newspaper.

2. Comic and feature supplements may be inserted into and distributed with a CE newspaper.

3. A CE comic or feature supplement with commercial advertising may be distributed as an insert to a CE newspaper provided a fair and equal opportunity is offered to responsible organizations or personnel to compete for this privilege as provided herein, and the front page of the supplement carries the statement prescribed in § 297.5(b)(5) (i) and (ii) of this part.

4. The commercial publisher of a CE publication shall make as much of the distribution to the intended readership as possible. CE publications may be distributed through official channels.

5. Except as authorized by the next higher headquarters for special situations or occasions (such as an installation open house). CE newspapers may not be distributed outside the intended DoD audience, which includes dependents. The publisher may provide a copy of each specific issue of a CE publication to an advertiser whose advertisement is carried therein.

H. Responsibilities Regarding Advertising

1. The commander shall ensure an environment conducive to successful mission performance and preservation of command morale and discipline. DoD Directive 1325.6 gives the commander the authority to prohibit distribution on the installation of a CE publication containing advertising that promotes a situation involving potential riots of other disturbances or when the circulation of such advertising may present a danger to loyalty, discipline, or morale of his personnel. Each commander shall determine whether particular advertisements to be placed by the publisher in a CE publication serving the command or installation may interfere with successful mission performance. Some considerations in this decision are the local situation, the content of the proposed advertisement, and the identity and reputation of the advertiser.

2. Before each issue of a CE publication is printed, the public affairs staff shall review advertisements to identify any that are contrary to law or to DoD or Military Service regulations or that may pose a danger or detriment to DoD personnel or their dependents, or that interfere with the command or installation missions. If any such advertisements are identified, the public affairs officer shall request, in writing if necessary, that the commercial publisher delete them. If the publisher prints the issue containing the offensive advertisement(s), the commander may prohibit distribution.

3. The publisher of a CE publication shall place advertisers on notice of the requirement set forth in § 297.5(b)(5) (i) and (ii) of this part.

4. CE publications may carry paid or nonpaid advertising of the products and services of nonappropriated fund activities and commissaries, if allowed by DoD and Military Service regulatory documents.

I. Civilian Enterprise Guides, Directories, and Maps

1. The name of the publication may appear on the front cover, inside the front cover, or on the first page. It may include the name and emblem of the command or installation.

2. At the discretion of the commander, emergency and service telephone numbers, such as hospitals, military police, and fire numbers may be included.

3. A CE mission and services pocket guide for transient personnel that contains advertising from businesses in the community whose services may be needed by transients may be contracted for in addition to the installation guide or directory, if needed. Normally, these pocket guides will be procured as a part of the installation guide or directory contract.

J. Employment and Gratuities

DoD personnel may not accept employment by or gratuities from a commercial publisher under CE contract with a command. Other than investigation of the business capability of prospective publishing companies during the bidding process and general monitoring of ongoing business capability to fulfill the contract, personnel of the command or installation may not be connected with the business affairs of the CE publication or other business affairs of commercial publishers under contract.

Enclosure 3—Stars and Stripes

A. Purpose

The European and Pacific *S&S* are the UC newspapers of the U.S. European and Pacific Commands. The *S&S* newspapers are mission activities of the Department of Defense.

B. Background

The forerunner of today's *S&S* newspapers was first published in France for U.S. forces participating in World War I. Following the armistice, the newspaper was disestablished. Publication of the *S&S* resumed in Europe in 1942 and in the Pacific in 1945. Since then, both have been published continuously as the newspaper for DoD personnel serving in the U.S. European and Pacific Command areas.

C. Mission

1. To bring DoD personnel and their dependents the same international, national, and regional news and opinion from commercial sources available to newspapers throughout the United States. This news makes possible the continued intelligence exercise of the responsibilities of citizenship by DoD personnel while they serve away from home. It helps their moral and readiness by dispelling rumor and by keeping them in touch with many aspects of life in the United States while they live in unfamiliar surroundings.

2. To provide applicable U.S. Government, DoD, command, and local news and information, which improves individual capability for mission accomplishment and brings a sense of joint mission purpose to the Army, Navy, Air Force and Marine personnel operating together to carry out the U.S. defense mission overseas.

D. Operation

The operations of the *S&S* newspapers shall be conducted similar to comparable commercial newspaper publishing, book and magazine resale, and job printing activities. Modern commercial business techniques and practices shall be used in the operation of *S&S*.

E. Responsibilities

1. In accordance with DoD Directive 5122.10 and this part, the Director, AFIS, shall exercise overall cognizance in the Department of Defense over *S&S* matters on behalf of the ASD(PA).

2. The Secretary of the Army, through the Office of the Adjutant General or other designated office as appropriate, shall:

a. Designate the successor-in-interest to the *S&S*.

b. In coordination with the Director, AFIS, and UC Commanders, ensure the application of financial policies and procedures prescribed by DoD Instruction 7000.12.

c. Provide administrative and logistical support of *S&S* in accordance with DoD Directive 5100.3.

3. The Commander/Editor-in-Chief, *S&S*, shall:

a. Be responsible to the UC Commander for execution of DoD and UC policy concerning the operation of the *S&S*, the publication and distribution of the newspaper, and the operation of *S&S* resale and job printing activities at maximum efficiency while providing the best possible service to DoD personnel in the command area.

b. Supervise continuous planning and execution of initiatives to ensure successful future mission accomplishment.

F. S&S Advisory Board

1. Organization and Management

a. The Commanders-in-Chief of the U.S. European and Pacific Commands each shall be assisted by an *S&S* Advisory Board in exercising responsibility for the *S&S* newspapers published for their command areas.

b. It shall be chaired by the UC Director of Public Affairs and shall be composed of one voting representative each from the Military Service component commands. The Commander/Editor-in-Chief and Managing or Executive Editor of *S&S* shall be members.

c. The Board shall meet not less than twice a year. The minutes of each meeting will be signed by the UC Commander-in-Chief. Recommended actions or editorial guidelines he wishes to become directive will be communicated in writing to the Commander/Editor-in-Chief. Permanent policy will be incorporated in UC regulations.

2. Functions.

The purposes of the Board are:

a. To recommend editorial guidelines to the UC Commander.

b. To evaluate at each meeting compliance with DoD and UC editorial policies to include those concerning free flow of information to DoD personnel. Status and recommendations will be reported to the UC Commander.

c. To serve as a forum for expression and medication of the interests of *S&S* and the commands involved.

d. To evaluate at each meeting the balance of presentation of news articles, opinion columns, and editorial cartoons. To recommend changes, if needed.

e. To maintain an awareness of the newspaper's financial posture.

G. Fund Council

1. Organization and Management

a. The Fund Council shall recommend guidance and provide advice to the UC Commander and Commander/Editor-in-Chief on all business operations of *S&S*. This will include but not be limited to finance and accounting, product pricing, marketing, organization and management, manpower and personnel, circulation, and transportation.

b. The chairperson shall be the Commander/Editor-in-Chief. The membership shall include one voting member each from the Office of Public Affairs and the Comptroller of the UC and at least one member from each Military Service component command. Members shall be appointed by the UC Commander and shall be the best qualified personnel available in the command in business-related disciplines. The improvement and successful accomplishment of *S&S* business operations shall be the sole interest of Fund Council members while serving in that capacity. Fund Council members shall be appointed by the UC Commander for a 3-year term, which he may extend or curtail. The Fund Council shall meet no less than quarterly. The UC Commander shall sign the proceedings of Fund Council meetings. Actions and policies he desires to become directive shall be communicated to the Commander/Editor-in-Chief in writing. Permanent policies shall be incorporated into command regulations.

2. Functions

a. The Fund Council shall monitor planning and execution of initiatives to ensure successful future mission accomplishment.

b. The Fund Council shall assist the Commander/Editor-in-Chief's with continuous evaluation of external factors which will impact *S&S* such as changes in force levels and economic conditions.

c. The Fund Council shall recommend to the UC Commander approval or disapproval of the Commander/Editor-in-Chief's annual financial plan, to include the capital expenditure budget. It shall monitor execution quarterly. The Fund Council shall recommend approval or disapproval of quarterly changes to the capital expenditure budget. The Commander/Editor-in-Chief shall provide sufficient documentation to Fund Council members between quarterly meetings to keep them informed on progress.

d. The Commander/Editor-in-Chief will present a 2-year forecast annually to the Fund Council which will be provided in writing to the UC Commander.

H. Procedures

1. The *S&S* are Category II Resale and Revenue Sharing Morale, Welfare, and Recreation (MWR) activities of the Department of Defense. Nonappropriated fund financial operations shall be administered as Category II nonappropriated fund instrumentalities (NAFIs) by the Department of the Army under DoD Directive 1015.1.

2. Nomination of candidates for the Commander/Editor-in-Chief and Deputy positions shall be made by proposal of the Military Departments through the Director, AFIS, to the UC Commander, who shall make the final selection.

3. The UCs and *S&S* are authorized direct contact with the Military Departments on personnel matters and with the Department of the Army on financial matters.

4. *S&S* officers directly supervising business affairs shall possess a master's degree in business administration and shall have public affairs experience. *S&S* shall endeavor to recruit civilian personnel, with solid experience, education, and performance credentials in business, publishing, or editorial disciplines. *S&S* shall endeavor to maintain a balanced mix of long-term employees to provide stability and shorter-term employees from industry to bring a new ideas and techniques. The Military Departments shall provide their highest quality public affairs personnel for *S&S* asignments and shall fill military positions at the required grade level.

5. The *S&S* newspapers and other *S&S* services are for overseas DoD organizations, personnel, and their dependents. The newspaper and other services may be made available to other U.S. Government and U.S. Government contractor personnel serving in the UC areas.

6. The *S&S* shall endeavor to provide the newspaper and other services for DoD personnel engaged in military operations, contingencies, and exercises in the most expeditious manner possible in coordination with the participating commands. These services shall be provided on a reimbursable basis, either from the commands concerned or from the individuals receiving the service. In times of armed conflict, the Department of the Army shall provide appropriated funding for production and fee distribution of the *S&S* newspaper to forces within designated combat zones, subject to reimbursement by the other Military Services based on percentages of Military Service member population in the designated combat area.

7. *S&S* newspapers may take no editorial positions and shall maintain balance in presentation of commercial news and opinion. Each *S&S* news or feature story and each in a series shall present a balanced view of the issues involved.

8. As determined by the UC Commander, news of information that may adversely affect the security of our country of endanger the safety of DoD personnel may not be disclosed. This may not be construed to permit the calculated withholding of unfavorable news. Any decision to withhold news or information under this provision shall be reported immediately to the Assistant Secretary of Defense, Public Affairs.

9. In UC areas, U.S. Ambassadors shall be relied upon the notify the UC Commander of issues that may endanger our national security. The UC Commander shall provide guidance to the Commander/Editor-in-Chief.

10. The *S&S* shall cover the news of the command, good or bad, on a balanced, objecteve, and impartial basis. *S&S* is not an investigative function within the military community; it is a reporting function. It may report on open or completed investigations by agencies that perform investigative functions, as legally appropriate. *S&S* military reporters may wear military or civilian clothes at the discretion of the Command/Editor-in-Chief. *S&S* has the right to gather and publish information, both positive and negative, within the guidance and constraints of this Part.

11. *S&S* reporters shall make complete inquiry to ascertain the most factual and up-to-date information available before publication of a story. The need for accuracy is paramount. When there is more then one command or viewpoint involved in a story, the story shall be presented with a balanced view. Commanders and public affairs officers shall respond to *S&S* news inquiries on the same basis they respond to commercial media inquiries. *S&S* reporters shall be accorded the same treatment, access to restricted areas, or gatherings provided to reporters from the commercial media. *S&S* reporters may not use their military status or credentials to gain treatment, acess to restricted areas of gatherings, or advantages not accorded civilian media. Commanders and public affairs officers may not use the U.S. Government status of *S&S* news personnel to block the release of or access to otherwise releasable news, information or event.

12. The Commander/Editor-in-Chief shall ensure that all editorial personnel are fully informed on the military missions and other key aspects of the UC and its subordinate command echelons. Also, editorial personnel shall be taught *S&S* editorial policy and fully understand the mission and stauts of *S&S* as a U.S. Government instrumentality as set forth in this instruction and supplementing UC directives. Field reporters and news bureau members shall be the most mature and professional personnel assigned to *S&S*. All shall have *S&S* newsroom experience before being given independent assignments.

13. The *S&S* may use special project reporting teams. One purpose of these teams is balanced, in-depth reporting on operations, actions, or achievements within the UC area. Another is to examine concerns of area commands or the readership to inform on elements of issues or problems progress toward solutions, official and unofficial viewpoints, and the help available, if appropriate. Reporting shall be accomplished in a balanced, accurate, objective, and nonsenational manner. Topics and their planned treatment shall be review by the *S&S* Advisory Board who will provide counsel and arrange command assistance.

14. As the official responsible for both *S&S* and public affairs policy within the UC, the UC Commander shall provide the leadership required to maintain professional working relationships and keep problems resolved between *S&S* and subordinate echelons of the UC.

15. The Armed Forces Radio and Television Service (AFRTS) sensitive subjects summaries may not be used in conjunction with the publication of *S&S*. Representatives of other governments who indicate an interest in the content of the *S&S* shall be informed that the newspaper does not represent the official position of the U.S. Government or the DoD. The *S&S* is a compendium of the commercial news and opinion available to newspapers in the United States, and DoD, command, and local news and information, presented without an editorial position, sensationalism, or censorship for DoD personnel and their dependents serving overseas.

16. Any apparent wrongdoing discovered by *S&S* personnel in the performance of their duties shall be reported immediately to the Commander/Editor-in-Chief who shall notify the appropriate authorities.

17. To serve the news and information needs of DoD personnel, the *S&S* newspapers shall provide the widest possible selection of resale publications for sale at the most reasonable prices possible, either directly or through other authorized sales outlets at their discretion, throughout the areas they serve. To accomplish this mission the *S&S* shall have throughout their service areas the same authorities and rights for resale publications that DoD Exchange Services have on military installations for other non-subsistence goods and services. The cognizant UC Commander shall adjudicate publications resale issues within his command area which cannot be resolved by *S&S* at the operating level (currently an exception to DoD Directive 1320.9 but in consonance with DoD Instruction 1330.18. This guidance shall not be used to restrict sales or distribution of publications to DoD personnel by commercial publishers (see enclosure 4, paragraph D.)

18. The assortment of books and magazines and like products made available for sale to DoD personnel through *S&S* bookstores in each UC area shall approximate that commercially available in the United States. Decisions on which publications to include in this assortment shall be made by the *S&S* on the basis of marketability and service.

I. Management Review and Evaluation

1. The Director, AFIS, shall monitor current business and editorial operations to advise and assist the UC Commander, as required, to maintain high-quality, financially viable *S&S* operations. Annually, the Director, AFIS, shall meet with responsible UC representatives and the Commanders/Editors-in-Chief shall each provide a short high-points briefing to the ASD(PA) and other senior DoD officials in the Washington area who have *S&S* responsibilities. This briefing shall include a 2-year financial forecast.

2. AFIS shall fund commercial audits every 2 years at each *S&S* (an exception to paragraph V.A.2 of DoD Instruction 7600.6. These audits shall be contracted by *S&S* on a reimbursable basis. The results shall be provided to the UC Commander and to the Director, AFIS. The UC Commander; Director, AFIS; and the *S&S* Management Action Group shall assist as appropriate in the resolution of problem areas highlighted by audits.

J. S&S Management Action Group

1. Organization and Management.

The Director, AFIS, shall be assisted by an *S&S* Management Action Group composed of senior level personnel highly qualified in business and management disciplines from AFIS (chairperson), Office of the Assistant Secretary of Defense (Manpower, Installations and Logistics), and other OSD offices with the authority and expertise to assist in solutions to *S&S* problems. A steering committee, chaired by the Director, AFIS, and composed of members at the Deputy Assistant Secretary level or above shall guide and assist the work of the *S&S* Management Action Group, when appropriate. Normally, members of the steering committee will be the supervisors of group members.

2. Functions.

The *S&S* Management Action Group shall execute the following tasks:

a. Monitoring of financial health.

b. Early detection of impending financial crises.

c. Formulating plans, providing leadership, and carrying out actions to assist in resolution of financial problems.

d. Assisting the UC Commander and *S&S* with problem-solving, as required.

K. Financial

1. *S&S* operations shall be funded to the maximum extent possible through the sale of the newspaper; books, magazines, and like products; job printing; authorized advertising revenues; and other income.

2. *S&S* are authorized appropriated fund support as follows:

a. As provided under the provisions of DoD Instruction 1015.4 and DoD Directive 1330.2.

b. Direct funding support when adverse conditions in national and international economics, major increases or decreases in the population served, or other circumstances make such funding necessary to ensure the survival of the newspaper without impairment of its mission capability.

c. Regional air transportation or satellite transmission of the newspaper when long distances require these modes to ensure timely delivery.

d. Authorization is granted to the European *S&S* to use indicia or other DoD official postage for mailing of the *S&S* newspaper to

locations outside of the Federal Republic of Germany and to remote and isolated areas. Changes may be made to accommodate fluctuations in the circulation of the newspaper; however, European *S&S* shall continue to use in-house or other nonpostal means of transportation to distribute the newspaper to areas that are not remote or isolated.

3. Appropriated fund support of *S&S* is the responsibility of the Department of the Army. Appropriated funding may be provided by other Military Departments in accordance with existing agreements and procedures or when required by special circumstances or as otherwise stated herein.

L. Nonappropriated Funds

1. The Commander/Editor-in-Chief may apply for nonappropriated funds from the Department of the Army. Submissions shall be routed through the UC Commander to the Director, AFIS. Requests for funds must be recommended by the Fund Council and approved by the UC Commander. AFIS will forward valid requests to the Secretary of the Army for appropriate action.

2. The Fund Council, by unanimous vote, may declare funds excess to the needs of the business, subject to approval of the UC Commander. Such excess funds shall be forwarded in accordance with disposition instructions from the Department of the Army. Funds may be declared excess only after the following requirements are met:

a. Working capital is at a safe level, to be recommended by the Commander/Editor-and-Chief and Fund Council and approved by the UC Commander.

b. Funds required to complete all planned and foreseeable capital expenditure projects and fulfill other legitimate business needs are available in sinking funds.

c. Retirement and severance accounts are fully funded.

d. An emergency sinking fund, designed to sustain *S&S* through foreseeable periods of financial crisis created by adverse economic conditions or any other cause is fully funded. The amount of this sinking fund will be determined by the Fund Council and approved by the UC Commander.

e. The price of the newspaper is at or below the most prevalent charge for similar U.S. newspapers, to be determined by the Fund Council from the statistics of the American Newspaper Association.

f. Book, magazine and like product prices and job printing are discounted to an appropriate level, to be determined by the Commander/Editor-in-Chief and the Fund Council and approved by the UC Commander.

3. Investment of funds shall be managed by the Commander/Editor-In-Chief and monitored by the Fund Council.

M. Advertising to DoD Personnel Overseas

1. The masthead shall contain the statement specified in § 297.5(b)(5)(i) of this Part.

2. The following may be published free of charge:

a. Factual news stories concerning special DoD-affiliated tours or entertainment opportunities for DoD personnel and their dependents.

b. Promotion of AFRTS schedules and services.

3. The *S&S* may promote the newspaper, books, magazines, and like products; authorized advertising; and job printing services (except appropriated fund) in the newspaper, book, magazine, and like product promotions may include publications by name, title, author, and price. The *S&S* shall work with AFRTS outlets to promote these products and services within AFRTS guidelines.

4. To serve the readership the *S&S* are authorized to solicit, sell, publish, and circulate supplement section advertising, which includes prices and brand names of products and services sold or provided by the following: Nonappropriated fund (DoD Instruction 1015.2) and other authorized activities and their concessionaires providing goods, services and entertainment to DoD personnel and dependents; DoD supervised banks and U.S. Federal Credit Unions; colleges and universities affiliated with DoD organizations to provide educational services to DoD personnel and their dependents; and North Atlantic Treaty Organization elements and host-government instrumentalities that offer goods and services to DoD personnel and their dependents. *S&S* has the right to refuse any advertising considered to be illegal, misleading, prejudicial, confusing, or in bad taste. Transactions on advertising will be handled only between *S&S* and the authorized advertisers listed above.

5. The *S&S* may accept paid classified advertising from DoD personnel and their dependents to aid the exchange of personally-owned goods and individual services.

6. The *S&S* may sell through commercial advertising agencies run of the paper advertising of DoD recruiting and retention.

Enclosure 4—Mailing of DoD Newspapers and Civilian Enterprise Publications Other Than Newspapers; Sales and Distribution of Non-DoD Publications

A. Policy

It is DoD policy that mailing costs shall be kept at a minimum consistent with timeliness and applicable postal regulations (see DoD Instructions 4525.7 and 4525.8). Responsible officials shall consult with appropriate postal authorities to obtain resolution of specific problems.

B. Definition

DoD official postage includes all means of paying postage using funds appropriated for DoD. These means include postage and fees paid indicia, postage metered mail, permit mail, and official mail postage stamps.

C. Use of Official Postage

1. DoD official postage shall be used only for:

a. Mailing copies to satisfy mandatory distribution requirements.

b. Mailing copies to other public affairs offices and for administrative purposes.

c. Mailing copies to headquarters in the chain of command.

d. Bulk mailings of DoD newspapers to subordinate units for distribution to members of the units.

e. Mailing information copies to other U.S. Government agencies, Members of Congress, libraries, hospitals, schools, and depositories.

f. Mailing of an individual copy of a newspaper in response to an unsolicited request from a private person, firm, or organization, if such response is in the best interest of the DoD Component or its subordinate echelons of command.

g. By European *S&S* for mailing of the newspaper to authorized recipients outside the geographical area of the Federal Republic of Germany and to remote and isolated areas.

h. European and Pacific *S&S* for official managerial and administrative mailings related exclusively to the business of the U.S. Government.

i. Mailing copies of DoD newspapers and CE publications other than newspapers to incoming DoD personnel and their families to orient them to their new command, installation, and community.

2. DoD official postage may not be used for mailing:

a. To the general readership of DoD newspapers and publications other than newspapers, unless specifically excepted in this Instruction.

b. By a CE publisher.

c. CE publications other than newspapers in bulk.

d. *S&S* resale and job printing products.

3. Generally, DoD newspapers shall be mailed as controlled circulation, third-class bulk, third-class, fourth-class mail.

D. Non-DoD Publications

A commander may afford reputable distributors of other publications the opportunity to sell or give away publications at the activity he commands. Such publications may not be distributed through official channels. These publications shall be made available only through subscription or placed in specific general use areas designated by the commander, such as the foyers of open messes or exchanges. Paid subscriptions to community newspapers may be home delivered by the commercial distributor in installation residential areas.

E. Legal Prohibitions

Compliance with Section 18 U.S.C. 1302 and 1307 is mandatory. Section 1302 of Title 18, United States Code, Sections 1302 and 1307 prohibits the mailing of publications containing advertisements of any type of lottery or scheme that is based on lot or chance. This covers such activities a friendly bingo games. Section 1307 of Title 18 authorizes exceptions pertaining to authorized State lotteries. Lottery is defined as containing the following three elements:

1. Prize (whatever items of value are offered in the particular game).

2. Chance (random selection of numbers to produce a winning combination).

3. Consideration (requirement to pay a fee in order to play).

F. Review of Mailing and Distribution Effectiveness

1. Mailing and distribution lists shall be reviewed annually to determine distribution effectiveness and continuing need of each recipient to receive the publication.

2. Distribution techniques, target audiences, readers per-copy ratios, and use of postal facilities to ensure the most economical use of mail services consistent with timeliness shall be revalidated annually.

Enclosure 5—American Forces Press and Publications Service

A. General

The American Forces Press and Publications Service (AFPPS), an element of AFIS, provides a variety of print media products in support of the DoD Internal Information Program. These materials include:

1. The American Forces Press Service (AFPS), a monthly feature news service printed and distributed principally to DoD newspaper editors, is camera-ready and contains a broad spectrum of feature materials and artwork intended to supplement material received from other sources.

2. *Defense (year)* magazine, a monthly DoD policy-oriented publication of the Secretary of Defense, intended for worldwide distribution by the Military Departments to military officers, senior-level civilian employees and senior enlisted personnel.

3. Pamphlets, booklets, and posters covering a variety of inter-service information topics.

B. Use of Materials Published by American Forces Press and Publications Service

With the exception of copyrighted matter, all materials published by AFPPS may be reproduced or adapted for use by DoD newspaper editors as appropriate. When AFPPS material is edited or revised, accuracy and conformance to DoD policy and accepted standards of good taste will be maintained. Due to the policy oriented nature of *DEFENSE (year)* magazine contents, particular care will be taken to preserve the original context, tone and meaning of any material adapted, revised or edited from this publication.

C. Activities Eligible to Receive AFPS

1. All DoD newspapers including *S&S*.

2. Headquarters of DoD Components and their subordinate commands.

3. Proponent offices of DoD periodicals published by DoD Components.

4. AFRTS networks and outlets.

5. Isolated commands and detachments at which DoD newspapers are not readily available.

D. Procedures

1. The AFPS is mailed directly to requesting commands. Requests should be forwarded directly to:

American Forces Press Service (AFPS), 1735 North Lynn Street (Room 210), Arlington, VA 22209

2. Requests shall include name and address of newspaper or activity, frequency of publication, and whether the requesting newspaper is Funded or CE.

3. Notification of changes of address, newspaper title, or other status shall be forwarded immediately to the above address.

E. Mandatory Distribution

One copy of each published issue of all DoD newspapers (Funded, CE, and *S&S*) shall be forwarded to the AFPS at the address indicated above.

Linda M. Lawson,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

August 8, 1985.

[FR Doc. 85-19224 Filed 8-14-85; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD2 85-33]

Special Local Regulations; Armstrong Chamber of Commerce Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 44.0 to 45.0, Allegheny River. The "Armstrong Chamber of Commerce Regatta", an approved marine event, will be held on August 17 and 18, 1985, at Kittanning, Pennsylvania. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations will be effective from 9:00 a.m. on August 17, and terminate at 8:00 p.m. on August 18, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103. (314) 425-5977.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Allegheny River between miles 44.0 and 45.0 during the "Armstrong Chamber of Commerce Regatta", August 17 and 18, 1985. This event will consist of several classes of outboard race boats, which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The application for this event was not received until July 2, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5-22-80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information

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

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. In Part 100, a new temporary § 100.35-0233 is added, to read as follows:

§ 100.35-0233 Allegheny River, miles 44.0 through 45.0

(a) *Regulated Area.* The area between Mile 44.0 and 45.0 Allegheny River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 9:00 a.m. on August 17, and 8:00 p.m. on August 18, 1985. All times listed are local time. These times represent a guideline for possible intermittent river closures not to exceed three (3) hours in duration. Mariners will be afforded enough time between such closure

periods to transit the area in a timely manner.

(b) *Special Local Regulations.* The Coast Guard will maintain a patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

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

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

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

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

(g) This § 100.35–0233 will be effective from 9:00 a.m. on August 17, and terminate at 8:00 p.m. on August 18, 1985. (local time).

Dated: August 1, 1985.

B.F. Hollingsworth,

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

[FR Doc. 85–19435 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD2 85–34]

Special Local Regulations; Beaver County River Regatta

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 0.0 to 1.0, Beaver River. The "Beaver County River Regatta", an approved marine event, will be held on August 17 and 18, 1985, at Beaver, Pennsylvania. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations will be effective from 8:00 a.m. on August 17, and terminate at 9:30 p.m. on August 18, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR. B.J. Willis, Chief, Boating Technical Branch, Second Coast Guard District, 1430 Olive St., St. Louis, MO 63103. (314) 425–5977.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Beaver River between miles 0.0 and 1.0 during the "Beaver County River Regatta", August 17 and 18, 1985. This event will consist of power boat races, row boat races, water ski shows and a lighted boat parade, which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The final schedule of events was not received until July 30, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 or 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information

The drafters of this regulation are BMCM W.L. Giessman, USCGR, project officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG, project attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. In part 100, a new temporary § 100.35–0234 is added, to read as follows:

§ 100.35–0234 Beaver River, miles 0.0 through 1.0.

(a) *Regulated Area.* The area between Mile 0.0 and 1.0 Beaver River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 8:00 a.m. on August 17, and 9:30 p.m. on August 18, 1985. All times listed are local time. These times represent a guideline for possible intermittent river closures not to exceed three (3) hours in duration. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations.* The Coast Guard will maintain a patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

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

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

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

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

(g) This § 100.35–0234 will be effective from 8:00 a.m. on August 17, and terminate at 9:30 p.m. on August 18, 1985. (local time).

Dated: August 1, 1985.

B.F. Hollingsworth,

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

[FR Doc. 85–19436 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 09–85–20]

Special Local Regulations; Frostbite Regatta—Niagara River

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for the Frostbite Regatta to be held on the Niagara River. This event will be held on 4, 5 and 6 October 1985. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective on 4 October 1985 and terminate on 6 October 1985.

FOR FURTHER INFORMATION CONTACT: MSTC Cary H. Lindsay, Office of Search and Rescue, Ninth Coast Guard District, 1240 E. 9th St., Cleveland, OH 44199, (216) 522–4420.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rule Making has not been published for these regulations and they are being made effective in less than 30 days from the date of publication. Following normal rulemaking procedures would have been impractical. The application to hold this event was not received until August 2, 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event or to provide for a delayed effective date. This has been an annual event for many years and no negative comments have been received concerning the holding of the event in the past.

Drafting Information

The drafters of this regulation are MSTC Cary H. Lindsay, project officer, Office of Search and Rescue and LCDR A.R. Butler, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Frostbite Regatta will be conducted on the Niagara River on 4, 5 and 6 October 1985. This event will have approximately 90 hydroplanes and inboard racing runabouts which could pose hazards to navigation in the area. Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (U.S. Coast Guard Group, Buffalo, NY).

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority for Part 100 continues to read as follows:

Authority: 33 U.S.C 1233; 49 CFR 1.46(c)(5) and 33 CFR 100.35.

2. Part 100 is amended to add a temporary § 100.35–0920 to read as follows:

§ 100.35–0920 Frostbite Regatta, Niagara River.

(a) *Regulated Area.* That portion of the East Branch of the Niagara River, Tonawanda Channel, from the overhead cable, 1300 yards northwest of the South Grand Island Bridge, to an east-west line through the Tonawanda Channel Buoy 35 (LLP 29).

(b) *Special Local Regulations.* (1) The above area will be closed to navigation or anchorage from 2:00 P.M. (local time) until 5:00 P.M. on 4 October 1985 and from 10:00 A.M. (local time) until 7:00 P.M. on 5 and 6 October 1985.

(2) Vessels desiring to transit the restricted area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. These rules shall not apply to participants in the event or vessels of the patrol, in the performance of their assigned duties.

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

Dated: August 7, 1985.

B.K. Schaeffer,

Captain, U.S. Coast Guard, Chief of Staff, Ninth Coast Guard District.

[FR Doc. 85–19438 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD 5–85–07]

Special Local Regulations; Regatta; Havre De Grace Power Boat

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are adopted for the Havre De Grace Power Boat Regatta. This event will be held on the Susquehanna River, between Garrett Island and the western shoreline at Havre De Grace, MD. It will consist of 75 inboard hydroplanes and runabouts and outboard performance crafts with speeds up to 140 miles per hour. Vessels will range from 13 feet to 19 feet in length racing a circular course in the Susquehanna River, west of Garrett Island. The regulations are needed to provide for the safety of life on navigable waters during the event.

EFFECTIVE DATE: These regulations become effective for the following times and dates:

11:30 am through 6:30 pm, 24 August 1985

11:30 am through 6:30 pm, 25 August 1985

If the event is postponed, the Patrol Commander will issue a Broadcast Notice to Mariners.

FOR FURTHER INFORMATION CONTACT: Billy J. Stephenson, Chief, Boating Affairs Branch, Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23705 (804) 398–6204.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making has not been published for these regulations.

Following normal rule making procedures would have been impracticable. The application to hold the event was not received until 26 July 1985, and there was not sufficient time remaining to publish proposed rules in advance of the event.

Drafting Information

The drafters of this regulation are Billy J. Stephenson, project officer, Chief, Boating Affairs Branch, Fifth Coast Guard District, and Lieutenant Commander Walter J. Brudzinski, project attorney, Fifth Coast Guard District Legal Office.

Discussion of Regulations

The Susquehanna Optimist Club is sponsoring the Havre De Grace Power Boat Regatta which will consist of a Standard American Power Boat race around an approximately 1⅜ mile course for 3 laps. 3 to 12 boats race at one time with speeds of up to 140 miles per hour. Races continue for 4 to 5 hours. Closure of the entire waterway is not anticipated and marine traffic will be allowed to proceed up the Susquehanna River using the waterway east of Garrett Island.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations

In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

Part 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. A temporary section is added to Part 100 to read as follows:

§ 100.35–0505 Susquehanna River, Havre De Grace, MD.

(a) *Regulated Area.* The waters of the Susquehanna River west of Garrett Island, bounded by the Conrail Railroad bridge on the south and the B&O Railroad bridge on the north.

(b) *Special Local Regulations.* Except for participants in the Susquehanna River Power Boat Race, or persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the above area. The operator of any vessel in the immediate vicinity of this area shall:

(1) Stop his vessel immediately upon being directed to do so by any Coast Guard officer or petty officer on board a vessel displaying a Coast Guard Ensign, and

(2) Proceed as directed by any Coast Guard officer or petty officer.

(c) Any spectator vessel may anchor outside of the area specified in paragraph (a) of these regulations.

(d) The Coast Guard Patrol Commander is a commissioned officer of the Coast Guard who has been designated by the Commander, Fifth Coast Guard District. The Patrol Commander will be stationed on board Coast Guard Cutter CG–41454.

(e) The Coast Guard Patrol Commander has been authorized to stop the race to allow the transit of backed up marine traffic through the regulated area.

(f) These regulations and other applicable laws and regulations will be enforced by Coast Guard officers and petty officers on board Coast Guard and private vessels displaying the Coast Guard Ensign.

Dated: August 2, 1985.

James C. Irwin,

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

[FR Doc. 85–19437 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 100

[CGD2 85–35]

Special Local Regulations; Savanna Festival Championships

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special local regulations are being adopted for Miles 537.0 to 538.0, Upper Mississippi River. The "Savanna Festival Championships", an approved marine event, will be held on August 17 and 18, 1985, at Savanna, Illinois. These special local regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations will be effective from 12:00 noon on August 17, and terminate at 4:00 p.m. on August 18, 1985.

FOR FURTHER INFORMATION CONTACT: LCDR. B.J. Willis, Chief, Boating Technical Branch Second Coast Guard District, 1430 Oliver St., St. Louis, MO 63103. (314) 425–5977.

SUPPLEMENTARY INFORMATION: These special local regulations are issued pursuant to 33 U.S.C. 1233 and 33 CFR Part 100.35, for the purpose of promoting the safety of life and property on the Upper Mississippi River between miles 537.0 and 538.0 during the "Savanna Festival Championships", August 17 and 18, 1985. This event will consist of approximately (20) twenty heats of power boat races, which could pose hazards to navigation in the area. Therefore, these special local regulations are deemed necessary for the promotion of safety of life and property in the area during this event. A notice of proposed rule making has not been published for these regulations and they are being made effective less than 60 days from the date of publication. Following normal rule making procedures would have been impracticable. The final schedule of events was not received until July 29, 1985, and there was insufficient time in which to publish proposed rules in advance of the event, or to provide for a delayed effective date. These regulations have been reviewed under the provisions of Executive Order 12291 and have been determined not to be a major rule. This conclusion follows from the fact that the duration of the regulated area is short. In addition, these regulations are considered to be nonsignificant in accordance with guidelines set forth in the Policies and Procedures for Simplification, Analysis, and Review of Regulations (DOT Order 2100.5 of 5–22–80). An economic evaluation has not been conducted since, for the reasons discussed above, its impact is expected to be minimal. In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), it is also certified that these rules will not have a significant economic impact on a substantial number of small entities. This rule is necessary to ensure the protection of life and property in the area during the event.

Drafting Information: The drafters of this regulation are BMCM W.L. Giessman, USCGR, project officer, Boating Technical Branch, and LT. R.E. Kilroy, USCG project attorney, Second Coast Guard District Legal Office.

List of Subjects in 33 CFR Part 100

Marine Safety, Navigation (water).

Regulations: In consideration of the foregoing, Part 100 of Title 33, Code of Federal Regulations, is amended as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 C.F.R. 100.35.

2. In part 100, a new temporary 100.35–0235 is added, to read as follows:

§ 100.35–0235 Upper Mississippi River, Miles 537.0 Through 538.0

(a) *Regulated Area:* The area between Mile 537.0 and 538.0 Upper Mississippi River is designated the regatta area, and may be closed to commercial and recreational navigation or mooring between the hours of 12:00 noon on August 17, and 4:00 p.m. on August 18, 1985. All times listed are local time. These times represent a guideline for possible intermittent river closures not to exceed four (4) hours in duration. Mariners will be afforded enough time between such closure periods to transit the area in a timely manner.

(b) *Special Local Regulations.* The Coast Guard will maintain a patrol consisting of regular and auxiliary Coast Guard vessels in the regatta area. This patrol will be under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on Channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Vessels desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Vessels will be operated at a no wake speed to reduce the wake to a minimum and in a manner which will not endanger participants in the event or any other craft. The rules contained in the above two sentences shall not apply to participants in the event or vessels of the patrol operating in the performance of their assigned duties.

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

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

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

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

(g) This § 100.35–0235 will be effective from 12:00 noon on August 17, and terminate at 4:00 p.m. on August 18, 1985. (local time).

Dated August 2, 1985.

B.F. Hollingsworth,

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

[FR Doc. 85–19434 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 117

[CGD7–85–14]

Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, FL

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is changing the regulations governing the Broad Causeway drawbridge, mile 1081.4, at Bay Harbor Islands by shifting the authorized opening times by 15 minutes. This change is being made because of a change in the type of vessels using the waterway over the last ten years. This action will facilitate navigation with no impact on vehicular traffic.

EFFECTIVE DATE: These regulations become effective on September 16, 1985.

FOR FURTHER INFORMATION CONTACT: Mr. Walt Paskoswky, (305) 350–4103.

SUPPLEMENTARY INFORMATION: On June 3, 1985 the Coast Guard published (50 FR 23316) a proposal to revise these regulations. The proposed regulations were also published in a public notice issued by Commander, Seventh Coast Guard District on June 18, 1985. In each notice interested persons were given until July 18, 1985 to submit comments.

Drafting Information

The drafters of these regulations are Mr. Walt Paskowsky, Bridge Administration Specialist, project officer, and Lieutenant Commander Ken Gray, project attorney.

Discussion of Comments

No comments were received.

Economic Assessment and Certification

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of these regulations is expected to be so minimal that a full regulatory evaluation is unnecessary. We conclude this because the regulations impose no additional restrictions on navigation and continue to exempt tugs with tows and regularly scheduled cruise vessels. Since the economic impact of these regulations is expected to be minimal, the Coast Guard certifies that they will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations, is amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46 and 33 CFR 1.05–1(g).

2. Section 117.261(y)(2) is revised to read as follows:

§ 117.261 Atlantic Intracoastal Waterway from St. Marys River to Miami.

* * * * *

(y) * * *

(2) The draw of the Broad Causeway bridge, mile 1081.4, at Bay Harbor Islands shall open on signal except that, from 8 a.m. to 6 p.m., the draw need open only on the quarter-hour and three-quarter hour.

* * * * *

Dated: August 6, 1985.

R.P. Cueroni,

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

[FR Doc. 85–19431 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

33 CFR Part 165

[COTP Miami, Florida Regulation CCGD7–85–39]

Safety Zone Regulations; in Biscayne Bay, off the Southeastern End of Lummus Island; Miami, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone for the drilling and blasting operations at the southeastern end of Lummus Island, Miami, Florida. The blasting will be in an area bounded by a line extending south 500 feet from the southeastern end of Lummus Island, then west 1200 feet, then north 500 feet to the Gantry Crane dock. The zone is needed to protect swimmers, pleasure boaters, commercial traffic and construction personnel from safety hazards associated with the drilling and blasting operations. Entry

into this zone is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective on 2 August 1985. It terminates on 2 November 1985 unless completion of the drilling and blasting operation occurs first.

FOR FURTHER INFORMATION CONTACT: CWO3 P.J. MacDonald, c/o Commanding Officer, U.S. Coast Guard, Marine Safety Office, Miami, FL 33130, Tel. (305) 350-5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after the **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to personnel and vessels involved.

Drafting Information

The drafters of this regulation are CWO3 P.J. MacDonald, project officer for the Captain of the Port, and LCDR K.E. Gray, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is the drilling and blasting operation off the southeastern end of Lummus Island, Biscayne Bay, Miami, Florida, commencing on 2 August, 1985 and continuing until approximately 2 November, 1985. This operation is necessary for the excavation of the area off the Gantry Crane Dock located at the southeastern end of Lummus Island. During the period 2 August, 1985 through 2 November, 1985, between the hours of 8:00 am and 5:00 pm daily, Monday through Friday with the exception of Holiday's, blasting operations will be conducted. Five minutes prior to each blast, the drilling rig will signal it's intention to blast with a series of 10 long horn signals. At this time the area of Fishermans Channel in a radius of 300 yards of the drilling rig will be closed to all traffic. One minute prior to blasting, the drilling rig will signal it's intention to blast with a series of 3 long horn signals. After the blast, 1 long horn signal will be given as an "All Clear". At all times, vessels are restricted from penetrating a fifty yard radius of the drilling rig. Vessels transitting this area should minimize the effects of their wake.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read as follows

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05-1(g), 6.04-1, 6.04-6 and 160.5.

2. A new § 165.T-07-39 is added to read as follows:

§ 165.T-07-39 Safety Zone: In Biscayne Bay, off the southeastern end of Lummus Island, Miami, Florida.

(a) *Locotion:* The following area is a Safety Zone: An area bounded by a line extending south 500 feet from the southeastern end of Lummus Island, then west 1200 feet, then north 500 feet to the Gantry Crane dock. This safety zone is required for the excavation of the area off the Gantry Crane Dock located at the southeastern end of Lummus Island, Miami, Florida. During the period 2 August, 1985 through 2 November, 1985, between the hours of 8:00 am and 5:00 pm daily, Monday through Friday with the exception of Holiday's, blasting operations will be conducted. Five minutes prior to each blast, the drilling rig will signal it's intention to blast with a series of 10 long horn signals. At this time the area of Fishermans Channel in a radius of 300 yards of the drilling rig will be closed to all traffic. One minute prior to blasting, the drilling rig will signal it's intention to blast with a series of 3 long horn signals. After the blast, 1 long horn signal will be given as an "All Clear". At all times, vessels are restricted from penetrating a fifty yard radius of the drilling rig. Vessels transitting this area should minimize the effects of their wake.

(b) Regulations:

(1) In accordance with the general regulation in § 165.23 of this part, entry into this zone is prohibited, unless authorized by the Captain of the Port.

(2) Vessels transitting this area should minimize the effects of their wake.

Dated: August 2, 1985.

R.N. Roussel,

Commander, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 85-19432 Filed 8-14-85; 8:45 am]

BILLING CODE 4910-14-M

33 CFR Part 165

[COTP Wilmington, NC; Regulation 85-05]

Safety Zone Regulations; Cape Fear River From Military Ocean Terminal, Sunny Point, NC, to State Ports Authority, Wilmington, NC

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard will establish a moving safety zone which will encompass an area 100 yards around the M/V CPL LOUIS J. HAUGE JR. while enroute from the Military Ocean Terminal, Sunny Point, North Carolina (MOTSU) at the State Ports Authority at Wilmington, North Carolina, and while the M/V CPL LOUIS J. HAGUE JR. is enroute from the State Ports Authority to MOTSU. A stationary safety zone will be established while the M/V CPL LOUIS J. HAGUE JR. is moored at State Ports Authority encompassing an area 100 yards around the vessel. These zones are needed to safeguard the vessel during Military Preposition Ship (MPS) operations. Entry into these zones is prohibited unless authorized by the Captain of the Port.

EFFECTIVE DATES: This regulation becomes effective at 5:00 a.m., Eastern Daylight Savings Time, August 26, 1985. It terminates at 8:00 p.m., Eastern Daylight Savings Time, August 30, 1985.

FOR FURTHER INFORMATION CONTACT: LT. J.C. Hendrix, Chief Operations Department, U.S. Coast Guard Marine Safety Office, Suite 500, 272 N. Front Street, Wilmington, North Carolina 28401. Phone: 919 343-4892.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after Federal Register publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action was needed to prevent possible loss of life, and damage to the vessel's equipment, and personnel during this operation.

Drafting information: The drafter of this regulation is Lieutenant J.C. Hendrix, Project Officer, for the Captain of the Port.

Discussion of regulations: The Safety Zone is established in conjunction with this office and the Military Traffic Management Command in support of MPS operations.

List of Subjects in 33 CFR Part 165

Harbors marine safety, Navigation (water), Security measures, Vessels, Waterways.

PART 165—[AMENDED]

Regulation: In consideration of the foregoing, Part 165 of Title 33, Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 165 continues to read:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46, and 33 CFR 1.05–1(g), 6.04–6 and 160.5.

2. A new section 165.T505 to read as follows:

§ 165.T505 Cape Fear River.

(a) *Location:* The following areas are safety zones: An area 100 yards around the M/V CPL LOUIS J. HAGUE JR. while enroute from Military Ocean Terminal, Sunny Point, North Carolina (MOTSU) to the State Ports Authority at Wilmington, North Carolina and while the M/V CPL LOUIS J. HAGUE JR. is enroute from the State Ports Authority to MOTSU. Also, an area 100 yards around M/V CPL LOUIS J. HAGUE JR. while the vessel is moored at State Ports Authority.

(b) *Regulations:* In accordance with the general regulations in § 165.23 of this port, entry into this zone is prohibited unless authorized by the Captain of the Port.

Dated: July 30, 1985.

D.L. McCord,

Commander, U.S. Coast Guard, Captain of the Port, Wilmington, NC.

[FR Doc. 85–19433 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6609

[C–28316]

Colorado; Transfer of Administrative Jurisdiction Rocky Mountain National Park

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order transfers administrative jurisdiction of approximately 49 acres of national forest land to the National Park Service as a part of the Rocky Mountain National Park. Acquisition of the land by a Forest Service exchange and its jurisdictional transfer to the National Park Service were authorized by Pub. L. 96–560. The land will remain closed to surface entry, mining, and mineral leasing.

EFFECTIVE DATE: August 16, 1985.

FOR FURTHER INFORMATION CONTACT: Doris Chelius, BLM Colorado State Office, 2020 Arapahoe Street, Denver, Colorado 80205 303–294–7626.

SUPPLEMENTARY INFORMATION: By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, and as mandated by section 111(b) of Pub. L. 96–560, 94 Stat. 3272; it is ordered as follows:

1. Subject to valid existing rights, the following described land, which was acquired by the U.S. Forest Service under the authority of section 111(b) of Pub. L. 96–560, 94 Stat. 3272, within the Roosevelt National Forest is hereby transferred to the National Park Service and reserved as a part of the Rocky Mountain National Park.

Roosevelt National Forest

Sixth Principal Meridian

T. 7 N., R. 73 W.,

Sec. 30, that portion of the S½SE¼ located within the boundaries of Rocky Mountain National Park.

The area described contains approximately 49 acres in Larimer County.

July 29, 1985.

Robert N. Broadbent,

Assistant Secretary of the Interior.

[FR Doc. 85–19422 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–84–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Parts 200 and 201

Federal Disaster Assistance (Public Law 91–606)

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Final rule; Withdrawal of parts.

SUMMARY: This action removes from the Code of Federal Regulations 44 CFR Parts 200 and 201 which concern disaster assistance under the Federal Disaster Assistance Act of 1970. This Act has been superseded by the Disaster Relief Act of 1974.

DATE: This action takes effect August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, D.C. 20472 (202–646–3616).

SUPPLEMENTARY INFORMATION: 44 CFR Parts 200 and 201 prescribe standards and procedures in implementing Public Law 91–606, the Disaster Relief Act of 1970. This Act was superseded by the Disaster Relief Act of 1974 (Public Law 93–288). Virtually all matters under the 1970 Act have now been completed and the files closed, so there is no longer any need for these regulations. Therefore, they should be withdrawn. Since the 1970 Act has long since been replaced by the 1974 Act, notice and public procedure with respect to this withdrawal are unnecessary and there is no need to delay the effective date. Therefore, the rule will be effective on publication. However, any applications for Federal disaster assistance which may remain open under the Disaster Relief Act of 1970 will continue to be administered under the regulations which are being withdrawn by this action.

Accordingly, Subchapter D of Chapter 1, Title 44, Code of Federal Regulations, is amended by removing the reserving Parts 200 and 201 as follows:

PART 200—[REMOVED AND RESERVED]

By removing and reserving Part 200 in its entirety.

PART 201—[REMOVED AND RESERVED]

By removing and reserving Part 201 in its entirety.

Authority: 42 U.S.C. 3535.

Dated: August 12, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85–19421 Filed 8–14–85; 8:45 am]

BILLING CODE 5718–01–M

44 CFR Part 309

Federally Assisted Construction

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Withdrawal of Part.

SUMMARY: This action removes 44 CFR Part 309, Federally Assisted Construction, from the Code of Federal Regulations.

EFFECTIVE DATE: This action will take effect August 15, 1985.

FOR FURTHER INFORMATION CONTACT: William R. Booker, Jr., Office of General Counsel Federal Emergency Management Agency, 500 C Street, SW., Washington, D.C. 20472 (202–646–4098).

SUPPLEMENTARY INFORMATION: 44 CFR Parts 309 concerns procedures, criteria, terms and conditions concerning federally assisted construction under the Federal Civil Defense Act of 1950, as amended.

The regulation was adopted in 1973 by the Defense Civil Preparedness Agency in the Department of Defense during the time the civil defense function was delegated to the Department of Defense.

The requirements described in the regulation to the extent such are not obsolete are covered in the Federal Emergency Management Agency's Civil Preparedness Guide (CPG 1–3) "Federal Assistance Handbook: Emergency Management, Direction and Control Programs;" and CPG 1–32 "Financial Assistance Guidelines" which are made available to FEMA assistance program grantees and subgrantees. Notice of the need to meet these requirements is contained in the Comprehensive Cooperative Agreement and other assistance documents signed by FEMA program applicants.

For the reasons noted above, the regulation should be withdrawn, and notice and public procedure are unnecessary. There is no need to delay the effective date of the withdrawal and therefore it shall be effective upon publication.

(50 U.S.C. App. 2251 *et seq.*)

List of Subjects in 44 CFR Part 309

Civil Defense, Grant programs—National security, Reporting and recordkeeping requirements.

Accordingly, Subchapter E of Chapter 1, Title 44 Code of Federal Regulations is amended by removing Part 309 as follows:

PART 309—[RESERVED]

By removing and reserving Part 309 in its entirety.

Date: August 12, 1985.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85–19420 Filed 8–14–85; 8:45 am]

BILLING CODE 6718–01–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 84–1045; RM–4827]

Television Broadcast Stations in Llano, TX

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Llano Broadcasting Company, assigns UHF Television Channel 14– to Llano, Texas, as that community's first television broadcast service.

EFFECTIVE DATE: September 19, 1985.

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.

Report and Order (Proceeding Terminated)

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Llano, Texas); MM Docket No. 84–1045, RM–4827.

Adopted: July 25, 1985.
Released: August 13, 1985.

By the Chief, Policy and Rules Division.

1. The Commission considers herein the *Notice of Proposed Rule Making*, 49 FR 46448, published November 26, 1984, proposing the assignment of UHF Television Channel 14– to Llano, Texas, as that community's first television broadcast service. The *Notice* was issued in response to a petition filed by Llano Broadcasting Company ("petitioner"). Petitioner filed supporting comments reaffirming its intention to apply for the channel.

2. Llano (population 3,071),[1] seat of Llano County (population 19,144), is located in south central Texas approximately 110 kilometers (70 miles) northwest of Austin, Texas.

3. We believe the public interest would be served by the assignment of Channel 14– to Llano, Texas, in order to provide that community with its first television service. The channel assignment can be made in compliance with the minimum distance separation requirements of §§ 73.610 and 73.698 of the Commission's Rules.

4. Since Llano is located within 320 kilometers (199 miles) of the U.S.-Mexican border, concurrence from the Mexican government has been obtained.

5. Accordingly, pursuant to the authority contained in section 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, That effective September 19, 1985, the TV Table of Assignments, § 73.606(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Llano, Texas	14–

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

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 85–19376 Filed 8–14–85; 8:45 am]

BILLING CODE 6712–01–M

[1] Population figures are from the 1980 U.S. Census.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 212, 217, 218, 219, and 225

[FRA Docket No. RSOR–6, Notice No. 8]

Control of Alcohol and Drug Use in Railroad Operations; Implementation Conferences

AGENCY: Federal Railroad Administration (FRA), DOT.

ACTION: Notice of conferences on final rule.

SUMMARY: This notice sets forth the schedule for conferences designed to assist the railroad industry in implementing the final rule on Control of Alcohol and Drug Use in Railroad Operations.

DATES: The two day conferences will be held on September 9 and 10, 23 and 24, October 7 and 8, 21 and 22, and 28 and 29, 1985, at the times and places set forth below.

ADDRESSES: The conferences will be held at the following locations and times:

(1) Fort Worth, Texas (Beginning Mon., September 9, 1985, at 9:00 a.m.)—Fort Worth Hilton, 1701 Commerce Street.

(2) Chicago, Illinois (Beginning Mon., September 23, 1985, at 9:00 a.m.)—Quality Inn—Downtown, 1 Mid City Plaza.

(3) Salt Lake City, Utah (Beginning Mon., October 7, 1985, at 9:00 a.m.)—Salt Lake Hilton, 150 West and 500 South.

(4) Washington, DC (Beginning Mon., October 21, 1985, at 9:00 a.m.)—FAA Auditorium, Building FOB 10A, 800 Independence Avenue, S.W.

(5) Atlanta, Georgia (Beginning Mon. October 28, 1985, at 9:00 a.m.)—Ramada Hotel—Capitol Plaza 2, 450 Capitol Avenue.

FOR FURTHER INFORMATION CONTACT: Walter C. Rockey, Executive Assistant to the Associate Administrator for Safety, FRA, Washington, DC 20590 (Telephone: 202–426–0895).

SUPPLEMENTARY INFORMATION: On July 29, 1985, FRA issued a final rule on Control of Alcohol and Drug Use in Railroad Operations (50 FR 31508; Aug. 2, 1985). In order to assist the railroads and their employees in implementing these regulations, FRA is scheduling a series of conferences across the United States (dates and locations set forth above). At the conferences, FRA will present the final rule, introduce the Field Manual, explain the FRA enforcement role, and respond to questions of clarification and interpretation. So that FRA can ensure that adequate facilities and materials are provided, those interested in attending are requested to contact Mr. Walter Rockey (address and telephone number above), indicating the date, location, number of persons attending, and affiliation.

Issued in Washington, D.C., on August 9, 1985.

Joseph W. Walsh,

Associate Administrator for Safety.

[FR Doc. 85–19429 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–06–M

Proposed Rules

Federal Register
Vol. 50, No. 158
Thursday, August 15, 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.

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 85-230 et al]

FM Broadcast Station In Apple Valley, Palomar Mountain and Long Beach, CA

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule.

SUMMARY: In response to three separately-filed petitions, this action proposes optional plans for the assignment of noncommercial educational FM broadcast Channel 210A to Apple Valley and Palomar Mountain, California, or the substitution of Channel 201B1 for Channel 201A and modification of the license of Station KLON(FM) at Long Beach, California.

DATES: Comments must be filed on or before October 4, 1985, and reply comments on or before October 21, 1985.

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

FOR FURTHER INFORMATION CONTACT: Nancy V. Joyner, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio Broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48 Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Proposed Rule Making

In the matter of amendment of § 73.504(b), table of allotments, noncommercial educational FM broadcast stations. (Apple Valley, Palomar Mountain and Long Beach, California). MM Docket No. 85-230; RM-4806; RM-4852; RM-4898.

Adopted: July 22, 1985.

Released: August 13, 1985.

By the Chief, Policy and Rules Division.

1. Before the Commission for consideration are three separately-filed proposals which are jointly considered herein since they are in some manner related. The first petition, filed by Apple Valley Educational Broadcasting Foundation ("AVEBF") (RM-4806) proposes the allotment of Channel 201A to Apple Valley, California, as that community's first local noncommercial educational FM service. The second petition, filed by Family Stations, Inc. ("FSI") (RM-4852) proposes the allotment of Channel 201A to Palomar Mountain, California, as that community's first local noncommercial educational FM service. The third petition, filed by California State University Long Beach Foundation ("CSU") (RM-4898) proposes the substitution of Channel 201B1 for Channel 201A at Long Beach and modification of its license for Station KLON-FM to reflect the change. Each petitioner has indicated its intent to apply for their requested channels, if allotted.

2. A staff engineering study reveals that, although the proposed allotment of Channel 201A to Apple Valley would comply with the minimum distance separation requirements of our Rules, petitioner stated it would locate its transmitter site 9 miles northwest of the community. However, AVEBF should note that a Class A station generally does not provide a 70 dBu, city-grade signal, at a distance exceeding 8 miles. However, the transmitter site location is a matter to consider at the application stage.

3. Also, we have determined that the proposed allotment of Channel 201A to Palomar Mountain would comply with the minimum distance separation requirements provided at site 11.2 km (7 miles) north of the community is utilized to negate a short spacing to a pending proposal to allot Channel 201A to Tecate, Mexico.

4. The proposed substitution of Channel 201B1 for Channel 201A at Station KLON-FM's present site would conform with the minimum spacing requirements of our Rules. However, CSU should note that, in conformity with Commission precedent, should another interest in the allotment be shown, the modification could not be made unless at least one additional equivalent channel is available in the community to accommodate any other expressions of interest. See, *Modification of FM and TV Station Licenses*, 56 RR 2d 1253 (1984).

5. None of the proposals herein pose any potential interference with dometic TV Channel 6 stations. However, each of the proposals is within 320 kilometers (199 miles) of the common U.S.-Mexico border, and therefore, concurrence of the Mexican Government must be obtained.

6. We have determined that the Apple Valley and Palomar Mountain proposals are mutually compatible, but each is short spaced to the proposed upgrading of Station KLON(FM) at Long Beach. Therefore, we shall provide each proponent, and other interested parties, an opportunity to demonstrate in their comments to the *Notice* why their community should receive the proposed allotment.

7. Accordingly, we propose the following optional revisions to the Noncommercial Educational FM Broadcast Table of Allotments, Section 73.504(b) of the Commission's Rules, as follows:

Community	Channel No.	
	Present	Proposed
Option I		
Apple Valley, California		201A
Palomar Mountain, California		201A
Option II		
Long Beach, California	201A	201B1

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before October 4, 1985, and reply comments on or before October 21, 1985, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

F. Joseph Brinig, Esq., Fortas and Hardman, 1200 29th Street, NW.,

Washington, D.C. 20007–3385 (Counsel for Apple Valley Educational Broadcasting Foundation)
Michael J. McCarthy, Esq., Nancy L. Wolf, Esq., Dow, Lohnes and Albertson, 1255 23d Street, NW., Suite 500, Washington, D.C. 20037 (Counsel for Family Stations, Inc.)
Ernest T. Sanches, Esq., Janice F. Hill, Esq., Danielle R. Srour, Esq., Arter and Hadden, 1919 Pennsylvania Avenue, NW., Suite 400, Washington, D.C. 20006 (Counsel for California State University Long Beach Foundation)

10. The Commission has determined that the relevant provisions of the regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the noncommercial Educational FM Table of Allotments, § 73.504(b) of the Commission's Rules. See, *Certification that Sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Nancy V. Joyner, Mass Media Bureau, (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comment officially filed at the Commission, or oral presentation required by the Commission. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schoot,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Allotments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings Required.* Comments are invited on the proposal(s) discussed in the *Notice of Proposed Rule Making* to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed allotment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is allotted and, if authorized, to build a station promptly. Failure to file may lead to denial of the request.

3. *Cut-off Procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission's Rules.)

(b) With respect to petitions for rule making conflict with the proposal(s) in this *Notice*, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

(c) The filing of a counterproposal may lead the Commission to allot a different channel than was requested for any of the communities involved.

4. *Comments and Reply Comments; Service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See §§ 1.420 (a), (b) and (c) of the Commission's Rules.)

5. *Number of Copies.* In accordance with the provisions of § 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, or other documents shall be furnished the Commission.

6. *Public Inspection of Filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 85–19377 Filed 8–14–85; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 27 and 52

Federal Acquisition Regulation (FAR); Rights in Data and Copyrights

AGENCY: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule; notice of availability and request for comments.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering a revision of the Federal Acquisition Regulation (FAR) that adds a new Subpart 27.4, Rights in Data and Copyrights.

COMMENT DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before September 30, 1985.

ADDRESS: Interested parties may obtain copies of the proposed text from the FAR Secretariat, and written comments should be submitted to: General Services Administration, ATTN: FAR Secretariat (VRS), Room 4041, GS Building, 18th & F Streets, NW., Washington, D.C. 20405. Please cite FAR Case 85–39 in all Correspondence on this subject.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

FAR Subpart 27.4 is modified to implement the policy regarding the Government's need for an contractors' legitimate proprietary interests in data as required by section 301 of Pub. L. 98–577, Technical Data Management, and section 1216(a) of Pub. L. 98–525. Rights in Technical Data. Additionally, Subpart 27.4 now sets forth detailed implementation, policies procedures, and instructions for all civilian agencies with respect to rights in data and copyrights and acquisition of data. The Department of Defense (DoD) shall issue

its detailed implementation, procedures, and instructions regarding rights in data and copyrights and acquisition of data in the DoD FAR supplement because of DoD's specialized defense acquisition and logistics support needs for national security and the requirements of 10 U.S.C. 2320 (Pub. L. 98-525, section 1216(a)).

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980, Pub. L. 96-354, specifies circumstances under which a regulatory flexibility analysis is required in connection with the issuance of a general notice of proposed rulemaking or the promulgation of a final rule, and provides that such requirements do not apply to any proposed or final rule if it is certified that the rule will not have a significant economic impact on a substantial number of small entities.

It is hereby certified that the proposed rules on Rights in Data and Copyrights will not have a significant economic impact on a substantial number of small entities as follows:

The proposed rule regarding Rights in Data and Copyrights amends the FAR to implement section 301 of Pub. L. 98-577 and section 1216(a) of Pub. L. 98-525, and to provide policy and clauses for rights in data under contracts. Such coverage will not have a significant economic impact on a substantial number of small entities because it imposes no new requirements which would require such entities to change their business practices, incur additional costs or otherwise affect their competitive position.

List of Subjects in 48 CFR Parts 27 and 52

Government Procurement.

Dated: August 12, 1985.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

[FR Doc. 85-19508 Filed 8-14-85; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Ch. V

[Docket No. T84-01; Notice 5]

Updated Theft Data; Motor Vehicle Theft Prevention Standard

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Supplemental request for comments.

SUMMARY: This notice seeks public comments on updated data on passenger motor vehicle thefts in calendar years 1983 and 1984 that the agency has received from the National Crime Information Center (NCIC). These data will be used for the purpose of determining the theft rates for existing passenger motor vehicle lines manufactured in calendar years 1983 and 1984 and for determining the median theft rate for all those lines. Lines with a theft rate in those two years that exceed the median rate will be subject to selection for coverage under the theft prevention standard.

This notice also seeks comment on methods for differentiating between reports of multiple thefts of a vehicle and apparent duplicate reports of a single theft of a vehicle. The agency is seeking the best method for minimizing the effects of apparent duplicate theft reports on the theft data and rankings.

DATE: Comments are due not later than August 26, 1985.

ADDRESSES: Comments on this notice should refer to the docket number and should be submitted to: Docket Section, Room 5109, 400 7th Street, SW., Washington, D.C. 20590 (Docket hours: 8:00 a.m. to 4:00 p.m., Monday-Friday).

FOR FURTHER INFORMATION CONTACT: Mr. Brian McLaughlin, Office of Market Incentives, Room 5313, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590 (202-426-1740).

SUPPLEMENTARY INFORMATION: On May 2, 1985, NHTSA published a notice seeking public comments regarding data on passenger motor vehicle thefts that the agency obtained from NCIC and the National Automobile Theft Bureau (NATB). The notice stated that the agency contemplated selecting the NCIC data for use in implementing portions, including those relating to the theft prevention standard, of Title VI of the Motor Vehicle Information and Cost Savings Act.

This notice supplements the May notice by publishing NCIC theft data that has been revised in three different respects. First, it includes two weeks of data that NCIC had omitted from its previous submission to NHTSA. Second, it incorporates several different methods for reducing the possibility of multiple counting of the same vehicle theft. Third, it concludes a few thefts that were not included in the May notice due to a computer error.

The agency received comments from 13 organizations on the May notice. With one exception, each commenter supported the tentative selection of the NCIC data for establishing passenger vehicle theft rates. In addition, a few vehicle manufacturers raised questions about the existence of multiple theft reports concerning the same Vehicle Identification Numbers (VIN's). They asked that the agency attempt to assure the legitimacy of any duplicate VIN entries so as to avoid any multiple counting of thefts.

In response to the public comments, the agency requested NCIC to recalculate its previously reported theft figures to exclude any duplicate VIN entries made on the same day for the same vehicle. The agency believed, as did NCIC, that this adjustment of the data would virtually eliminate multiple counting of the same theft due to inadvertent duplicate entries by local reporting agencies.

In the process of making these recalculations, NCIC discovered that it had inadvertently omitted theft data for the last two weeks of calendar year 1983 from the data provided to NHTSA and published in the May notice. NCIC indicated to the agency that these two weeks of data include a large number of pending theft and cancellation records that the reporting law enforcement agencies cleared from their files during that period in preparation for the beginning of the new calendar year. An NCIC letter regarding the above circumstances has been placed in the docket.

The revised theft data, including these two weeks of data, appears at the end of this notice. The revised data also include the VIN's for a few stolen vehicles that were not included in the May notice due to a computer error. Specifically, the thefts involved two 1984 Mazda 626 vehicles and one 1984 Ferrari 308 vehicle. The inclusion of these three thefts does not affect the ranking of these vehicles in relation to the median rate. Regardless of whether those thefts are included, both car lines have rates that exceed the median.

With the inclusion of these previously omitted data, the agency believes that the NCIC theft data in this notice represent the most compehensive theft data available. The agency requests comment on the validity of that belief.

These data have been used to re-rank all existing passenger motor vehicle lines in descending order of theft rate. The effect of the additional data was not substantial. For the method of handling duplicate reports of thefts of the same vehicle proposed to be adopted by the agency in this notice, two car lines that were listed above the median rate in the

May notice are now below that rate and another two car lines moved from below the rate to above it.

Three versions of the revised theft data are set forth, representing three different methods for attempting to minimize the possibility of multiple counting of the same vehicle theft. Table I excludes all duplicate VIN's for vehicles with the same date of theft. This method addresses the most obvious potential errors based on duplicate entries by an operator or on an operator choosing to delete and re-enter a record instead of revising the first entry to reflect new information on that vehicle. Table II excludes duplicate VIN's of stolen vehicles reported within seven calendar days of each other. This method focuses on errors due to the cancellation of the original entry and a new entry by operators instead of revising the existing theft entry to reflect new or additional data. Table III excludes all duplicate VIN's in the same calendar year, regardless of the dates of their entry.

The agency has tentatively selected the method underlying Table II. This table appears to offer a reasonable compromise between the first and third tables. It should eliminate much of the duplication due to the actions of operators while at the same time making allowance for the fact that some vehicles are stolen more than once in a calendar year. Table I may not go far enough to eliminate the duplicate entries that may be made over a several day period as the result of data entry errors or as a result of the cancellation and re-entry of a theft instead of correction of the original entry. Table III may go too far in eliminating all duplicate entries: Agency contacts with police and insurance officials indicate that multiple thefts of a single vehicle in the same calendar year are not uncommon. The agency requests comments on these three methods and on the agency's tentative selection of the second approach.

NHTSA is giving only a 10 day comment period for these data, instead of the normal 45 day comment period. Section 603(a)(3) of the Cost Savings Act [15 U.S.C. 2023(a)(3)] requires the agency to select the high theft lines among these existing lines not later than October 24, 1985. The determination of whether an existing line is a high theft line is a factor to be considered when the agency makes its preliminary determination of whether new lines should be selected as high theft lines, and the agency has proposed making those preliminary determinations not later than August 24, 1985. Before using the data in Table II of this notice as the basis for these preliminary determinations, the agency desires to provide the opportunity for public comment on the above-explained revisions and alternatives. Therefore, the comments must be received as soon as possible.

The agency will respond to the comments received on its May 2, 1985 notice when it publishes the final theft data. Manufacturers are asked not to repeat comments they have already submitted, but instead to focus on the new data published in this notice and on the proposed method for reducing the possibility of multiple countings of the same vehicle theft. While recognizing that the 10 day comment period is less than is usually allowed, the agency believes it is sufficient for commenters to respond adequately in this limited area.

Authority: 15 U.S.C. 2021 and 2023; delegations of authority at 49 CFR 1.50 and 501.8.

Issued on August 9, 1985.

Barry Felrice,

Associate Administrator for Rulemaking.

TABLE I.—DUPLICATE VINS WITH SAME DATE OF THEFT DELETED

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1,000)
		1983	1984	1983	1984	
1 General Motors	Buick Riviera	786	939	48,908	56,094	16.4473
2 Toyota	Celica Supra	429	426	26,147	29,990	15.2306
3 General Motors	Cadillac Eldorado	1,046	958	66,601	76,656	13.9888
4 General Motors	Chevrolet Corvette (*)	0	630	0	49,510	12.7247
5 General Motors	Pontiac Firebird	770	1,538	66,939	117,033	12.5454
6 Mazda	RX-7	674	569	60,743	41,306	12.1804
7 General Motors	Chevrolet Camaro	1,620	2,984	143,514	244,192	11.8719
8 Porsche	911	68	48	5,070	5,316	11.1689
9 General Motors	Pontiac Grand Prix	866	893	85,693	77,313	10.7910
10 General Motors	Oldsmobile Toronado	411	499	38,499	46,462	10.7108
11 General Motors	Buick Electra	672	645	79,021	50,413	10.1751
12 General Motors	Oldsmobile Cutlass Supreme/Cruiser (RWD)	2,608	3,843	294,245	344,330	10.1022
13 General Motors	Chevrolet Monte Carlo	826	1,394	91,336	131,016	9.9932
14 Ford Motor Co	Lincoln-Mercury Town Car	645	755	51,662	89,901	9.9532
15 General Motors	Buick Regal	2,006	2,330	220,363	216,864	9.9170
16 General Motors	Cadillac Deville/Brougham (RWD)	1,670	1,490	170,338	153,855	9.7473
17 General Motors	Cadillac Seville	337	322	29,753	39,080	9.5739
18 Ford Motor Co	Lincoln-Mercury Mark	125	389	30,104	32,460	8.2156
19 General Motors	Oldsmobile 98	849	634	113,290	70,351	8.0755
20 Mitsubishi	Starion	44	48	6,297	5,557	7.7611
21 Nissan	280ZX/300ZX	611	406	55,832	75,374	7.7512
22 Toyota	Celica ST/GT/GTS	708	680	119,131	91,156	6.6005
23 Ford Motor Co	Lincoln-Mercury Capri	131	120	21,832	16,825	6.4930
24 General Motors	Cadillac Limousine	5	7	940	978	6.2565
25 Mercedes-Benz	380SL	56	53	8,763	8,751	6.2236
26 Ford Motor Co	Ford Mustang	629	836	109,377	129,586	6.1307
27 Toyota	Cressida	199	232	39,015	36,426	5.7131
28 Toyota	Corolla/Corolla Sport	1,164	740	166,833	178,058	5.5198
29 Audi	Quattro	3	0	522	36	5.3763
30 Mercedes-Benz	380SEC/500SEC	11	8	1,910	1,625	5.3748
31 BMW	3-Series	211	271	25,505	66,506	5.2385
32 BMW	5-Series	72	98	16,233	16,667	5.1572
33 Mazda	GLC	170	364	50,151	53,509	5.1515
34 Jaguar	XJ-S	10	11	1,344	2,812	5.0529
35 BMW	6-Series	16	13	2,635	3,119	5.0400
36 BMW	7-Series	35	42	5,541	9,968	4.9649
37 General Motors	Oldsmobile Delta 88/Custom Cruiser	957	1,426	209,453	278,033	4.8683
38 Porsche	928	11	13	2,062	2,650	4.8860

TABLE I.—DUPLICATE VINS WITH SAME DATE OF THEFT DELETED—Continued

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1,000)
		1983	1984	1983	1984	
39 Jaguar	XJ	42	50	6,452	12,865	4.7626
40 Volkswagen	Rabbit	231	588	77,523	96,381	4.7095
41 General Motors	Cadillac Cimarron	93	93	19,070	21,767	4.5547
42 Ford Motor Co	Ford Thunderbird	350	901	113,834	162,124	4.5333
43 Ferrari	308	2	2	513	378	4.4893
44 Ferrari	Mondial 8	0	1	113	113	4.4248
45 Toyota	Starlet	21	18	7,834	1,213	4.4083
46 General Motors	Buick Lesabre	583	745	139,164	163,928	4.3815
47 General Motors	Chevrolet Impala/Caprice	863	1,201	213,224	262,084	4.3424
48 Chrysler Corp	Chrysler Fifth Avenue/Newport	414	292	83,525	79,662	4.3266
49 Mazda	626	162	363	47,406	75,287	4.2790
50 Mitsubishi	Tredia	50	70	14,378	14,000	4.2286
51 Chrysler Corp	Chrysler Executive Sedan/Limousine	2	2	167	789	4.1841
52 Saab	900	97	138	23,273	33,011	4.1753
53 General Motors	Pontiac 6000	181	596	68,456	122,198	4.0755
54 Mitsubishi	Cordia	42	61	12,250	13,239	4.0410
55 General Motors	Pontiac Bonneville	205	333	80,552	72,791	4.0276
56 Maserati	Quattroporte	0	1	52	200	3.9683
57 Ford Motor Co	Lincoln-Mercury Cougar	192	572	69,979	124,576	3.9269
58 Chrysler Corp	Dodge Aries	423	492	113,182	121,101	3.9055
59 Nissan	810/Maxima	212	322	63,284	76,293	3.8258
60 Chrysler Corp	Dodge Diplomat	99	24	11,402	22,174	3.6633
61 Ford Motor Co	Lincoln-Mercury Continental	71	97	16,485	39,826	3.6276
62 Mercedes-Benz	380SEL/500SEL	25	7	5,213	3,618	3.6236
63 Volkswagen	Scirocco	12	71	6,283	18,261	3.3844
64 Chrysler Corp	Chrysler LeBaron/Town and Country	217	357	70,364	101,377	3.3422
65 Audi	5000	119	131	16,502	59,361	3.2954
66 Mercedes-Benz	300SD/380SE	74	57	19,173	20,703	3.2852
67 AMC/Renault	Alliance/Encore	255	770	126,742	186,887	3.2682
68 Chrysler Corp	Plymounth Reliant	401	557	145,916	153,101	3.2038
69 Porsche	944	42	47	12,309	15,538	3.1960
70 Ford Motor Co	Ford LTD	460	610	144,676	192,608	3.1724
71 Bertone	X-1/9	0	5	1,064	521	3.1546
72 General Motors	Chevrolet Chevette	470	654	150,775	212,311	3.0957
73 General Motors	Buick Century	324	605	118,116	205,298	2.9552
74 Chrysler Corp	Dodge Charger	105	175	41,500	54,279	2.9234
75 Chrysler Corp	Dodge 600/400	163	188	59,511	61,776	2.8640
76 Ford Motor Co	Ford Exp	57	64	19,243	22,640	2.8890
77 Chrysler Corp	Chrysler E-Class/New Yorker	200	272	73,168	92,822	2.8435
78 Chrysler Corp	Dodge Omni	74	237	42,820	68,071	2.8098
79 General Motors	Oldsmobile Cutlass Ciera/Cruiser (FWD)	430	708	157,544	260,631	2.7200
80 Alfa Romeo	GTV6	3	2	896	1,022	2.6911
81 Chrysler Corp	Plymouth Gran Fury	35	23	7,458	14,524	2.6385
82 Chrysler Corp	Dodge Colt/Colt Vista	96	92	31,536	40,963	2.5931
83 Toyota	Tercel	364	337	152,820	117,654	2.5917
84 Chrysler Corp	Plymouth Turismo	74	137	32,125	49,747	2.5772
85 Nissan	Pulsar	137	121	64,509	36,546	2.5531
86 Nissan	Sentra	540	560	230,240	202,624	2.5412
87 Alfa Romeo	Spider Veloce 2000	2	8	1,307	2,691	2.5013
88 Volkswagen	Jetta	10	100	9,757	34,306	2.4963
89 Nissan	200 SX	118	121	27,573	68,331	2.4921
90 Ford Motor Co	Lincoln-Mercury Lynx	194	153	74,981	64,520	2.4874
91 Chrysler Corp	Plymouth Horizon	73	238	46,476	78,581	2.4869
92 Rolls-Royce/Bentley	Corniche	1	0	191	220	2.4331
93 General Motors	Pontiac 2000/Sunbird	144	369	66,126	148,172	2.3939
94 Mercedes-Benz	240D/300D/300CD/300TD	83	53	36,012	21,552	2.3626
95 Ford Motor Co	Ford Escort	612	889	289,008	348,010	2.3563
96 Isuzu	I-Mark	24	11	8,072	6,857	2.3444
97 Chrysler Corp	Plymounth Colt/Colt Vista	55	93	27,466	38,322	2.3202
98 General Motors	Pontiac T1000/1000	50	89	24,952	35,684	2.2924
99 Volkswagen	Quantum	18	39	9,542	15,637	2.2838
100 General Motors	Chevrolet Celebrity	237	722	139,829	306,616	2.1365
101 Subaru	Subaru	161	245	92,030	101,200	2.1011
102 Ford Motor Co	Lincoln-Mercury Marquis	175	151	59,699	97,577	2.0728
103 Audi	4000/Coupe	18	53	8,350	26,616	2.0305
104 Avanti	Avanti II	0	1	233	270	1.9861
105 Honda	Prelude	50	133	38,388	57,614	1.9002
106 General Motors	Buick Skylark	169	212	95,995	99,857	1.8994
107 General Motors	Buick Skyhawk	117	249	59,552	136,056	1.8711
108 Ford Motor Co	Ford LTD Crown Victoria	192	249	92,877	143,969	1.8620
109 General Motors	Oldsmobile Omega	88	72	47,277	42,316	1.7858
110 General Motors	Chevrolet Cavalier	271	850	202,548	433,969	1.7611
111 Volvo	760 GLE	15	24	8,992	13,427	1.7396
112 Peugeot	504/505	30	22	11,580	18,846	1.7091
113 General Motors	Oldsmobile Firenza	56	128	36,943	73,054	1.6910
114 General Motors	Chevrolet Citation	148	151	86,409	93,161	1.6651
115 Nissan	Stanza	95	83	62,159	44,860	1.6633
116 AMC/Renault	Fuego	37	8	18,581	6,510	1.6611
117 Honda	Accord	348	423	221,192	260,717	1.5999
118 Volvo	DL/GL	125	132	74,571	90,737	1.5547
119 Honda	Civic	232	223	142,164	164,639	1.4830
120 Ford Motor Co	Lincoln-Mercury Grand Marquis	120	209	90,933	139,473	1.4279
121 General Motors	Pontiac Phoenix	30	22	21,869	14,499	1.3916
122 Pininfarina	Spider 2000	1	2	1,073	1,093	1.3650
123 AMC/Renault	181/Sportwagon	10	0	6,133	2,833	1.1153
124 Zimmer	Classic/Elegante/Cabriolet	0	0	280	59	0.0000

TABLE I.—DUPLICATE VINS WITH SAME DATE OF THEFT DELETED—Continued

Manufacturer	Make/Model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1,000)
		1983	1984	1983	1984	
125 Rolls-Royce/Bentley	Silver Spirit/Silver Spur/Mulsanne	0	0	245	850	0.0000
126 Rolls-Royce/Bentley	Camargue	0	0	11	10	0.0000
127 Peugeot	604	0	0	217	417	0.0000
128 Bitter GMBH	Bitter	0	0	28	64	0.0000
129 Aurora	GRX Aurora	0	0	41	38	0.0000
130 Aston Martin	Saloon/Vantage/Volante	0	0	9	20	0.0000

TABLE II.–7 DUPLICATE VINS STOLEN WITHIN SEVEN DAYS DELETED

Manufacturer	Make Model Line	Thefts (FBI)		Production (Manufacturers)		(1983 and 1984) (1,000)
		1983	1984	1983	1964	
1 General Motors	Buick Riviera	787	935	48,908	56,094	16.3997
2 Toyota	Celica Supra	427	424	26,147	29,990	15.1593
3 General Motors	Cadillac Eldorado	1,038	955	66,601	76,656	13.9121
4 General Motors	Chevrolet Corvette (#)	0	625	0	49,510	12.6237
5 General Motors	Pontiac Firebird	765	1,529	66,939	117,033	12.4693
6 Mazda	RX–7	670	566	60,743	41,306	12.1118
7 General Motors	Chevrolet Camaro	1,606	2,963	143,614	244,192	11.7817
8 Porsche	911	68	47	5,070	5,316	11.0726
9 General Motors	Pontiac Grand Prix	863	890	85,693	77,313	10.7542
10 General Motors	Oldsmobile Toronado	410	497	38,499	46,462	10.6755
11 General Motors	Buick Electra	670	639	79,021	50,413	10.1133
12 General Motors	Oldsmobile Cutlass, Supreme/Cruiser (RWD)	2,599	3,826	294,245	344,330	10.0615
13 General Motors	Chevrolet Monte Carlo	825	1,391	91,336	131,016	9.9662
14 Ford Motor Co	Lincoln-Mercury Town Car	650	753	51,662	89,901	9.9108
15 General Motors	Buick Regal	1,993	2,318	220,363	216,864	9.8599
16 General Motors	Cadillac Deville/Brougham (RWD)	1,661	1,483	170,338	153,855	9.6979
17 General Motors	Cadillac Seville	335	319	29,753	39,060	9.5013
18 Ford Motor Co	Lincoln-Mercury Mark	125	388	30,104	32,460	8.1996
19 General Motors	Oldsmobile 98	844	632	113,290	70,351	8.0374
20 Mitsubishi	Starion	44	48	6,297	5,557	7.7611
21 Nissan	280ZX/300ZX	611	405	55,832	75,374	7.7435
22 Toyota	Celica ST/GT/GTS	706	678	119,131	91,156	6.5815
23 Ford Motor Co	Lincoln-Mercury Capri	128	119	21,832	16,825	6.3895
24 General Motors	Cadillac Limousine	5	7	940	978	6.2565
25 Mercedes-Benz	380SL	55	53	8,763	8,751	6.1665
26 Ford Motor Co	Ford Mustang	629	835	109,377	129,586	6.1265
27 Toyota	Cressida	199	232	39,015	36,426	5.7131
28 Toyota	Corolla/Corolla Sport	1,163	735	166,883	178,058	5.5024
29 Audi	Quattro	3	0	522	36	5.3763
30 Mercedes-Benz	380SEC/500SEC	11	8	1,910	1,625	5.3748
31 BMW	3-Series	219	271	25,505	66,506	5.3255
32 Mazda	GLC	170	361	50,151	53,509	5.1225
33 BMW	5-Series	72	95	16,233	16,667	5.0760
34 BMW	6-Series	16	13	2,635	3,119	5.0400
35 BMW	7-Series	34	42	5,541	9,968	4.9004
36 Porsche	928	11	13	2,062	2,850	4.8860
37 General Motors	Oldsmobile Delta 88/Custom Cruiser	953	1,423	209,453	278,030	4.8740
38 Jaguar	XJ–S	9	11	1,344	2,812	4.8123
39 Jaguar	XJ	42	50	6,452	12,885	4.7626
40 Volkswagen	Rabbit	228	582	77,523	96,381	4.6577
41 Ford Motor Co	Ford Thunderbird	348	899	113,834	162,124	4.5188
42 Ferrari	308	2	2	513	378	4.4893
43 General Motors	Cadillac Cimarron	91	92	19,070	21,767	4.4812
44 Ferrari	Mondial 8	0	1	113	113	4.4248
45 Toyota	Starlet	21	18	7,634	1,213	4.4063
46 General Motors	Buick LeSabre	577	743	139,164	163,926	4.3551
47 General Motors	Chevrolet Impala/Caprice	861	1,191	213,224	262,084	4.3172
48 Chrysler Corp	Chrysler Fifth Avenue/Newport	412	290	83,525	79,652	4.3021
49 Mazda	626	161	363	47,406	75,287	4.2708
50 Mitsubishi	Tredia	50	70	14,378	14,000	4.2286
51 Chrysler Corp	Chrysler Executive Sedan/Limousine	2	2	167	789	4.1841
52 Saab	900	97	138	23,273	33,011	4.1753
53 General Motors	Pontiac 6000	180	592	68,456	122,196	4.0493
54 Mitsubishi	Cordia	42	61	12,250	13,239	4.0410
55 General Motors	Pontiac Bonneville	283	333	80,652	72,791	4.0145
56 Maserati	Quattroporte	0	1	52	200	3.9683
57 Ford Motor Co	Lincoln-Mercury Cougar	192	570	69,979	124,576	3.9166
58 Chrysler Corp	Dodge Aries	420	489	113,182	121,101	3.8799
59 Nissan	810/Maxima	212	319	63,284	76,293	3.8044
60 Chrysler Corp	Dodge Diplomat	99	24	11,402	22,174	3.6633
61 Mercedes-Benz	380SEL/500SEL	25	7	5,213	3,618	3.6236
62 Ford Motor Co	Lincoln-Mercury Continental	71	96	16,485	29,826	3.6061
63 Volkswagen	Scirocco	12	71	6,263	18,261	3.3844
64 Chrysler Corp	Chrysler LeBaron/Town and Country	217	355	70,364	101,377	3.3306
65 Audi	5000	118	131	16,502	59,361	3.2822
66 Mercedes-Benz	300SD/380SE	74	56	19,173	20,703	3.2601
67 AMC/Renault	Alliance/Encore	255	764	126,742	186,887	3.2491
68 Porsche	944	42	47	12,309	15,538	3.1960
69 Chrysler Corp	Plymouth Reliant	397	554	145,916	153,101	3.1804
70 Ford Motor Co	Ford LTD	458	610	144,676	192,608	3.1665

TABLE II.-7 DUPLICATE VINS STOLEN WITHIN SEVEN DAYS DELETED—Continued

Manufacturer	Make Model Line	Thefts (FBI)		Production (Manufacturers)		(1983 and 1984) (1,000)
		1983	1984	1983	1984	
71 Bertone	X-1/9	0	5	1,064	521	3.1546
72 General Motors	Chevrolet Chevette	468	650	150,775	212,311	3.0792
73 General Motors	Buick Century	323	632	116,116	205,298	2.9529
74 Chrysler Corp	Dodge Charger	105	174	41,5000	54,279	2.9130
75 Ford Motor Co	Ford Exp	57	64	19,243	22,640	2.8890
76 Chrysler Corp	Dodge 600/400	162	185	59,511	61,776	2.8610
77 Chrysler Corp	Chrysler E-Class/New Yorker	199	269	73,168	92,822	2.8194
78 Chrysler Corp	Dodge Omni	74	236	42,620	68,071	2.8006
79 General Motors	Oldsmobile Cutlass Ciera/Cruiser (FWD)	426	706	157,544	260,831	2.7057
80 Alfa Romeo	GTV6	3	2	836	1,022	2.6911
81 Chrysler Corp	Plymouth Gran Fury	35	23	7,458	14,524	2.6385
82 Chrysler Corp	Dodge Colt/Colt Vista	96	92	31,535	40,963	2.5931
83 Toyota	Tercel	363	334	152,820	117,654	2.5770
84 Nissan	Pulsar	137	121	64,509	36,546	2.5531
85 Chrysler Corp	Plymouth Turismo	74	135	32,125	49,747	2.5528
86 Nissan	Sentra	537	557	230,240	202,624	2.5274
87 Alfa Romeo	Spider Veloce 2000	2	8	1,307	2,691	2.5013
88 Ford Motor Co	Lincoln-Mercury Lynx	193	153	74,981	64,520	2.4803
89 Chrysler Corp	Plymouth Horizon	73	237	46,476	78,581	2.4789
90 Volkswagen	Jetta	10	99	9,757	34,308	2.4736
91 Nissan	200 SX	117	119	27,573	66,331	2.4606
92 Rolls-Royce/Bentley	Corniche	1	0	191	220	2.4331
93 General Motors	Pontiac 2000/Sunbird	141	368	66,126	148,172	2.3752
94 Mercedes-Benz	240D/300D/300CD/300TD	83	53	35,012	21,552	2.3626
95 Ford Motor Co	Ford Escort	611	886	289,008	348,010	2.3500
96 Isuzu	I-Mark	24	11	8,072	5,857	2.3444
97 Chrysler Corp	Plymouth Colt/Colt Vista	55	93	27,466	36,322	2.3202
98 General Motors	Pontiac T1000/1000	50	89	24,952	35,684	2.2924
99 Volkswagen	Quantum	18	39	9,542	15,637	2.2638
100 General Motors	Chevrolet Celebrity	232	713	139,829	306,616	2.1073
101 Subaru	Subaru	160	245	92,030	101,200	2.0959
102 Ford Motor Co	Lincoln-Mercury Marquis	174	149	59,699	97,577	2.0537
103 Audi	4000/Coupe	18	52	8,350	26,616	2.0019
104 Avanti	Avanti II	0	1	233	270	1.9801
105 Honda	Prelude	50	133	38,388	57,614	1.9062
106 General Motors	Buick Skylark	160	211	95,995	99,675	1.8943
107 General Motors	Buick Skyhawk	116	248	59,552	136,856	1.8609
108 Ford Motor Co	Ford LTD Crown Victoria	190	249	92,877	143,969	1.8535
109 General Motors	Oldsmobile Omega	87	72	47,277	42,316	1.7747
110 General Motors	Chevrolet Cavalier	267	843	202,548	433,989	1.7438
111 Volvo	760GLE	15	24	8,992	13,427	1.7396
112 Peugeot	504/505	30	22	11,580	18,846	1.7091
113 General Motors	Oldsmobile/Firenza	58	128	36,943	73,054	1.6910
114 AMC/Renault	Fuego	37	8	18,581	8,510	1.0611
115 General Motors	Chevrolet Citation	148	150	86,409	93,181	1.6595
116 Nissan	Stanza	94	83	62,159	44,660	1.6539
117 Honda	Accord	345	421	221,192	260,717	1.5895
118 Volvo	DL/GL	125	132	74,571	90,737	1.5547
119 Honda	Civic	232	223	142,164	164,639	1.4830
120 Ford Motor Co	Lincoln-Mercury Grand Marquis	120	209	90,933	139,473	1.4279
121 Pininfarina	Spider 2000	1	2	1,073	1,093	1.3850
122 General Motors	Pontiac Phoenix	29	22	21,869	15,499	1.3648
123 AMC/Renault	181/Sportwagon	10	0	6,133	2,833	1.1153
124 Zimmer	Classic/Elegante/Cabriolet	0	0	280	159	0.0000
125 Rolls-Royce/Bentley	Camargue	0	0	11	10	0.0000
126 Rolls-Royce/Bentley	Silver Spirit/Silver Spur/Mulsanne	0	0	245	650	0.0000
127 Peugeot	604	0	0	217	417	0.0000
128 Bitter GMBH	Bitter	0	0	28	64	0.0000
129 Aurora	GRX Aurora	0	0	41	38	0.0000
130 Aston Martin	Saloon/Vantage/Volante	0	0	9	20	0.0000

TABLE III.—ALL DUPLICATE VINS DELETED

Manufacturer	Make/model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1,000)
		1983	1984	1983	1984	
1 General Motors	Buick Riviera	766	916	48,908	56,094	16.0187
2 Toyota	Celica Supra	419	414	26,147	29,990	14.8367
3 General Motors	Cadillac Eldorado	1,014	934	66,601	76,656	13.5979
4 General Motors	Chevrolet Corvett (*)	0	613	0	49,510	12.3813
5 General Motors	Pontiac Firebird	748	1,468	66,939	117,033	12.1540
6 Mazda	RX-7	658	555	60,743	41,306	11.8864
7 General Motors	Chevrolet Camaro	1,571	2,902	143,614	244,192	11.5341
8 Porsche	911	68	46	5,070	5,316	10.9763
9 General Motors	Pontiac Grand Prix	846	870	85,693	77,313	10.5272
10 General Motors	Oldsmobile Toronado	401	488	38,499	46,462	10.4636
11 General Motors	Oldsmobile Cutlass Supreme/Cruiser (RWD)	2,554	3,727	294,245	344,330	9.8360
12 General Motors	Buick Electra	658	615	79,021	50,413	9.8351
13 General Motors	Chevrolet Monte Carlo	809	1,365	91,336	131,016	9.7773
14 Ford Motor Co	Lincoln-Mercury Town Car	634	736	51,662	89,901	9.6777
15 General Motors	Buick Regal	1,950	2,259	220,363	216,864	9.6266
16 General Motors	Cadillac Deville/Brougham (RWD)	1,614	1,447	170,338	153,855	9.4419

TABLE III.—ALL DUPLICATE VINS DELETED—Continued

	Manufacturer	Make/model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1,000)
			1983	1984	1983	1984	
17	General Motors	Cadillac Seville	331	315	29,753	39,080	9.3850
18	Ford Motor Co	Lincoln-Mercury Mark	125	384	30,104	32,460	8.1357
19	General Motors	Oldsmobile 98	625	610	113,290	70,351	7.8142
20	Nissan	280ZX/300ZX	605	400	55,832	75,374	7.6597
21	Mitsubishi	Starion	43	48	6,297	5,557	7.5080
22	Toyota	Celica ST/GT/GTS	692	664	119,131	91,156	6.4483
23	Ford Motor Co	Lincoln-Mercury Capri	127	118	21,832	16,825	6.3378
24	General Motors	Cadillac Limousine	5	7	940	978	6.2565
25	Mercedes-Benz	380SL	55	52	8,763	8,751	6.1094
26	Ford Motor Co	Ford Mustang	623	820	109,377	129,586	6.0386
27	Toyota	Cressida	196	230	39,015	36,426	5.6468
28	Ford Motor Co	Ford Thunderbird	644	873	113,834	162,124	5.4972
29	Toyota	Corolla/Corolla Sport	1,144	727	166,883	178,058	5.4241
30	Audi	Quattro	3	0	522	36	5.3763
31	Mercedes-Benz	380SEC/500SEC	11	8	1,910	1,625	5.3748
32	BMW	3-Series	206	267	25,505	66,506	5.1407
33	BMW	5-Series	70	96	16,233	16,667	5.0456
34	BMW	6-Series	16	13	2,635	3,119	5.0400
35	Mazda	GLC	167	353	50,151	53,509	5.0164
36	Porsche	928	11	13	2,062	2,850	4.8860
37	BMW	7-Series	33	42	5,541	9,968	4.8359
38	Jaguar	XJ-S	9	11	1,344	2,812	4.8123
39	General Motors	Oldsomobile Delta 88/Custom Cruiser	934	1,393	209,453	278,033	4.7795
40	Jaguar	XJ	42	49	6,452	12,865	4.7109
41	Volkswagen	Rabbit	226	575	77,523	96,381	4.6060
42	Ferrari	308	2	2	513	378	4.4893
43	General Motors	Cadillac Cimarron	90	91	19,070	21,767	4.4323
44	Ferrari	Mondial 8	0	1	113	113	4.4248
45	Toyota	Starlet	20	18	7,634	1,213	4.2952
46	General Motors	Chevorlet Impala/Caprice	679	1,160	213,224	262,084	4.2898
47	General Motors	Buick Lesabre	560	728	139,164	163,928	4.2495
48	Mitsubishi	Tredia	50	70	14,378	14,000	4.2286
49	Chrysler Corp	Chrysler Fifth Avenue/Newport	402	287	83,525	79,652	4.2224
50	Mazda	626	158	357	47,405	75,287	4.1975
51	Chrysler Corp	Chrysler Executive Sedan/Limousine	2	2	167	789	4.1841
52	Saab	900	95	135	23,273	33,011	4.0864
53	Maserati	Quattroporte	0	1	52	200	3.9683
54	Mitsubishi	Cordia	42	59	12,250	13,239	3.9625
55	General Motors	Pontiac 6000	179	571	68,456	122,196	3.9339
56	General Motors	Pontiac Bonneville	276	327	60,652	72,791	3.9298
57	Ford Motor Co	Lincoln-Mercury Cougar	190	557	69,979	124,576	3.8395
58	Chrysler Corp	Dodge Aries	413	482	113,182	121,101	3.8202
59	Nissan	810/Maxima	209	317	63,284	76,293	3.7685
60	Mercedes-Benz	380SEL/500SEL	25	7	5,213	3,618	3.6236
61	Chrysler Corp	Dodge Diplomat	99	21	11,402	22,174	3.5740
62	Ford Motor Co	Lincoln-Mercury Continental	71	94	16,485	29,826	3.5629
63	Volkswagen	Scirocco	12	71	6,263	18,261	3.3844
64	Chrysler Corp	Chrysler Lebaron/Town and Country	213	348	70,364	101,377	3.2665
65	AMC/Renault	Alliance-Encore	252	753	126,742	186,867	3.2044
66	Porsche	944	42	47	12,309	15,538	3.1960
67	Mercedes-Benz	300SD/380SE	72	55	19,173	20,700	3.1849
68	Audi	5000	111	129	16,502	59,361	3.1636
69	Bertone	X-1/9	0	5	1,064	521	3.1546
70	Chrysler Corp	Plymouth Reliant	392	547	145,916	153,101	3.1403
71	Ford Motor Co	Ford LTD	453	601	144,676	192,608	3.1250
72	General Motors	Chevrolet Chevette	460	646	150,775	212,311	3.0481
73	General Motors	Buick Century	319	620	118,116	205,298	2.9034
74	Chrysler Corp	Dodge Charger	104	171	41,500	54,279	2.8712
75	Ford Motor Co	Ford Exp	57	63	19,243	22,640	2.8651
76	Chrysler Corp	Dodge 600/400	158	183	59,511	61,776	2.8115
77	Chrysler Corp	Chrysler E-Class/New Yorker	196	267	73,168	92,822	2.7893
78	Chrysler Corp	Dodge Omni	74	223	42,620	68,071	2.7735
79	General Motors	Oldsmobile Cutlass Ciera/Cruiser (FWD)	421	692	157,544	260,831	2.6603
80	Chrysler Corp	Plymouth Gran Fury	34	23	7,458	14,524	2.5930
81	Nissan	Pulsar	137	120	64,509	36,546	2.5432
82	Chrysler Corp	Plymouth Turismo	74	134	32,125	49,747	2.5406
83	Chrysler Corp	Dodge Colt/Colt Vista	95	89	31,536	40,963	2.5360
84	Toyota	Tercel	361	325	152,820	117,654	2.5363
85	Nissan	Sentra	527	555	230,240	202,624	2.4996
86	Volkswagen	Jetta	10	99	9,757	34,308	2.4736
87	Chrysler Corp	Plymouth Horizon	73	233	46,476	76,581	2.4469
88	Nissan	200 SX	116	118	27,573	66,331	2.4399
89	Rolls-Royce/Bentley	Corniche	1	0	191	220	2.4331
90	Ford Motor Co	Lincoln-Mercury Lynx	186	152	74,981	64,520	2.4229
91	Mercedes-Benz	240D/300D/300CD/300TD	82	53	36,012	21,552	2.3452
92	Isuzu	I-Mark	24	11	8,072	6,857	2.3444
93	Ford Motor Co	Ford Escort	604	869	289,008	348,010	2.3123
94	General Motors	Pontiac 200/Sunbird	138	356	66,126	148,172	2.3052
95	Chrysler Corp	Plymouth Colt/Colt Vista	54	91	27,466	36,322	2.2732
96	Volkswagen	Quantum	18	39	9,542	15,637	2.2638
97	Alfa Romeo	Spider Veloce 2000	1	6	1,307	2,691	2.2511
98	General Motors	Pontiac T1000/1000	50	86	24,952	35,684	2.2429
99	Subaru	Subaru	159	243	92,030	101,200	2.0804
100	General Motors	Chevrolet Celebrity	229	696	139,829	308,616	2.0627
101	Ford Motor Co	Lincoln-Mercury Marquis	171	147	59,699	97,577	2.0219
102	Audi	4000/Coupe	18	52	8,350	26,516	2.0019

TABLE III.—ALL DUPLICATE VINS DELETED—Continued

Manufacturer	Make/model (line)	Thefts (FBI)		Production (manufacturers)		Combined thefts/product (1983 and 1984) (1.000)
		1983	1984	1983	1984	
103 Avanti	Avanti II	0	1	233	270	1.9881
104 Honda	Prelude	50	131	38,388	57,614	1.8854
105 General Motors	Buick Skylark	158	208	95,995	99,857	1.8688
106 Ford Motor Co	Ford LTD Crown Victoria	187	248	92,877	143,969	1.8366
107 General Motors	Buick Skyhawk	115	242	59,552	136,056	1.8251
108 Volvo	760 GLE	15	24	8,992	13,427	1.7396
109 General Motors	Chevorlet Cavalier	261	831	202,548	433,969	1.7155
110 General Motors	Oldsmobile Omega	82	71	47,277	42,316	1.7077
111 Peugeot	504/505	29	22	11,580	18,846	1.6762
112 AMC/Renault	Fuego	37	8	18,581	8,510	1.6611
113 Nissan	Stanza	92	83	62,159	44,860	1.6352
114 General Motors	Chevrolet Citation	146	145	86,409	93,161	1.6205
115 Alfa Romeo	GTV6	2	1	836	1,022	1.6146
116 Honda	Accord	344	418	221,192	260,717	1.5812
117 General Motors	Oldsmobile Firenza	45	127	36,943	73,054	1.5637
118 Volvo	DL/GL	124	130	74,571	90,737	1.5365
119 Honda	Civic	230	223	142,164	164,639	1.4765
120 Ford Motor Co	Lincoln-Mercury Grand Marquis	117	207	90,933	139,473	1.4062
121 Pininfarina	Spider 2000	1	2	1,073	1,093	1.3850
122 General Motors	Pontiac Phoenix	28	22	21,869	15,499	1.3360
123 AMC/Renault	18i/Sportwagon	10	0	6,133	2,833	1.1153
124 Zimmer	Classic/Elegante/Cabriolet	0	0	260	159	0.0000
125 Rolls-Royce/Bentley	Silver Spirit/Silver Spur/Mulsanne	0	0	245	850	0.0000
126 Rolls-Royce/Bentley	Camargue	0	0	11	10	0.0000
127 Peugeot	604	0	0	217	417	0.0000
128 Bitter GMBH	Bitter	0	0	28	64	0.0000
129 Aurora	GRX Aurora	0	0	41	38	0.0000
130 Aston Martin	Saloon/Vantage/Volante	0	0	9	20	0.0000

[FR Doc. 85-18804 Filed 8-9-85; 11:24 am]
BILLING CODE 4910-59-M

Notices

Federal Register
Vol. 50, No. 158
Thursday, August 15, 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

Forest Service

Southern Pine Beetle Suppression, Southern Region; Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, will prepare an environmental impact statement on Southern Pine Beetle suppression for Federal and non-Federal lands in the Southern Region. This will include the states of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Virginia and a portion of West Virginia.

The statement will include an analysis and disclosure of environmental effects of suppressing Southern Pine Beetle in Wilderness areas with additional site specific analysis on those in Alabama, Arkansas, Louisiana, Mississippi and Texas.

The Southern Pine Beetle suppression environmental impact statement is being prepared to provide an evaluation of current treatment alternatives or combination of alternatives, so that a fully documented, up-to-date, visible decision can be presented to all affected or interested parties.

A reasonable range of alternatives will be formulated by an interdisciplinary team. One of these will be a no-action alternative. Other alternatives will consider various combinations of all or some of the various Integrated Pest Management techniques such as no action with monitoring for spot growth, cut and remove, cut and leave, cut and treat with insecticide, as well as new methodology that is being developed. The selected alternative will guide the Southern Pine Beetle Program of the Southern Region through establishment of treatment standards and guidelines.

Early in the environmental analysis, Federal and State agencies, organizations, and individuals who may be interested in or affected by the decision will be invited to participate in a scoping process. This process will include: (a) Identification of those issues to be addressed; (b) identification of those issues to be analyzed in depth; and (c) elimination from detailed study those issues which are not significant, or which have been covered by prior environmental review. To accomplish this scoping effort, the Southern Region will publish an announcement in August 1985 in appropriate newspapers and send information packets to and solicit comments from: Federal and State agencies; Indian tribes; a cross-section of user groups; and individuals and organizations who have expressed an interest in the past.

John E. Alcock, Regional Forester, Southern Region, Atlanta, Georgia, is the responsible official.

The analysis is expected to take about eight months. The Draft Environmental Impact Statement should be available for public review by November 1985. The Final Environmental Impact Statement is scheduled to be completed by February 1986.

Written comments and suggestions concerning the analysis should be sent to Regional Forester, Southern Region, 1720 Peachtree Road, N.W., Atlanta, Georgia 30367.

Questions about the proposed action and Environmental Impact Statement should be directed to Kirby Brock, Environmental Impact Statement Team Leader, Southern Region, Phone 404 881-2787.

Dated: August 5, 1985.

John E. Alcock,

Regional Forester, R-8.

[FR Doc. 85-19507 Filed 8-14-85; 8:45 am]

BILLING CODE 3410-11-M

Inyo National Forest Grazing Advisory Board; Meeting

The Inyo National Forest Grazing Advisory Board will meet at 10 a.m. on September 17, 1985, in the Inyo National Forest Conference Room in Bishop, California. The purpose of the meeting is to:

Review FY 85 range accomplishments.
Update FY 86 range management projects.
Receive Grazing Advisory Board recommendations.
Establish sub-committees.
Establish next meeting date.

The meeting will be open to the public. Persons who wish to attend may notify Inyo National Forest—telephone (619) 873-5841. Written statements may be filed with the committee before or after the meeting. Members of the public wishing to speak at the meeting will be recognized by the committee chairman at the appropriate time.

Dated: August 7, 1985.

Leon R. Silberberger,

Acting Forest Supervisor.

[FR Doc. 85-19494 Filed 8-14-85; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Environmental Statements; Copper Basin Critical Area Treatment Measure Fannin County, GA

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of a Finding of No Significant Impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Copper Basin Critical Area Treatment Measure, Fannin County, Georgia.

FOR FURTHER INFORMATION CONTACT: B.C. Graham, State Conservationist, Soil Conservation Service, Federal Building, Box 13, 355 East Hancock Avenue, Athens, Georgia 30601; telephone: 404-546-2273.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, B.C. Graham, State Conservationist, has determined that the preparation and review of an environmental impact statement is not needed for this project.

The measure concerns a plan for the treatment of critically eroding areas. The planned works as described in the Finding of No Significant Impact consists of the establishment of erosion control measures on 83 acres.

The Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency, Federal, State, and local agencies, and interested parties. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Mr. B.C. Graham. A limited number of copies of the FONSI are available to fill single copy requests at the above address.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program No. 10.901 Resource Conservation and Development Program—Pub. L. 87-703 16 U.S.C. 590 a-f,q. Office of Management and Budget Circular A-95 regarding State and local clearinghouse review of Federal and federally assisted programs and projects is applicable.)

Dated: August 7, 1985.

Don Stewart,

Assistant State Conservationist.

[FR Doc. 85-19416 Filed 8-14-85; 8:45 am]

BILLING CODE 3410-16-M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Maryland; Decision on Application for Duty-Free Entry of Scientific Instrument

Correction

In FR Doc. 85-17473 beginning on page 29995 in the issue of Tuesday, July 23, 1985, make the following correction: On page 29996, in the first column, at the end of the document, the signature and title were inadverently omitted, and should be inserted before the **Federal Register** document line to read as follows:

Frank W. Creel,

Director, Statutory Import Programs Staff.

BILLING CODE 1505-01-M

Short Supply Review on Certain Galvanized Wire Stick-Collated Brads, Galvanized Weld Wire Collated Coil Roofing Nails, and Angle Coiled Weld Wire Collated Common-Headed Nails; Request for Comments

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short supply determination under Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products with respect to certain galvanized wire stick-collated brads, galvanized weld wire collated coil roofing nails, and angle coiled weld wire collated common-headed nails specifically designed for use in pneumatic nailers.

EFFECTIVE DATE: Comments must be submitted no later than ten days from publication of this notice.

ADDRESS: Send all comments to Joseph A. Spetrini, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3099.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, 14th and Constitution Ave., NW., Washington, DC 20230, Room 3709, (202) 377-1102.

SUPPLEMENTARY INFORMATION: Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provides that if the U.S. ". . . determines that because of abnormal supply or demand factors, the United States steel industry will be unable to meet demand in the United States of America for a particular category or sub-category (including substantial objective evidence such as allocation, extended delivery periods or other relevant factors), an additional tonnage shall be allowed for such category or sub-category . . . ."

We have received a short supply request for the following types of collated brads and nails specifically designed for use in pneumatic nailers:

(1) Galvanized wire stick-collated brads produced from drawn galvanized low-carbon steel wire The dimensions for these brads are: (a) 19 gauge; (b) oval heads with maximum lenght of 0.078 inch, maximum width of 0.05 inch and thickness of 0.035 inch; (c) oval shank cross-section with maximum length of 0.05 inch and maximum width of 0.041 inch; and (d) shank length of either 0.591 inch, 0.787 inch or 0.984 inch. They are collated in sticks of 100. Optionally, the uppermost 0.25 inch of the brad may be painted.

(2) Weld wire collated coil roofing nails produced from low-carbon steel wire than electro-galvanized. The dimensions for these nails are: (a) 11 guage; (b) head diameter of 0.407 inch and thickness of 0.027 inch; (c) shank diameter of 0.12 inch; and (d) shank length of either 0.875 inch or exactly one inch. The entire nail is coated except for the uppermost 0.315 inch. A 0.4-inch long section of the shank, beginning 0.375 inch from the top of the nail, is grooved. The nails are welded to two connecting wires at a 15-degree angle, spaced 0.315 inch apart, measured center to center. Segments containing 120 nails are then coiled;

(3) Angle coiled weld wire collated common-headed nails produced from low-carbon steel wire with either a bright or galvanized finish. The dimensions for these nails are: (a) head diameter of 0.215 inch; (b) shank diameter of either 0.08 inch or 0.09 inch; and (c) shank length of either one inch, 1.25 inches, 1.5 inches, 1.75 inches, two inches or 2.125 inches. Smooth, ring or screw type shanks may be used. The entire nail is coated except for the uppermost 0.25 inch. Either 350 0.08-inch or 300 0.09-inch diameter nails are welded to two connecting wires at an angle ranging from 10 to 20 degrees and spaced between 0.27 and 0.33 inch apart, measured center to center. These strips are then wound counter-clockwise on a mandrel into flat coils 4 inches in diameter.

Parties interested in commenting on any of these products should send written comments as soon as possible, and no later than ten days from publication of this notice. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly so label the business proprietary portion of the submission and also include with it a submission without proprietary information which can be placed in the public file. The public file will be maintained in the Central Records Unit, Import Administration, U.S. Department of Commerce, Room B-099 at the above address.

Dated: August 8, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 85-19409 Filed 8-14-85; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-404]

Countervailing Duty Order; Live Swine From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In separate investigations, the United States Department of Commerce (the Department) and the United States International Trade Commission (ITC) have determined that live swine from Canada are receiving benefits which constitute subsidies within the meaning of the countervailing duty law, and that sales of live swine from Canada are materially injuring a United States Industry. In its determination, the Department also found that fresh, chilled and frozen pork products from Canada are receiving benefits which constitute subsidies within the meaning of the countervailing duty law. However, the ITC determined that imports of these pork products are not materially injuring, threatening material injury to, or materially retarding the establishment of, a United States Industry.

Therefore, based on these findings, all entries of live swine from Canada, which are entered or withdrawn from warehouse, for consumption on or after April 3, 1985, the date on which the Department published its preliminary countervailing determination in the **Federal Register**, will be liable for the possible assessment of countervailing duties. Furthermore, a cash deposit of estimated countervailing duties must be made on all such entries, and withdrawals from warehosue, for consumption, on or after the date of publication of this countervailing duty order in the **Federal Register**.

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Gary Taverman or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, D.C. 20230, telephone: (202) 377-0161 (Taverman) or 377-3464 (Martin).

SUPPLEMENTARY INFORMATION: The product covered by this order is live swine, as currently provided for in item 100.8500 of the *Tariff Schedules of the United States, Annotated* (TSUSA).

In accordance with section 703 of the Act (19 U.S.C. 1671b), on April 3, 1985, the Department published its preliminary determination that there was reason to believe or suspect that imports of live swine and fresh, chilled and frozen pork products from Canada received benefits which constitute subsidies within the meaning of the countervailing duty law (50 FR 13264). In accordance with section 705 of the Act (19 U.S.C. 1671d), on June 17, 1985, the Department published its final determination that these imports are being subsidized (50 FR 25097).

On August 1, 1985, in accordance with section 705(d) of the Act (19 U.S.C. 1671d(d)), the ITC notified the Department of its determination that imports of live swine are materially injuring a United States industry, and that imports of fresh, chilled and frozen pork products are not materially injuring, threatening material injury to, or materially retarding the establishment of, a United States industry.

Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs United States Customs officiers to assess, upon further advice by the administering authority pursuant to section 706(a)(1) and 751 of the Act (19 U.S.C. 1671e(a)(1) and 1675), countervailing duties equal to the amount of the net subsidy for all entries of live swine for Canada. These countervailing duties will be assess on all unliquidated entries of live swine from Canada entered, or withdrawn from warehouse, for consumption, on or after April 3, 1985, the date on which the Department published its notice of "Preliminary Affirmative Countervailing Duty Determination" in the **Federal Register**.

On and after the date of publication of this notice, United States Customs officers must require, at the same time as importers would normally deposit estimated customs duties on the merchandise, a cash deposit of Can $0.04386/lb. on all entries of live swine from Canada. For any entries for which an actual deposit of estimated duties was collected, Customs officials should refund the difference between the rate published on our final determination and the rate established by this order.

The Department also directs that suspension of liquidation be discountinued for entries of fresh chilled and frozen pork products. All estimated countervailing duties deposited on such entries shall be refunded and the appropriate bonds or other security released at time of liquidation.

This determination constitutes a countevailing duty order with respect to live swine from Canada pursuant to section 706 of the Act (19 U.S.C. 1671e) and 355.36 of the Commerce Regulations (19 U.S.C. 355.36).

We have deleted from the Commerce Regulations Annex III to 19 CFR Part 355 which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration for copies of the updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act 19 U.S.C. 1675(a)(1), the Department hereby gives notice that if requested it will commence an administrative review of this order. For further information regarding this reveiw, contact Mr. Richard Moreland (202) 377-2786.

This notice is published in accordance wtih section 706 of the Act (19 U.S.C. 1671e) and 355.36 of the Commerce Regulations (19 U.S.C. 355.36).

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary for Import Administration.

August 9, 1985.

[FR Doc. 85-19483 Filed 8-14-85; 8:45 am]

BILLING CODE 3510-DS

Galvanized Steel Wire Strand From South Africa; Intention To Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination To Terminate Suspended Countervailing Duty Investigation

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of Intention to Review and Preliminary Results of Changed Circumstances Administrative Review and Tentative Determination to Terminate Suspended Countervailing Duty Investigation.

SUMMARY: The Department of Commerce has received information which shows changed circumstances sufficient to warrant an administrative review, under section 751(b)(1) of the Tariff Act, of the countervailing duty case on galvanized steel wire strand from South Africa. The review covers the period from October 1, 1983. The petitioners in this proceeding have notified the Department that they are no longer interested in the countervailing duty case. These affirmative statements of no interest provide a reasonable basis for the Department to terminate the suspended investigation. Therefore, we intend to terminate the suspended investigation. The termination will apply to all galvanized steel wire strand entered, or withdrawn from warehouse, for consumption on or after October 1, 1983. Intertested parties are invited to

comment on these preliminary results and tentative determination to terminate.

EFFECTIVE DATE: October 1, 1983.

FOR FURTHER INFORMATION CONTACT: Sylvia Chadwick or Philip Otterness, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230; telephone: (202) 377–2786.

SUPPLEMENTARY INFORMATION:

Background

On April 29, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 19451) a notice of suspension of countervailing duty investigation on galvanized steel wire strand from South Africa.

The petitioners, Florida Wire and Cable Company, Indiana Steel and Wire, and Bethelehem Steel Corporation, informed the Department that they were no longer interested in the case and stated their support of termination of the suspended investigation. Under section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department may terminate a suspended countervailing duty investigation that is no longer of interest to domestic interested parties.

Scope of the Review

Imports covered by the review are shipments of South African galvanized steel wire strand. Such merchandise is currently classifiable under items 642.1142 and 642.1144 of the Tariff Schedules of the United States Annotated. The review covers the period from October 1, 1983.

Preliminary Results of the Review and Tentative Determination

As a result of our review, we preliminarily determine that the domestic interested parties' affirmative statements of no interest in continuation of the countervailing duty case on galvanized steel wire strand from South Africa provide a reasonable basis for termination of the suspended investigation. Therefore, we tentatively determine to terminate the suspended investigation on this product effective October 1, 1983. The current requirements of the agreement suspending the investigation will continue until publication of the final results of this review.

Interested parties may submit written comments on these preliminary results and tentative determination to terminate within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within five days of the date of publication. Any hearing, if requested, will be held 45 days after the date of publication or the first workday thereafter. The Department will publish the final results of the review and its decision on termination, including its analysis of issues raised in any such written comments or at a hearing.

This intention to review, administrative review, tentative determination to terminate, and notice are in accordance with sections 751(b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: August 2, 1985.

Gilbert B. Kaplan,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 85–19482 Filed 8–14–85; 8:45 am]

BILLING CODE 3510–DS–M

Importers and Retailers' Textile Advisory Committee; Partially Closed Meeting

A meeting of the Importers and Retailers' Textile Advisory Committee will be held on August 27, 1985, 2:30 p.m., 30th Floor, 11 West 42nd Street, New York, New York 10036. (The Committee was established by the Secretary of Commerce on August 13, 1963 to advise Department officials of the effects on import markets of cotton, wool, and man-made fiber textile and apparel agreements).

General Session: 2:30 p.m. Review of import trends, international activities, report on conditions in the market, and other business.

Executive Session: 3:30 p.m. Discussion of matters properly classified under Executive Order 12356 (3 CFR Part (1982) and listed in 5 U.S.C. 552b(c)(1) and (9).

The general session will be open to the public with a limited number of seats available. A Notice of Determination to close meetings or portions of meetings to the public on the basis of 5 U.S.C. 553b(c)(1) and (c)(9) has been approved in accordance with the Federal Advisory Committee Act. A copy of the notice is available for public inspection and copying in the Central Facility Room 6628, U.S. Department of Commerce, (202) 377–3031.

For further information or copies of the minutes contact Helen L. LeGrande, (202) 377–3737.

Dated: August 12, 1985

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85–19484 Filed 8–14–85; 8:45 am]

BILLING CODE 3510–DR–M

National Oceanic and Atmospheric Administration

Application for Approval To Transfer Ownership of a U.S. Fishing Vessel to a U.S. Corporation Under Foreign Control

AGENCY: National Marine Fisheries Services (NMFS), NOAA, Commerce.

ACTION: Notice of proposed fishing vessel transfer, and request for comments.

SUMMARY: The Maritime Administration (MarAd) has received an application to transfer ownership of the tuna purse seiner PAMELA ANN to Vivian Ann Fishing, Inc. This would subject the vessel to foreign control since Vivian Ann Fishing, Inc., is 100 percent owned by Venezuelan citizens. Written comments are requested.

DATE: All comments must be postmarked no later than September 16, 1985.

ADDRESSES: Comments should be mailed to Michael L. Grable, Chief, Financial Services Division, NMFS, NOAA, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT: John A. Kelly, Jr. (Financial Assistance Specialist), 202–634–7496.

SUPPLEMENTARY INFORMATION: Application for approval of the transfer of vessel Pamela Ann (O.N. 644053, built 1981, reg. length 200.8') owned by Marine Engineering Services, Inc., was received by MarAd on July 16, 1985. If the transfer is approved, the vessel will remain documented in the fisheries of the United States and continue to be operated as a tuna seiner in the Eastern Tropical Pacific. Approval of the transfer is required by section 9 of the Shipping Act, 1916 (the Act) as amended (46 U.S.C. 808) because although Vivian Ann Fishing, Inc., a California corporation, meets the citizenship requirements for Federal documentation of a vessel in the fisheries of the United States, it is not a citizen of the United States within the meaning of section 2 of the Act because 100 percent of its stock is owned by Venezuelan citizens. The MarAd is the Federal Agency responsible for the approval of applications submitted under the Act. Where a foreign transfer involves a fishing vessel, MarAd customarily

requests NMFS to review the application. In turn, we are soliciting the views of interested persons in this regard.

All written comments received on time will be considered before we respond to MarAd. However, since the Shipping Act provides little basis for disapproving the transfer of a fishing vessel, our response to MarAd will indicate no objection unless information received supports a conclusion that this sale would significantly affect the fishery F/V PAMELA ANN will engage in. No public hearing is contemplated at this time.

Dated: August 8, 1985.

Richard B. Roe,

Acting Director, Office of Fisheries Management.

[FR Doc. 85-19489 Filed 8-14-85; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Requesting Public Comment on Bilateral Textile Consultations With the Government of Malaysia To Review Trade in Category 369pt. (Shop Towels)

August 12, 1985.

On July 30, 1985, the Government of the United States requested consultations with the Government of Malaysia with respect to Category 369pt. (shop towels in T.S.U.S.A. number 366.2740). This request was made on the basis of the agreement between the Governments of the United States and Malaysia relating to trade in Cotton, Wool and Man-Made Fiber Textiles and Textile Products, effected by exchange of notes dated July 1 and July 11, 1985. The agreement provides for consultations when the orderly development of trade between the two countries may be impeded by imports due to market disruption, or the threat thereof.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations between the two governments, CITA, pursuant to the agreement may establish a prorated specific limit of 125,082 pounds for the entry and withdrawal from warehouse for consumption of textile products in Category 369pt., produced or manufactured in Malaysia and exported to the United States during the period beginning on October 28, 1985 and extending through December 31, 1985.

The Government of the United States has decided, pending agreement on a mutually satisfactory solution concerning this category, to control imports during the ninety-day consultation period (July 30, 1985 through October 27, 1985) at a level of 204,862 pounds. In the event the limit established for the ninety-day period is exceeded, such excess amount, if allowed enter, may be charged to the level established during the subsequent restraint period.

A summary market statement follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 369pt. 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 Association, U.S. Department of Commerce, Washington, D.C. 20230. 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, DC, and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreement.

Malaysia—Market Statement

Category 369 Part—Cotton Shop Towels

July 1985.

Summary and Conclusions

U.S. imports of Category 369 Part, shop towels, from Malaysia were 730,399 pounds during the period of November 1984 through May 1985. There were no imports prior to November 1984. This sharp and substantial entrance of imports was into a sector already adversely affected by imports.

Malaysia was the third largest supplier of cotton shop towels during January–May 1985, accounting for 11 percent of the total imports. These imports from Malaysia are entered at duty-paid landed values which are below the U.S. producer price for comparable towels. The continuation of increasing low-priced imports from Malaysia threatens to intensify the market disruption occurring in the U.S. for such towels.

U.S. Producers' Market Share

The U.S. producers' share of Category 369pt. shop towel market declined from 59 percent in 1981 to 47 percent in 1984.

U.S. Production

U.S. production of cotton shop towels declined from 162 million units in 1981 to 126 million in 1982, a decrease of 22 percent. Production regained some of the loss in 1983 and 1984 to a level of 138 million units in 1984, up 10 percent over the recession impacted 1982 level. Production in 1984 was far below any level on record prior to 1982.

U.S. Imports

U.S. imports of Category 369Pt., after remaining relatively flat at 94 million units during 1982 and 1983 due in part to the soft domestic market and the action taken by the United States on antidumping and countervailing duty cases with specific major suppliers, increased substantially in 1984. Imports in 1984 soared to a record high of 158 million units.

Import Penetration

The ratio of imports to domestic production increased from 69 percent in 1982 to 115 percent in 1984.

Import Values

Imports of cotton shop towels from Malaysia are entered at duty-paid landed values below the U.S. producer prices for comparable towels.

August 12, 1985.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commisioner: Under the terms of Section 204 of the Agriculture 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 effected by exchange of notes dated July 1, and July 11, 1985, between the Governments of the United States and Malaysia; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on August 16, 1985, entry into the United States of consumption and withdrawal from warehouse for consumption of textile products in Category 369pt.[1], produced or manufactured in Malaysia, and exported during the ninety-day period which began on July 30, 1985 and extends through October 27, 1985, in excess 204,862 pounds.[2]

Textile products in Category 369pt.[1] which have been exported to the United States prior to July 30, 1985 shall not be subject to this directive.

Textile products in Category 369pt.[1] which have been released from the custody of the

[1] In Category 369 only T.S.U.S.A. number 366.2740.

[2] The level has not been adjusted to reflect any imports exported after July 29, 1985.

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 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(a)(1).

Sincerely,

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 85-19410 Filed 8-14-85; 8:45 am]

BILLING CODE 3510-DR-M

Request for Public Comment on Bilateral Textile Consultations With the Government of Turkey on Category 348 (Women's, Girls' and Infants' Cotton Trousers)

On July 29, 1985, the United States Government, under Article 3 of the Arrangement Regarding International Trade in Textiles, requested the Government of Turkey to enter into consultations concerning exports to the United States of women's, girls' and infants' cotton trousers in Category 348, produced or manufactured in Turkey.

The purpose of this notice is to advise that, if no solution is agreed upon in consultations with Turkey the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of women's, girls' and infants' cotton trousers in Category 348, produced or manufactured in Turkey and exported to the United States during the twelve-month period which began on July 29, 1985, and extended through July 28, 1986 may be restrained at a level of 389,682 dozen.

A summary market statement for this category follows this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Category 348 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. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textiles and Apparel, Room 3100, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, D.C., and may be obtained upon written request.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

Walter C. Lenahan,

Chairman, Committee for the Implementation of Textile Agreements.

Turkey—Market Statement

Category 348—Women's, Girls' and Infants' Cotton Trousers, Slacks and Shorts (WGI Cotton Trousers)

July 1985.

Summary and Conclusions

WGI cotton trouser imports from Turkey reached 415,036 dozens during the year ending May 1985, when Turkey was the seventh largest supplier of Category 348. In 1984, these imports reached 221,742 dozens. Moreover, Turkey contributed a fourth of the 1983 to 1984 growth in the entire Category for 1984. WGI cotton trouser imports from Turkey during the first five months of 1985 totaled 266,244 dozens, over two and a half times the imports a year earlier and 20 percent more than had been from Turkey in the entire 1984 calendar year.

U.S. Imports

For every ten pairs of WGI cotton trousers produced in the U.S. in 1984, another eight were imported. Category 348 imports have increased 51 percent since 1980 and 5 percent from 1983 to 1984. The 12,535,000 dozens imported in 1984 equalled 83 percent of domestic production.

The 1984 import-to-production ratio for Category 348 is the highest recorded and is three percentage points higher than was recorded in 1983.

U.S. Production

Domestic WGI cotton trouser production was 15,191,000 dozens in 1984. In contrast to imports which increased five percent that year, U.S. production stagnated. U.S. manufacturers accounted for only a little over half of the Category 348 market in 1984. Indicators point to no improvement in the U.S. position in 1985, cuttings of women's slacks were down about six percent during January–April 1985.

Import Unit Values and Domestic Producers Price

Seventy percent of the Category 348 imports from Turkey entered under TSUSA No. 383.4726—WGI woven, not ornamented shorts; and 23 percent under 383.4761—women's woven, not ornamented trousers. These garments are imported at landed, duty-paid values below the U.S. producers price for comparable items.

[FR Doc. 85-19485 Filed 8-14-85; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

August 6, 1985.

The USAF Scientific Advisory Board's Electronic System Division Advisory Group will meet at Hanscom Air Force Base, Massachusetts on September 19 and 20, 1985.

The purpose of the meeting will be to review on-going projects in the field of Cruise Missile Surveillance and Tactical Battle Management. The meeting will convene from 8:30 a.m. to 5:00 p.m. on September 19 and from 8:30 a.m. to 12:00 noon on September 20.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at 202-697-8845.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-19414 Filed 8-14-85; 8:45 am]

BILLING CODE 3910-01-M

Senior Executive Service; Performance Review Boards; List of Members

Below is a listing of additional individuals who are eligible to serve on the Performance Review Boards for the Department of the Air Force in accordance with the Air Force Senior Executive Appraisal and Award System.

Secretariat

Andrew E. Bilinski
Durward E. Timmons
Bernard H. Paiewonsky

Air Staff

Robert K. Beacom

Harold W. Sorenson
Robert W. Thornett
BG Denis M. Brown
BG Gerald C. Schwankl

AFSC

John P. Braily
William J. Edwards
Gary M. Grann
Raymond L. Haas
Charles H. Hooper
Raymond L. Johnson
Joseph G. La Quanti
Johnny M. Rampy
James T. Van Kuren
Horst R. Wittman
LG William E. Thurman
MG Brien D. Ward
BG John D. Slinkard
BG Charles P. Winters

AFLC

MG William P. Bowden

Others

Nickolai Charczenko
David Finkleman
BG Roy M. Goodwin

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 85-19415 Filed 8-14-85; 8:45 am]

BILLING CODE 3910-01-M

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Application Notice for Noncompeting Continuation Awards for Fiscal Year 1986; International Research and Studies Program

Applications are invited for noncompeting continuation awards under the International Research and Studies Program for fiscal year (FY) 1986.

Authority for this program is contained in section 605(a) of Title VI of the Higher Education Act of 1965, as amended (20 U.S.C. 1125(a)).

The International Research and Studies Program provides funds to qualified public and private agencies, organizations, institutions, and individuals to conduct research designed to improve and strengthen instruction in modern foreign languages, area studies, and other related fields needed to provide full understanding of the places in which those languages are commonly used.

Closing dates for transmittal of applications: To be assured of consideration for funding, an application for a noncompeting continuation award should be mailed or hand delivered by February 21, 1986. If the application for a noncompeting continuation award is late, the Department of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.017B, International Research and Studies Program, 400 Maryland Avenue, SW., Washington, DC 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 the local post office.

An applicant is encouraged to use registered or at least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC.

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Eligible applicants: For the International Research and Studies Program eligible applicants include public and private agencies, organizations, and institutions of higher education as well as individuals.

Available funds: The Administration's budget for fiscal year 1986 does not request an appropriation of U.S. dollars or foreign currencies for the International Research and Studies Program. However, applications are invited for noncompeting continuation awards to allow for sufficient time to evaluate them and complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for this program.

Application forms: Application forms and program information packages are expected to be available for mailing on September 13. They may be obtained by writing to the Center for International Education, Office of Postsecondary Education, U.S. Department of Education, (Room 3923, ROB-3), Mail Stop 3308, 400 Maryland Avenue, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The program information package is intended to aid applicants applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary urges that applicants not submit information that is not requested.

These forms are approved under the Paperwork Reduction Act of 1980.

(Approved by the Office of Management and Budget under Control Number 1840-0068).

Applicable Regulations: Regulations applicable to this program include the following:

(a) Regulations governing the International Research and Studies Program, 34 CFR Parts 655 and 660.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further Information: For further information contact Robert R. Dennis, Program Manager, International Research and Studies Program, Center for International Education, (Room 3928, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 245-9425.

(20 U.S.C. 1125)

(Catalog of Federal Domestic Assistance No. 84.017, International Research and Studies Program)

Dated: August 12, 1985

C. Ronald Kimberling,

Acting Assistant Secretary for Postsecondary Education.

[FR Doc. 85-19405 Filed 8-14-85; 8:45 am]

BILLING CODE 4000-01-M

Application Notice for New Awards for Fiscal Year 1986; International Research and Studies Program

Applications are invited for new awards under the International Research and Studies Program for fiscal year (FY) 1986.

Authority for this program is contained in section 605(a) of Title VI of the Higher Education Act of 1965, as amended (20 U.S.C. 1125(a)).

The International Research and Studies Program provides funds to qualified public and private agencies, organizations, institutions, and individuals to conduct research designed to improve and strengthen instruction in modern foreign languages, area studies, and other related fields needed to provide full understanding of the places in which those language are commonly used.

Closing dates for transmittal of applications: An application for an award must be mailed or hand delivered by November 4, 1985.

Applications Delivered by mail: An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.017A, International Research and Studies Program, 400 Maryland Avenue, SW., Washington, DC 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 Seceretary 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 a least first class mail.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets, SW., Washington, DC

The Application Control Center will accept a hand delivered application between 8:00 a.m. and 4:00 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays.

Eligible Applicants: For the International Research and Studies Program eligible applicants include public and private agencies, organizations, and institutions of higher education as well as individuals.

Program Information: Applications for awards will be evaluated in accordance with the selection criteria contained in the regulations for this program (34 CFR 660.31 through 660.33 and 660.35). New projects may be proposed for a period of from one three years. An applicant requesting support for more than one year must provide the information required in 34 CFR 75.117.

Funding Priorities: The regulations governing the International Research and Studies Program (34 CFR 660.34) provide for the establishment of funding priorities by the Secretary in any given year. For FY 1986, the Secretary has established funding priorties for new awards for research. These priorities will be applied in accordance with the provisions of 34 CFR 75.105(c)(2)(ii) and are in the following areas:

(1) The use computers for improving foreign language instruction.

(2) Foreign language acquisition.

(3) Improved teaching methodologies for foreign languages.

(4) Foreign language proficiency testing.

(5) Instructional materials development for uncommonly taught languages.

In preparing an application in the area of instructional materials development for uncommonly taught languages, applicants for new awards should consult the report, *A Survey of Material Development Needs in the Less Commonly Taught Languages in the United States*, published by the Center for Applied Linguistics, 1118 22nd Street, NW., Washington, DC 20037. Telephone: (202) 429-9292. The Secretary consults this report in determining priorities for instructional materials development for uncommonly taught languages. The report is also available through the Educational Resources Information Clearinghouse (ERIC). Telephone: (202) 254-7934.

Available funds: The Administration's budget for fiscal year 1986 does not request an appropriation of U.S. dollars or foreign currencies for the International Research and Studies Program. However, applications are invited to allow for sufficient time to evaluate them and complete the grants process prior to the end of the fiscal year, should the Congress appropriate funds for this program.

Application forms: Application forms and program information packages are expected to be available for mailing on September 13. They may be obtained by writing to the Center for International Education, Office of Post-secondary Education, U.S. Department of Education, (Room 3923, ROB-3), Mail Stop 3308, 400 Maryland Avenue, SW., Washington, DC 20202.

Applications must be prepared and submitted in accordance with regulations, instructions, and forms included in the program information package. The program information package is intended to aid applicants applying for assistance under this competition. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirements beyond those specifically imposed under the statute and regulations governing the competition.

The Secretary urges that applicants not submit information that is not requested.

These forms are approved under the Paperwork Reduction Act of 1980.

(Approved by the Office of Management and Budget under Control Number 1840-0068.)

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the International Research and Studies Program, 34 CFR Parts 655 and 660.

(b) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78.

Further information: For further information contact Robert R. Dennis, Program Manager, International Research and Studies Program, Center for International Education, (Room 3928, ROB-3), 400 Maryland Avenue, SW., Washington, DC 20202. Telephone: (202) 245-9425.

(20 U.S.C. 1125)

(Catalog of Federal Domestic Assistance No. 84.017, International Research and Studies Program)

Dated: August 12, 1985.

William J. Bennett,

Secretary of Education.

[FR Doc. 85-19406 Filed 8-14-85; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[Docket No. ERA-FC-85-020; OFP Case No. 67044-9282-20-24]

Powerplant and Industrial Fuel Use

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notion of Acceptance of Petition for Exemption and Availability of Certification by University Cogeneration, Inc.

SUMMARY: On July 8, 1985, University Cogeneration, Inc. (UCI), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed cogeneration facility to be located in the Little Signal Hills, 3.5 miles south of the city of Taft in the western valley of Kern County, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8310 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary energy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501 and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 29209, July 6, 1982), and are found at 10 CFR 503.37.

The proposed powerplant for which the petition was filed is to consist of one General Electric Frame 6 turbine generator rated at 38,700 kW. The firing rate for the turbine would be approximately 425 MMBtu per hour (LHV). The turbine would be fueled by natural gas. The gross generating capacity would be 38.7 MW peak. All electrical power used by the cogeneration facilities would be generated by the facility. The average net generating capability would be 36.7 MW. Steam would be generated from the exhaust heat of the gas turbine in a Heat Recovery Steam Generator (HRSG). The HRSG would generate a maximum of 350,000 pounds of steam per hour.

The project will exceed the heat input threshold and is expected to sell more than 50 percent of the net annual electrical power to Pacific Gas and Electric Company (PG&E), causing the new cogeneration facility to be classified as a powerplant under FUA.

ERA has determined that the petition appears to include sufficient evidence to support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in section 701 (c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding are available upon request at: Department of Energy, Freedom of Information Reading Room, 1000 Independence Avenue, SW, Washington, DC 20585, Monday through Friday, 9:00 a.m. to 4:00 p.m., except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons, therefore, would be published in the **Fedral Register.**

DATES: Written comments are due on or before September 30, 1985. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-007, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585.

Docket No. ERA-FC-85-020 should be printed on the outside of the enevlope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

John Boyd, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, SW., Room GA-045, Washington, DC 20585, Telephone (202) 252-4523

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW, Washington, DC 20585.

SUPPLEMENTARY INFORMATION: UCI proposes to construct and operate a cogeneration facility in Little Signal Hills, Kern County, California. The facility will generate electrical power for sale to PG&E and generate steam that would be piped to the producing oil well fields of the Berry Holding Company for the enhanced tertiary recovery of oil. The facility will consist of a combustion turbine generator system, which would utilize a closed circuit cooling system with a supplementary firing system to heat exhaust gases to increase the amount of steam produced.

The cogeneration facility is classified as an electric power plant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions of Title II of FUA. In accordance with the requirements of § 503.37(a)(1), UCI has certified to ERA that:

1. The gas to be consumed by the subject cogeneration unit will be less than that which would otherwise be consumed in the absence of the unit, pursuant to the methodoloty for calculating such savings set forth in 10 CFR 503.37(b); and

2. The use of mixture of oil and gas and coal or an alternative fuel for the cogeneration unit is not economically or technically feasible.

In accordance with the evidentiary requirements of § 503.37(c) (and in addition to the certification discussed above), UCI has included as part of the petition:

1. Exhibits containing the basis for the certifications described above; and

2. An environmental impact analysis as required under 10 CFR 5603.13.

In processing this exemption request, ERA will comply with the requirements of the National Environmental Policy Act of 1969 (NEPA); the Council on Environmental Quality's implementing regulations, 40 CFR Part 1500 *et seq.*; and DOE's Guidelines implementing those regulations, published at 45 FR 20694, March 28, 1980. NEPA compliance may involve the preparation of (1) an Environmental Impact Statement (EIS); (2) and Environmental Assessment; or (3) a memorandum to the file finding that the grant of the requested exemption would not be considered a major Federal action significantly affecting the quality of the environment. If an EIS is determined to be required, ERA will publish a Notice of Intent to prepare an EIS in the **Federal Register** as soon as practicable. No final action will be taken on the exemption petition until ERA's NEPA compliance has been completed.

The acceptance of the petition by ERA does not constitute a determination that UCI is entitled to the exemption requested. That determination will be

based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, D.C., August 6, 1985.

Robert L. Davies,

Director, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 85-19407 Filed 8-14-85; 8:45 am]

BILLING CODE 6450-01-M

Issuance of Proposed Remedial Order to the Thriftway Co. and Opportunity for Objection

Pursuant to 10 CFR 205.192(c), the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives notice of a Proposed Remedial Order which was issued to the Thriftway Company (Thriftway). This Proposed Remedial Order charges Thriftway with unlawful receipt of $670,923, exclusive of interest, in small refiner bias entitlements arising from Thriftway's improper reporting in December 1976 and January 1977 of 361,743 barrels of crude oil refined pursuant to processing agreements with another refiner.

A copy of the Proposed Remedial Order, with confidential information deleted, may be obtained from the Freedom of Information Public Reading Room (Rm. 1E-190), U.S Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585.

Within fifteen (15) days of publication of this notice any aggrieved person may file a Notice of Objection with the Office of Hearings and Appeals, U.S. Department of Energy, Room 6F-055, 1000 Independence Avenue SW., Washington, DC 20585, in accordance with 10 CFR 205.193. Failure to file a Notice of Objection shall be deemed to be an admission of the findings of fact and conclusions of law stated in the proposed order. If a Notice of Objection is not filed in accordance with § 205.193, the proposed order may be issued as a final Remedial Order by the Office of Hearings and Appeals.

Issued in Washington, D.C., on the 26th day of July, 1985.

Avrom Landesman,

Director, Office of Enforcement Programs, Economic Regulatory Administration.

[FR Doc. 85-19408 Filed 8-14-85; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER85-660-000, et al.]

Electric Rate and Corporate Regulation Filings; Georgia Power Co., et al.

Take notice that the following filings have been made with the Commission:

1. Georgia Power Company

[Docket No. ER85-660-000]

August 7, 1985.

Take notice that Georgia Power Company ("Georgia Power"), on August 1, 1985, tendered for filng proposed changes in its FERC Electric Tariff, Origional Volume No. 1 (full requirements service). Based on the twelve-month period ending July 31, 1986, the proposed changes would increase revenues from jurisdictional full requirements service by $229,000. The filing contains proposed Rate Schedule FR-5 which would replace Rate Schedule FR-4 (full requirements). Georgia Power has stated an effective date of September 30, 1985 for the changes. Georgia Power has designed rates which will produce the FR-5 increase in two steps (Level A—$210,000 and Level B—an additional $19,000). The Company requests that it be peritted to withdraw its Level A rates as of the date its Level B rates are permitted to become effective.

Georgia Power asserts that its costs have escalated steadily since the filing of its FR-4 rates, resulting in a large increase in the revenue required from wholesale service. The data submitted with Georgia Power's filing allegedly demonstrate that FR-4 rates do not provide a fair return on Georgia Power's wholesale service.

Geortia Power states that copies of the filing ere served upon all of its jurisdictional customers.

Comment date: August 21, 1985.in accordance with Standard Paragraph E at the end of this notice.

2. Pacific Gas and Electric Company

[Docket No. ER-85-654-000]

August 7, 1985.

Take notice that on July 30, 1985, Pacific Gas and Electric Company (PGandE) tendered for filing proposed changes in its rate schedule FPC No. 53 for service to the City and County of San Francisco (San Francisco, or the City). The proposed adjustments are based on settlements reached among PGandE, San Francisco, the Modesto Irrigation District (MID) and the Turlock Irrigation District (TID).

The filing proposes increases in the support charge for supplemental power service and proposes the implementation of wheeling transmission rates which were previously filed with the California Public Utilities Commission. The propsed change in the rate for Supplemental Power would increase revenues by a total of $7,320,000 per year.

PGandE, MID, TID, and San Francisco have requested a waiver of the 60-day notice period required by § 35.3 of the Commission's Regulations. The proposed effective date for the proposed rate schedules changes contained in these agreements is July 1, 1985.

Copies of this filng were served upon the affected customer, the Modesto Irrigation District, the Turlock Irrigation District, N. I. Industries, Inc., and the California Public Utilities Commission.

Comment date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

3. Public Service Company of New Hampshire

[Docket No. ER85-655-000]

August 7, 1985.

Please take notice that on July 30, 1985 Public Service Company of New Hampshire ("PSNH") filed rate schedule supplements or revisions revising PSNH's fuel adjustment clause to implement the Commission's policy of treatng fuel cost savings resulting from the generation of test power as a reduction in plant investment rather than as a reduction in fuel costs to be flowed through currently under the fuel adjustment clause. *Pennsylvania Power & Light Company ("PP&L")*, Docket Nos. ER82-493-000 and ER82-494-000, Opinion No. 176, 23 F.E.R.C. ¶6,395 (June 22, 1983). PSNH requests that this filing be made effective November 26, 1984 when PSNH began to generate coal-fired test energy at its Schiller station in Portsmouth, New Hampshire.

PSNH was ordered by the New Hampshire Public Utilities Commission in Order No. 14,131 dated March 17, 1980 in Docket No. DE 79-141 to convert Units 4, 5 and 6 at Schiller Station from oil-burning to coal-burning units. The units have capacities of approximately 45 to 50 megawatts. Subsequent to their conversion, but prior to the date of commercial operation, each unit produced energy while undergoing test operations. The following table show the date when each unit began producing test energy and the date when it began commercial operation:

Unit	Date of initial production of test power	Date of commercial operation
4	11/26/84	12/21/84
6	04/30/85	05/15/85
5	06/14/85	07/07/85

During the months when the Schiller units were generating test energy, PSNH calculated its wholesale fuel adjustment, in accordance with the *PP&L* policy, as if that energy were not available. PSNH only recently discovered that a filing is necessary to implement this treatment.

The filing consists of supplements and revisions to the following rate schedules:

Customer	Rate schedule
Concord Electric Co	FERC No. 24.
Ashland, New Hampshire, Electric Department.	FERC No. 28.
New Hampton, New Hampshire, Village Precinct.	FERC No. 29.
Exeter & Hampton Electric Co.	FERC No. 35.
New Hampshire Electric Cooperative, Inc.	FERC Nos. 50 and 71.
Town of Wolfeboro, New Hampshire.	FERC No. 72.
Citizens Utilities Co	FERC No. 110.

The rate schedules listed above have been revised in the present filing to provide for two adjustments to current period fuel costs which PSNH made during the months when it was generating test energy at the Schiller station: (1) The actual current period fuel costs were reduced to eliminate fuel costs incurred to generate test energy and (2) the current period fuel costs as so adjusted were increased by the fair value of the test energy; *i.e.*, they were increased to the same level of fuel costs that PSNH would have incurred if the test energy had not been available and PSNH had had to rely on higher cost sources of energy.

The net effect of the two adjustments was to increase current period fuel costs allocable to wholesale service by $43,296.

PSNH's accounting entries have the effect of reducing the investment in the Schiller station included in PSNH's wholesale rate base by the net increase in current period fuel costs resulting from the two adjustments. The effect of this filing and the associated accounting and ratemaking is to permit PSNH to retain the fuel costs savings resulting from test generation at each converted unit until the date of commercial operation and to return those savings to ratepayers over the service life of that unit.

PSNH requests waiver of the fuel clause regulations and the 60-day notice requirement in order to permit this filing to become effective November 26, 1984. Since the filing conforms with *PP&L* policy and will have a minimal impact on wholesale customers PSNH believes that good cause exists to grant these requests for waiver.

PSNH has served each affected wholesale customer and pertinent state commissions with copies of its filing.

Comments date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

4. Southern Company-Services, Inc.

August 7, 1985.

[Docket No. ER85-661-000]

Take notice that on August 1, 1985, Southern Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies"), tendered for filing Service Schedule R to an interchange contract between Florida Power & Light Company ("FPL") and Sothern Companies.

Service Schedule R provides for non-firm energy sales from Southern Companies to FPL and allows FPL to purchase such energy in substitution for energy under a unit power sales agreement among the parties. The price of energy under Service Schedule R will be at the incremental cost of Southern Companies. Southern Companies and FPL request that the new service Schedule be allowed to become effective on August 2, 1985.

Comment date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

5. Southern Company Services, Inc.

August 7, 1985.

[Docket No. ER85-662-000]

Take notice that on August 1, 1985, Souther Company Services, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies"), tendered for filing service Schedule R to an interchange contract between Jacksonville Electric Authority ("JEA") and Southern Companies.

Service Schedule R provides for non-firm energy sales from Southern Companies to JEA and allows JEA to purchase such energy in substitution for energy under a unit power sales agreement among the parties. The price of energy under Service Schedule R will be at the incremental cost of Southern Companies. Southern Companies and JEA request that the new service Schedule be allowed to become effective on August 2, 1985.

Comment date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

6. Southwestern Electric Power Company

August 7, 1985.

[Docket No. ER85-468-002]

Take notice that on July 29, 1985, Southwestern Electric Power Company (SWEPCO) submitted for filing, in accordance with the Commission's order of June 28, 1985, a revised set of the cost of service formulas to be attached to and incorporated in the Transmission Service Agreement between SWEPCO and the Oklahoma Municipal Power Authority (OMPA) originally filed in these proceedings.

SWEPCO also filed a Request for Rehearing of the Commission's June 28, 1985 order, asking that the Commission enter an order on the revised formulas submitted herewith pursuant to Commission order to become effective May 1, 1985, without suspension.

Comment date: August 21, 1985, in accordance with Standard Paragraph H at the end of this notice.

7. Vermont Electric Power Company, Inc.

[Docket No. ER85-657-000]

August 7, 1985.

Take notice that on July 31, 1985, Vermont Electric Power Company, Inc. ("VELCO"), tendered for filing a rate schedule for service to the State of Vermont ("Vermont"), acting through the Vermont Department of Public Service, for the transmission of power and associated energy recently acquired by Vermont from the New York Power Authority ("NYPA"). The proposed rate schedule would supersede Supplement No. 5 to FERC Rate Schedule 1, under which the NYPA purchase is currently transmitted.

The proposed rate schedule would not increase transmission rates above the level charged in the superseded schedule. VELCO proposes that the transmission rate schedule become effective on October 1, 1985, the day after the requested effective date of VELCO's notice of cancellation of Supplement No. 5. Such notice of cancellation is filed in a separate docket simultaneously with the filing herein.

VELCO states that it has served the filing upon the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

8. Vermont Electric Power Company, Inc.

[Docket No. ER85-656-000]

August 7, 1985.

Take notice that on July 31, 1985, Vermont Electric Power Company, Inc. (VELCO) tendered for filing a notice of proposed cancellation of FERC Rate Schedule 1 and Supplement No. 5 to FERC Rate Schedule 1.

VELCO requests that the notice of cancellation be permitted to become effective as of end-of-day September 30, 1985.

VELCO states that it has served the filing upon the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: August 21, 1985, in accordance with Standard Paragraph E at the end of this notice.

9. Oglethorpe Power Company v. George Power Company

[Docket No. EL85-40-000]

August 6, 1985.

Take notice that on July 26, 1985, Oglethorpe Power Corporation (Oglethorpe) submitted for filing its complaint against Georgia Power Company (Georgia) pursuant to Rule 206 of the Commission's Rules of Practice and Procedure and section 206(a) of the Federal Power Act.

Oglethorpe requests that the Commission:

(1) Initiate an investigation into the reasonableness and justness of the rates contained in the Georgia Power PR Tariff;

(2) set a hearing on the Georgia Power PR Tariff rates and require Georgia Power to show why these rates are not unjust and unreasonable;

(3) establish lower, just and reasonable rates for partial requirements customers of Georgia Power; and

(4) grant such other and further relief as the Commission finds appropriate in this matter.

Comment date: September 3, 1985, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure [18 CFR 385.211 and 385.214]. All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

H. Any person desiring to be heard or to protest this filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before the comment date. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19380 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 2644-001 et al.]

Availability of Environmental Assessment and Finding of no Significant Impact; Bowerstock Mills & Power Co. et al.

August 8, 1985

In the matter of.

Bowerstock Mills and Power Co.	Project No. 2644-001.
Sterling Enterprises, Inc.	Project No. 8014-000.
Iowa Electric Light and Power Company.	Project No. 8364-000.
Gregory B. and Pernina P. Ryan.	Project No. 8704-000.
Wayne J. Summers	Project No. 8739-000.
Paterson Municipal Utilities Authority and Great Falls Hydroelectric Co.	Project No. 2614-004.
Beaver Falls Municipal Authority.	Project No. 3451-003.
Tehama County Flood Control and Water Conservation District.	Project No. 5350-001.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
Exemptions					
2644-001	Kansas River	KS	Kansas River	Lawrence	Bowerstock, Mills and Power Company.
8014-000	Slack Dam	VT	Black River	Springfield	Sterling Enterprises, Inc.
8364-000	Anamosa Dam	IA.	Wapsipinicon River	Anamosa	Iowa Electric Light and Power Company.
8704-000	Nichols Gap	OR	An unnamed tributary to Nichols Branch.	Eagle Point	Gregory B. & Pernian P. Ryan.
8739-000	Spring Valley "T"	CA	Unnamed stream, tributary to Campbell Creek.	Colfax	Wayne J. Summers.
Licenses					
2614-004	Great Falls	NJ	Passaic River	Paterson	Paterson Municipal Utilities Authority and Great Falls Hydroelectric Co.
3451-003	Townsend Dam	PA	Beaver River	New Brighton	Beaver Falls Municipal Authority.
5350-001	South Fox Battle Creek.	CA	South Fork Battle Creek.	Mineral	Tehama County Flood Control and Water Conservation District.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analysis of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825

North Capitol Street, NE., Washington, D.C. 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19382 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-15-20-000 & 001]

Proposed Changes in FERC Gas Tariff; Algonquin Gas Transmission Co.

August 8, 1985.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on August 2, 1985 tendered for filing the following tariff sheets to its FERC Gas Tariff, Second Revised Volume No. 1.

Alternate Eighth Revised Sheet No. 201
Third Revised Sheet No. 241
Third Revised Sheet No. 311
Ninth Revised Sheet No. 201

Algonquin Gas states that such tariff sheets are being filed to reflect the effect of Texas Eastern Transmission Corporation's ("Texas Eastern") July 31, 1985 filing in compliance with the Commission's Order on Rehearing issued July 12, 1985 in Docket Nos. RP83-35, *et al.* Such Order requires Texas Eastern to implement a modified fixed variable rate design, including allocation of demand costs based on demand cost determinants reflecting both the peak and annual consumption.

Algonquin Gas requests that the Commission accept Alternate Eighth Revised Sheet No. 201, Third Revised Sheet No. 241, and Third Revised Sheet No. 311 to be effective August 1, 1985 to coincide with the proposed effective date of Texas Eastern's rate change; and to accept Ninth Revised Sheet No. 201 to be effective September 1, 1985 which is the effective date of Algonquin Gas' amortizing adjustment.

Algonquin Gas notes that a copy of this filing is being served upon each affected party and interested state commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protest should be filed on or before August 16, 1985. Protest will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19384 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP82-75-009]

Compliance Filing; Arkla Energy Resources, a Division of Arkla, Inc.

August 8, 1985.

Take notice that on July 26, 1985, Arkla Energy Resources, a division of Arkla, Inc. (AER) tendered for filing revised tariff sheets to its FERC Gas Tariff, First Revised Volume No. 1, Rate Schedule G-2 and Original Volume No. 3, Rate Schedule X-26 to comply with Article V of the Stipulation and Agreement accepted by the Commission on February 17, 1983 and Commission Opinion No. 235, issued June 18, 1985. AER States that these proposed revised tariff sheets are being filed only to be effective in accordance with their terms during the locked-in period from June 1, 1982 through January 31, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19385 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-179-000]

Petition of Consolidated Gas Transmission Corporation for Authority to Institute Direct Billing Procedure for Retroactive Order No. 94 Payments; Consolidated Gas Transmission Corp.

August 8, 1985.

Take notice that on August 1, 1985, Consolidated Gas Transmission Corporation (Consolidated) filed a Petition for Authority to Institute Direct Billing Procedure for Retroactive Order No. 94 Payments. Consolidated states that it seeks authorization to bill customers directly for retroactive Order No. 94 costs because of what it states are inequities and undesirable market distortions inherent in recovering such costs through purchased gas adjustment (PGA) filings. As is more fully explained in the filing, Consolidated proposes to allocate retroactive Order No. 94 costs based upon each customer's share of Consolidated's total sales for the production period over which the Order No. 94 obligation arose and to directly bill the resulting amounts, including paid and accrued interest. Consolidated states that its direct billing proposal will most closely approximate the cost assignment that would have occured had the payments been made at the same time as the gas purchases to which they relate.

Consolidated requests waiver of the Commission's regulations and of its PGA clause, section 12 of the General Terms and Conditions of its tariff, to permit the direct billing procedure.

Consolidated states that it has served a copy of the Petition on its customers, interested state commissions and others.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19386 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-3-22-000 and TA85-3-22-001]

Proposed Changes in FERC Gas Tariff; Consolidated Gas Transmission Corp.

August 8, 1985.

Take notice that Consolidated Gas Transmission Corporation (Consolidated) on August 1, 1985, filed revised tariff sheets pursuant to sections 12 (PGA Clause), 12A (Incremental Pricing Surcharges), and 13 (Research,

Development and Demonstration Cost Adjustment) of the General Terms and Conditions of its tariff. The revisions, shown on Sixth Revised Sheet No. 31, provide for Consolidated's semiannual PGA to be effective September 1, 1985.

Consolidated has included in its filing:

(a) Rate changes from pipeline suppliers in the amount of $29.9 million;

(b) Rate changes from producer suppliers in the amount of $0.6 million;

(c) A surcharge of 2.5 cents per dekatherm to recoup amounts accumulated in account 191, Unrecovered Purchased Gas Costs.

(d) A refund credit of 12.11 cents per dekatherm to flow through supplier refunds.

Concurrently with these PGA changes, Consolidated also includes a separately stated rate surcharge to recover its funding of take-or-pay payments made by Tennessee Gas Pipeline Company under the procedures approved in the Commission's order issued on April 16, 1985, in *Columbia Gas Transmission Corporation* v. *Tennessee Gas Pipeline Company, et al.*, in Docket Nos. RP83-8, *et al.* The take-or-pay surcharge is 0.10¢/Dt.

Copies of the filing were served upon Consolidated's jurisdictional customers as well as interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19387 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ST80-78-004, et al.]

Extension Reports; Delhi Gas Pipeline Corp., et al.

August 8, 1985.

The companies listed below have filed extension reports pursuant to section 311 of the Natural Gas Policy Act of 1978 (NGPA) and Part 284 of the Commission's regulations giving notice of their intention to continue transportation and sales of natural gas for an additional term of up to 2 years. These transactions commenced on a self-implementing basis without case-by-case Commission authorization. The sales may continue for an additional term if the Commission does not act to disapprove or modify the proposed extension during the 90 days preceding the effective date of the requested extension.

The table below lists the name and addresses of each company selling or transporting pursuant to Part 284; the party receiving the gas; the date that the extension report was filed; and the effective date of the extension. A letter "B" in the Part 284 column indicates a transportation by an interstate pipeline which is extended under § 284.105. A letter "C" indicates transportation by an intrastate pipeline extended under § 284.125. A "D" indicates a sale by an intrastate pipeline extended under § 284.146. A "G" indicates a transportation by an interstate pipeline pursuant to § 284.221 which is extended under § 284.105. The following symbols are used for transactions pursuant to a blanket certificate issued under Section 284.222 of the Commission's Regulations: A "G(HT)", "G(HS)" or "G(HA)", respectively, indicates transportation, sale or assignments by a Hinshaw pipeline; a "G(LT)" indicates transportation by a local distribution company, and a "G(LS)" indicates sales or assignments by a local distribution company.

Any person desiring to be heard or to make any protests with reference to said extension report should on or before August 26, 1985, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [2]
ST80-78-004	Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201	Transwestern Pipeline Co	07-02-85	D	09-30-85	
ST82-17-002	Cranberry Pipeline Corp., 125 High St., Boston, MA 02110	Tennessee Gas Pipeline Co	07-10-85	C	10-09-85	
ST82-20-002	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	United Gas Pipe Line Co	07-01-85	G	09-29-85	
ST82-22-002	Tennessee Gas Pipeline Co. P.O. Box 2511, Houston, TX 77001	United Gas Pipe Line	07-12-85	G	10-16-85	
ST82-28-002	ANR Pipeline Co., 500 Renaissance Center, Detroit, MI 48243	Monterey Pipeline Co	07-05-85	B	10-05-85	
ST82-41-002	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	El Paso Natural Gas Co	07-05-85	C	10-06-85	
ST82-42-002	Oasis Pipe Line Co., P.O. Box 1188, Houston, TX 77001	El Paso Natural Gas Co	07-05-85	C	10-06-85	
ST82-49-002	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Texas Gas Transmission Co	07-09-85	C	10-13-85	
ST83-643-001 [1]	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Transcontinental Gas Pipe Line Corp	07-10-85	G	08-21-85	10-08-85
ST84-7-001	Tennessee Gas Pipeline Co., P.O. Box 2511, Houston, TX 77001	Natural Gas Pipeline Co. of America	07-03-85	G	10-03-85	
ST84-41-001	Houston Pipe Line Co., P.O. Box 1188, Houston, TX 77001	Texas Eastern Transmission Corp	07-09-85	C	10-10-85	
ST84-47-001	Valley Gas Transmission, Inc., P.O. Box 32999, San Antonio, TX 78216.	Vista Transmission Co	07-15-85	B	10-14-85	
ST84-58-001	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	Kansas Power and Light Co	07-02-85	B	09-30-85	
ST84-60-001	Natural Gas Pipeline Co. of America, P.O. Box 1208, Lombard, IL 60148.	Houston Pipe Line Co	07-03-85	B	10-01-85	
ST84-63-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Intratex Gas Co	07-12-85	B	10-10-85	

Docket No.	Transporter/seller	Recipient	Date filed	Part 284 subpart	Effective date	Expiration date [2]
ST84-115-001	Northern Natural Gas Co., 2223 Dodge St., Omaha, NE 68102	Florida Gas Transmission Co	07-15-85	G	10-21-85	
ST84-703-001 [1]	Mississippi Fuel Co., 1100 First National Center East, Oklahoma City, OK 72102	Transcontinental Gas Pipe Line Corp	07-02-85	C	07-01-85	09-30-85
ST84-921-002	Delhi Gas Pipeline Corp., 1700 Pacific Ave., Dallas, TX 75201	Mississippi River Transmission Corp	07-02-85	D	10-01-85	
ST85-1203-001	Columbia Gulf Transmission Co., P.O. Box 683, Houston, TX 77001	Southern Natural Gas Co., *et al*	07-01-85	G	09-04-85	09-29-85

[1] These extension reports were filed after the date specified by the Commission's Regulation, and shall be the subject of a further Commission order.
[2] The pipeline has sought Commission approval of the extension of this transaction. The 90-day Commission review period expires on the date indicated.
Note.—The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's Regulations.

[FR Doc. 85-19388 Filed 8-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP 85-180-000]

Tariff Filing; Equitable Gas Co., a Division of Equitable Resources, Inc.

August 8, 1985.

Take notice that on August 2, 1985, Equitable Gas Company, a division of Equitable Resources, Inc. ("Equitable") tendered the following tariff sheets:

FERC Gas Tariff, First Revised Volume No. 1

Rate Schedule TS-1: First Revised Sheet No. 10-II Superseding Original Sheet No. 10-II

FERC Gas Tariff, First Revised Volume No. 2

Rate Schedule X-1, Second Revised Sheet No. 8 Superseding First Revised Sheet No. 8
Rate Schedule X-2, Fifth Revised Sheet No. 29 Superseding Fourth Revised Sheet No. 29
Rate Schedule X-8, First Revised Sheet No. 23-D Superseding Original Sheet No. 23-D
Rate Schedule X-9, First Revised Sheet No. 111 Superseding Original Sheet No. 111
Rate Schedule X-10, First Revised Sheet No. 124 Superseding Original Sheet No. 124
Rate Schedule X-11, First Revised Sheet No. 134 Superseding Original Sheet No. 134
Rate Schedule X-12, First Revised Sheet No. 145 Superseding Original Sheet No. 145

Equitable states that the tariff sheets are submitted in accordance with § 154.63 of the Federal Energy Regulatory Commission's ("Commission") regulations, which tariff sheets relate to an increase in the rate for transportation service. The proposed changes would increase revenues from jurisidictional sales and service by $721,000 based on the twelve-month period ending March 31, 1985, as adjusted.

The proposed changes are necessary for Equitable to recover its cost of operations and to realize a reasonable return on its investment in facilities utilized to provide transportation services.

Equitable requests that these tariff sheets become effective thirty (30) days from the date of filing, or August 30, 1985.

Equitable states that it has served copies of its filing upon all transportation customers to be affected by the proposed change in rates, the Pennsylvania Public Utility Commission and the West Virginia Public Service Commission.

Any person desiring to be heard or to protest said filing should file a motion to intervene or to protest with the Federal Energy Regulatory Commisson, 825 North Capitol Street, NE., Washinton, DC. 20460, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-19389 Filed 8-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA85-1-24-000 and TA85-1-24-001]

Proposed Change in Rates; Equitable Gas Company, a Division of Equitable Resources, Inc.

August 8, 1985.

Take notice that Equitable Gas Company (Equitable), a Division of Equitable Resources, Inc., on August 2, 1985, tendered for filing with the Commission Eighth Revised Sheet No. 6-F to its FERC Gas Tariff, First Revised Volume No. 1, to become effective September 1, 1985. Equitable Gas Company states that the change in rates results from the application of the Purchase Gas Cost Rate Adjustment provision in Section 6 of Rate Schedule GS-1 of FERC Gas Tariff, First Revised Volume No. 1 approved by the Commission in Docket Nos. CP79-290, RP79-69, and RP79-49.

Equitable states that a copy of its filing has been served upon the purchaser and interested state commissions (and upon each party on the service list of Docket Nos. CP79-290, RP79-69, and RP79-49.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,
Secretary.

[FR Doc. 85-19390 Filed 8-14-85; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. GP85-41-000]

Petition for Declaratory Order; J.R. Simplot Co. and Sacramento Bank for Cooperatives

August 9, 1985.

J.R. Simplot Company (Simplot) is suing its natural gas supplier, Southern California Gas Company (SoCal), in the Los Angeles County Superior Court. Simplot alleges that, during the period April 24, 1980 to May 1, 1981, SoCal improperly refused to recognize Simplot's use of natural gas to produce ammonia as an "agricultural use." Such

uses of natural gas are exempt from incremental pricing and pursuant to the Natural Gas Policy Act or 1978 and orders and regulations of the Department of Agriculture and the Federal Energy Regulatory Commission. Simplot asserts that SoCal improperly billed Simplot at the non-exempt rate. The Superior Court has instructed Simplot and the Sacramento Bank for Cooperatives to request from the Commission a declaratory order addressing whether Simplot's use of natural gas (including its use as "process fuel' to raise steam in ammonia production) was an "agricultural use" exempt from incremental pricing for the period at issue.

The Superior Court has approved and all parties to the lawsuit between Simplot and SoCal have stipulated to the following facts for the Commission's consideration:

1. Simplot filed an exemption affidavit with the Commission on November 6, 1979, and served a copy on SoCal. This affidavit claimed an exemption from incremental pricing for all natural gas used at Simplot's ammonia production facility, including its use as boiler fuel to raise steam in ammonia production.

2. At all pertinent times, Simplot's exemption affidavit was proper on its face to claim the exemption.

3. The affidavit was filed prior to the Secretary of Agriculture's April 24, 1980 amendment to 7 CFR 2900.2, which added to the regulation a definition of "process fuel" which certified boiler fuel used to raise steam in the production of agricultural chemicals as an essential agricultural use. 45 FR 27741 (April 24, 1980).

4. Simplot, in reliance on the Secretary of Agriculture's April 24, 1980 certification, left its aforementioned affidavit on file with the Commission after that date and continued to claim the exemption from incremental pricing from SoCal. SoCal continued to deny the exemption and to bill Simplot at the non-exempt rate. Simplot filed no new affidavit after April 24, 1980.

Based on these facts, petitioners ask the Commission to rule on whether Simplot was within the class of users encompassed by the Commission's October 23, 1980 partial stay (45 FR 76681 (Nov. 20, 1980)) and April 23, 1981 order amending the partial stay (46 FR 25,559 (May 8, 1981)) of the October 6, 1980 interim rule. This rule provides that only those uses of natural gas certified by the Secretary of Agriculture as "essential agricultural uses" on or before October 15, 1979, shall be considered "agricultural uses" of natural gas for purposes of incremental pricing (45 FR 67,276 (Oct. 9, 1980)). Petitioners ask whether Simplot is deemed to be one of those users "who have filed incremental pricing exemption affidavits in reliance on the Secretary of Agriculture's certification" (Order Delineating Effect of Judicial Action on Commission's Regulations, 46 FR 41034, 41036 (Aug. 14, 1981), *reh. and stay denied*, 46 FR 45752 (Sept. 15, 1981)).

Any person desiring to be heard concerning, or to make any protest to, this petition for declaratory order should file within ten days after this notice is published in the **Federal Register**, with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of Rules 211 or 214 of the Commission's Rules of Practice and Procedure. All protests filed will be considered but will not make the protestants parties to the proceeding.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19391 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP85-31-000]

Application for Declaratory Order; Monsanto Oil Co.

August 8, 1985.

On May 31, 1985, Monsanto Oil Company (Monsanto) filed with the Federal Energy Regulatory Commission (Commission) an application for declaratory order to charge and collect the just and reasonable rate provided in § 2.56(a)(5), (the Opinion No. 699-H rate) for natural gas produced from the Altman, Braund, Rau and Buesing wells in the Christmas Field Area, DeWitt County, Texas.

Monsanto sells gas from the subject wells to Trunkline Gas Co. (Trunkline) pursuant to a January 11, 1971 contract. Monsanto claims that deliveries of gas under this contract did not commence until March 29, 1973. Monsanto states that the subject sales are made under "contracts for sale of natural gas in interstate commerce for gas from wells commenced prior to January 1, 1973, and not previously sold in interstate commerce prior to January 1, 1973", in accordance with the standard set forth in 18 CFR 2.56a(a)(5)(ii). By meeting these requirements, Monsanto believes the rate established by Opinion No. 699-H remains the applicable rate. Trunkline, on the other hand, refuses to pay the Opinion No. 699-H rate stating that the gas was dedicated to interstate commerce in 1972. Trunkline asserts that the Opinion No. 749 rate applies.

Monsanto, in light of the above circumstances, requests the Commission to issue a declaratory order establishing the Order No. 699-H rate foir their gas. In the alternative, Monsanto requests a waiver under section 4(d) of the Natural Gas Act and the Commission's Regulations to enable Monsanto to charge and collect the Opinion No. 699-H rate.

Within thirty days of publication in the **Federal Register**, any person may file a protest or a petition to intervene with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426. Anyone wishing to become a party to this proceeding must file a petition to intervene pursuant to rules 214 or 211.[1]

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19392 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-18-002]

Petition to Amend Special Billing Procedure and for Further Waiver of PGA Procedures; Natural Gas Pipeline Co. of America

August 8, 1985.

Take notice that on August 1, 1985, Natural Gas Pipeline Company of America (Natural) filed its Petition to Amend Special Billing Procedure and for Further Waiver of PGA Procedures. Natural states that the purpose of the special billing procedure is to recover from its customers retroactive, under a special lump sum billing procedure as authorized in Docket No. RP85-18-000, payments for "production-related costs" related to the period of July 20, 1980 through December 31, 1984 which are made to producers through August 30, 1985.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of this chapter. All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

[1] 18 CFR 385.214 or 385.211 (1984).

Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19393 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-151-000]

Rescheduling of Informal Settlement Conference; Northern Border Pipeline Co.

August 7, 1985.

Take notice that on August 15, 1985, at 10:00 a.m., an informal settlement conference will be convened in the above-captioned matters. The conference, to consider various issues related to Northern Border Pipeline Company's proposed change in rates will be held at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426.

All interested parties and Commission Staff are invited to attend; however, attendance at the conference will not confer party status. Any person wishing to become a party to these proceedings must file a Motion to Intervene in accordance with Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214).

For further information contact Demetrios G. Pulas, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 357-5758.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19394 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ST85-1065, etc.]

Self-Implementing Transactions; Panhandle Eastern Pipe Line Co., et al.

August 8, 1985.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to § 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's regulations.

An "E" indicates an assignment by an intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F(157)" indicates transportation by an interstate pipeline for an end-user pursuant to § 157.209 of the Commission's regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's regulations:

A "G(LT)" or "G(LS)" indicates transportation, sales or assignments by a local distribution company pursuant to a blanket certificate issued under § 284.222 of the Commission's regulations.

A "G(HT)" or "G(HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's regulations.

A "C/F(157)" indicates intrastate pipeline transportation which is incidental to a transportation by an interstate pipeline to an end-user pursuant to a blanket certificate under 18 CFR § 157.209. Similarly, a "G/F(157)" indicates such transportation performed by a Hinshaw Pipeline or distributor.

Any person desiring to be heard or to make any protests with reference to a transaction reflected in this notice should on or before August 26, 1985, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants party to a proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules

Kenneth F. Plumb,

Secretary.

Docket No. and Transporter/Seller[1]	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST85-1065 Panhandle Eastern Pipe Line Co	Wayne Pet Foods	06-03-85	F(157)		
ST85-1066 National Fuel Gas Supply Corp	Angelica Healthcare Services Group	06-03-85	F(157)		
ST85-1067 Tennessee Gas Pipeline Co	Texas Gas Transmission Corp	07-01-85	G		
ST85-1068 Valero Transmission Co	Texas Eastern Transmission Corp	07-08-85	C		
ST85-1069 Natural Gas Pipeline Co. of America	Transcontinental Gas Pipe Line Corp	06-03-85	G		
ST85-1070 Valero Transmission Co	El Paso Natural Gas Co	07-08-85	C		
ST85-1071 Valero Transmission Co	El Paso Natural Gas Co	07-08-85	C		
ST85-1072 Transok, Inc	HNG Industrial Natural Gas Co	06-27-85	C		
ST85-1073 Panhandle Eastern Pipe Line Co	Phenix Transmission Co	06-04-85	B		
ST85-1074 Trunkline Gas Co	Cokinos Natural Gas Co	06-04-85	B		
ST85-1075 Tennessee Gas Pipeline Co	Brooklyn Union Gas Co	06-04-85	B		
ST85-1076 Transok, Inc	HNG Industrial Natural Gas Co	06-20-85	D		
ST85-1077 Transok, Inc	Natural Gas Pipeline Co. of America	06-20-85	D		
ST85-1078 El Paso Natural Gas Co	Phelps Dodge Corp	06-05-85	F(157)		
ST85-1079 El Paso Natural Gas Co	Magma Copper Co	06-05-85	F(157)		
ST85-1080 Transcontinental Gas Pipe Line Corp	Hunterdon Development Center	06-05-85	F(157)		
ST85-1081 Transcontinental Gas Pipe Line Corp	Raritan Steel	06-05-85	F(157)		
ST85-1082 Transcontinental Gas Pipe Line Corp	Coastal Eagle Point Oil Co	06-05-85	F(157)		

Docket No. and Transporter/Seller*	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST85-1083 Transcontinental Gas Pipe Line Corp	Tuscan Dairy Farms, Inc	06-05-85	F(157)		
ST85-1084 United Gas Pipe Line Co	Louisiana State Gas Corp	06-05-85	B		
ST85-1085 United Gas Pipe Line Co	Clajon Industrial Gas, Inc	06-05-85	B		
ST85-1086 United Gas Pipe Line Co	Texas Eastern Transmission Corp	06-05-85	G		
ST85-1087 Texas Gas Transmission Corp	Westvaco, Inc	06-05-85	F(157)		
ST85-1088 ANR Pipeline Co	Louisiana Gas System, Inc	06-06-85	B		
ST85-1089 Northwest Pipeline Corp	Southern Union Gas Co	06-06-85	B		
ST85-1090 United Gas Pipe Line Co	Mississippi River Transmission Corp	06-06-85	G		
ST85-1091 United Gas Pipe Line Co	Louisiana State Gas Corp	06-06-85	B		
ST85-1092 United Texas Transmission Co	NEWMART, Inc	07-01-85	C		
ST85-1093 Texas Gas Transmission Corp	Ralston Purina Co	06-07-85	F(157)		
ST85-1094 Texas Gas Transmission Corp	Archer Daniels Midland Co	06-07-85	F(157)		
ST85-1095 ANR Pipeline Co	Southwestern Michigan Gas Co	06-07-85	B		
ST85-1096 Texas Gas Transmission Corp	Archer Daniels Midland Co	06-07-85	F(157)		
ST85-1097 United Gas Pipeline Co	Florida Gas Transmission Co	06-10-85	G		
ST85-1098 Valero Transmission Co	El Paso Natural Gas Co	07-08-85	C		
ST85-1099 Northern Natural Gas co	Consolidated Aluminum Corp	05-21-85	F(157)		
ST85-1100 Texas Eastern Transr...sion Corp	United Gas Pipe Line Co	05-23-85	G		
ST85-1101 El Paso Natural Gas Co	Northern Natural Gas Co	05-24-85	G		
ST85-1102 United Gas Pipe Line Co	Entex, Inc	06-11-85	B		
ST85-1103 Transcontinental Gas Pipe Line Corp	Public Service Co. of NC, Inc	06-10-85	B		
ST85-1104 Transcontinental Gas Pipe Line Corp	Mannington Mills	06-10-85	F(157)		
ST85-1105 Tennessee Gas Pipeline Co	Connecticut Natural Gas Corp	07-03-85	B		
ST85-1106 THC Pipeline Co	(†)	06-10-85	C	11-07-85	12.90
ST85-1107 United Gas Pipe Line Co	Texas Gulf South Pipeline Co	06-11-85	B		
ST85-1109 Colorado Interstate Gas Co	Southern Union Gathering Corp	06-10-85	B		
ST85-1110 United Gas Pipe Line Co	Scott Paper Co	06-12-85	F(157)		
ST85-1111 United Gas Pipe Line Co	Middletown Paperboard Co., et al	06-12-85	F(157)		
ST85-1112 Columbia Gas Transmission Corp	Ellwood City Forge Corp	06-12-85	F(157)		
ST85-1113 Columbia Gulf Transmission Co	Ellwood City Forge Corp	06-12-85	F(157)		
ST85-1114 Columbia Gulf Transmission Co	Babcock & Wilcox Co	06-12-85	F(157)		
ST85-1115 Texas Gas Transmission Corp	U.S. Gypsum Co	06-13-85	F(157)		
ST85-1116 Producer's Gas Co	Michigan Consolidated Gas Co	06-13-85	D		
ST85-1117 Nueces Co	Mountain Fuel Resources, Inc	06-13-85	C		
ST85-1118 Columbia Gas Transmission Corp	Babcock & Wilcox Co	06-12-85	F(157)		
ST85-1119 Tennessee Gas Pipeline Co	Roanoke Gas Co	07-01-85	B		
ST85-1120 United Gas Pipe Line Co	IMC Pipeline Co	06-14-85	B		
ST85-1121 United Gas Pipe Line Co	LGS Intrastate, Inc	06-14-85	B		
ST85-1122 Panhandle Eastern Pipe Line Co	N-Ren Corp	06-14-85	F(157)		
ST85-1123 Trunkline Gas Co	Louisiana Intrastate Gas Co	06-14-85	B		
ST85-1124 Panhandle Eastern Pipe Line Co	Phenix Transmission Co	06-14-85	B		
ST85-1125 Panhandle Eastern Pipe Line Co	Olin Corp	06-14-85	F(157)		
ST85-1126 Natural Gas Pipeline Co. of America	N-Ren Corp	06-17-85	F(157)		
ST85-1127 El Paso Natural Gas Co	Southern Union Gas Co	06-17-85	B		
ST85-1128 Consolidated Gas Transmission Corp	Archer Daniels Midland Co	06-17-85	F(157)		
ST85-1129 Transcontinental Gas Pipe Line Corp	New Jersey Zinc Co., Inc	06-17-85	F(157)		
ST85-1130 Transcontinental Gas Pipe Line Corp	American Hoechst Corp	06-17-85	F(157)		
ST85-1131 Midwestern Gas Transmission Co	Northern Natural Gas Co	07-15-85	G		
ST85-1132 Northwest Pipeline Corp	Fairchild Air Force Base	06-18-85	F(157)		
ST85-1133 Tennessee Gas Pipeline Co	Elizabethtown Gas Co	07-11-85	B		
ST85-1134 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	06-18-85	B		
ST85-1136 United Gas Pipe Line Co	Ellwood City Forge Corp	06-19-85	F(157)		
ST85-1137 Texas Gas Transmission Corp	Goodyear Tire and Rubber Co	06-19-85	F(157)		
ST85-1138 El Paso Natural Gas Co	Richardson Fuels, Inc	06-20-85	B		
ST85-1139 Tennessee Gas Pipeline Co	Midwestern Gas Transmission Co	07-18-85	G		
ST85-1140 Williston Basin Interstate Pipeline Co	Cominco American, Inc	06-20-85	F(157)		
ST85-1141 Tennessee Gas Pipeline Co	Gas Systems Network, Inc	07-11-85	B		
ST85-1142 Tennessee Gas Pipeline Co	Elizabethtown Gas Co	07-19-85	B		
ST85-1143 El Paso Natural Gas Co	CAN-AM Industries, Inc	06-21-85	F(157)		
ST85-1144 United Gas Pipe Line Co	Bethlehem Steel Corp	06-21-85	F(157)		
ST85-1145 Gulf South Pipeline Co	Orange and Rockland Utilities, Inc	06-21-85	G(HS)		
ST85-1146 Panhandle Gas Co	HNG Industrial Natural Gas Co	06-21-85	D		
ST85-1147 Columbia Gas Transmission Corp	Connecticut Natural Gas Corp	06-21-85	B		
ST85-1148 Columbia Gas Transmission Corp	Verhoff Alfalfa	06-21-85	F(157)		
ST85-1149 Columbia Gas Transmission Corp	U.S. Gypsum Co	06-21-85	F(157)		
ST85-1150 Columbia Gas Transmission Corp	ICI Americas, Inc	06-21-85	F(157)		
ST85-1151 Columbia Gas Transmission Co	Connecticut Natural Gas Corp	06-21-85	B		
ST85-1152 Columbia Gas Transmission Co	Verhoff Alfalfa	06-21-85	F(157)		
ST85-1153 Columbia Gas Transmission Co	U.S. Gypsum Co	06-21-85	F(157)		
ST85-1154 Northwest Central Pipeline Corp	Archer Daniels Midland Co	06-21-85	F(157)		
ST85-1155 ANR Pipeline Co	Baltimore Steam Co	06-21-85	F(157)		
ST85-1156 ANR Pipeline Co	Northern Illinois Gas Co	06-21-85	B		
ST85-1157 United Gas Pipe Line Co	Dayton Power and Light Co	06-21-85	B		
ST85-1158 Oklahoma Natural Gas Co	Northern Natural Gas Co	06-24-85	C	11-21-85	12.00
ST85-1159 Mountain Fuel Resources, Inc	Fairchild Air Force Base, et al	06-24-85	F(157)		
ST85-1160 Algonquin Gas Transmission Co	Central Hudson Gas and Electric Co	06-24-85	B		
ST85-1161 Ozark Gas Transmission System	Brooklyn Union Gas Co	06-24-85	B		
ST85-1162 Ozark Gas Transmission System	Philadelphia Electric Co	06-24-85	B		
ST85-1163 El Paso Natural Gas Co	ASARCO, Inc	06-24-85	F(157)		
ST85-1164 El Paso Natural Gas Co	Inspiration Consolidated Copper Co	06-24-85	F(157)		
ST85-1165 Northern Natural Gas Co	CAN-AM Industries, Inc	06-24-85	F(157)		
ST85-1166 Panhandle Eastern Pipeline Co	Harbison Walker Refractories	06-24-85	F(157)		
ST85-1167 Panhandle Eastern Pipeline Co	National Distillers & Chemical Corp	06-24-85	F(157)		
ST85-1168 Panhandle Eastern Pipeline Co	Emge Packing Co., Inc	06-24-85	F(157)		
ST85-1169 Trunkline Gas Co	Gas Systems Network, Inc	06-24-85	B		
ST85-1170 Trunkline Gas Co	ANR Pipeline Co	06-24-85	G		
ST85-1171 Texas Gas Transmission Corp	Green River Steel Corp	06-24-85	F(157)		
ST85-1172 Valero Transmission Co	El Paso Natural Gas Co	07-23-85	C		
ST85-1173 Taft Pipeline Co	Northwest Pipeline Corp	06-24-85	C		
ST85-1174 Northern Natural Gas Co	Inspiration Consolidated Copper Co	06-26-85	F(157)		
ST85-1175 Northern Natural Gas Co	Chino Mines Co	06-26-85	F(157)		

Docket No. and Transporter/Seller[1]	Recipient	Date filed	Subpart	Expiration date	Transportation rate (¢/MMBtu)
ST85-1176 Northern Natural Gas Co	Apache Power Co	06-26-85	F(157)		
ST85-1177 Northern Natural Gas Co	ASARCO, Inc	06-26-85	F(157)		
ST85-1178 Northern Natural Gas Co	Interlake, Inc	06-26-85	F(157)		
ST85-1179 Texas Gas Transmission Corp	Velsicol Chemical Corp	06-26-85	F(157)		
ST85-1180 Texas Eastern Transmission Corp	A. E. Staley Manufacturing Co	06-25-85	F(157)		
ST85-1181 Texas Eastern Transmission Corp	New Jersey Natural Gas Co	06-25-85	B		
ST85-1182 Texas Eastern Transmission Corp	B. F. Goodrich Co	06-25-85	F(157)		
ST85-1183 Texas Eastern Transmission Corp	Philadelphia Electric Co	06-25-85	B		
ST85-1184 Texas Eastern Transmission Corp	Central Hudson Gas and Electric Co	06-25-85	B		
ST85-1185 Texas Eastern Transmission Corp	American Distribution Co	06-25-85	B		
ST85-1186 United Gas Pipe Line Co	Ralston Purina Co., et al	06-27-85	F(157)		
ST85-1187 El Paso Natural Gas Co	Chino Mines Co	06-27-85	F(157)		
ST85-1188 El Paso Natural Gas Co	Apache Power Co	06-27-85	F(157)		
ST85-1189 Transok, Inc	HNG Industrial Natural Gas Co	06-27-85	C		
ST85-1190 Great Lakes Gas Transmission Co	Southeastern Michigan Gas Co	06-27-85	B		
ST85-1193 Acadian Gas Pipeline Corp	Pontchartrain Natural Gas System	06-27-85	C		
ST85-1196 Northern Natural Gas Co	Texas Gas Transmission Corp	06-28-85	G		
ST85-1197 Columbia Gulf Transmission Co	Northern Natural Gas Co	06-27-85	G		
ST85-1199 Mountain Fuel Resources, Inc	Rocky Mountain Natural Gas Co., Inc	07-05-85	B		
ST85-1201 Trunkline Gas Co	Bridgeline Gas Distribution Co	06-28-85	B		
ST85-1202 Houston Pipe Line Co	HNG Industrial Natural Gas Co	06-28-85	C		
ST85-1009 Valero Transmission Co[4]	Transcontinental Gas Pipeline Corp	06-21-85	C		
ST85-1019 Arkla Energy Resources[4]	Mississippi River Transmission Corp	06-21-85	G		
ST85-1023 Tennessee Gas Pipeline Co[4]	Pontchartrain Natural Gas System	06-21-85	B		
ST85-1026 Tennessee Gas Pipeline Co[4]	Pontchartrain Natural Gas System	06-21-85	B		
ST85-1042 Equitable Gas Co[4]	New Jersey Natural Gas Co	06-21-85	B		
ST85-1048 Valero Transmission Co[4]	El Paso Natural Gas Co	07-08-85	C		

[1] The noticing of these filings does not constitute a determination of whether the filings comply with the Commission's regulations.
[2] The intrastate pipeline has sought Commission approval of its transportation rate pursuant to § 284.123(b)(2) of the Commission's Regulations (18 CFR 284.123(b)(2)). Such rates are deemed fair and equitable if the Commission does not take action by the date indicated.
[3] THC filed a petition for rate approval without identifying a specific recipient. They wish to obtain an approved rate with the Commission before commencing their transportation transactions.
[4] These docket numbers are noticed out of sequence. They were initially filed as 48 hour reports and assigned docket numbers at that time. However, only initial full reports and petitions for rate approval are noticed. The official filing date is when the appropriate filing fee is received.

[FR Doc. 85-19395 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP73-49-004, et al.]

Filing of Pipeline Refund Reports and Refund Plans; South Georgia Natural Gas Co. et al.

August 8, 1985.

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, on or before August 16, 1985. Copies of the respective filings are on file with the Commission and available for public inspection.

Kenneth F. Plumb,

Secretary.

APPENDIX

Filing date	Company	Docket No.	Type filing
7/15/85	South Georgia Natural Gas Co.	RP73-49-004	Report.
7/15/85	Texas Gas Pipe Line Corp.	RP84-45-002	Do.

APPENDIX—Continued

Filing date	Company	Docket No.	Type filing
7/18/85	Bayou Interstate Pipeline System.	RP84-78-004	Do.
7/22/85	Southern Natural Gas Company.	RP73-64-014	Do.
7/26/85	Arkla Inc	RP82-75-008	Do.
7/29/85	do	RP82-75-010	Do.

[FR Doc. 85-19396 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-173-000]

Tariff Filing; Southern Natural Gas Co.

August 8, 1985.

Take notice that on July 26, 1985, Southern Natural Gas Company (Southern) tendered for filing Second Revised Sheet No. 30D to its FERC Gas Tariff, Sixth Revised Volume No. 1. Southern states it is filing the revised sheet pursuant to Ordering Paragraph (B) of the Commission's June 7, 1985 order in Docket No. CP85-464-000. Southern's proposed Second Revised Sheet No. 30D sets forth the rates to be effective under its Flexible Discount Rate Schedule during August of 1985. Southern requests that the proposed tariff sheet be accepted effective August 1, 1985.

Southern indicates it has served copies on its jurisdictional purchasers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 16, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19397 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA85-4-17-003]

Proposed Changes in FERC Gas Tariff; Texas Easter Transmission Corp.

August 8, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Easter) on August 2, 1985 tendered for filing as a part of its FERC Gas Tariff Fourth Revised Volume No. 1, six copies each of the following tariff sheets.

Substitute Revised Seventy-third Revised Sheet No. 14 (3 pages)
Substitute Revised Seventy-third Revised Sheet No. 14A
Substitute Revised Seventy-third Revised Sheet No. 14B
Substitute Revised Seventy-third Revised Sheet No. 14C
Substitute Revised Seventy-third Revised Sheet No. 14D

The above tariff sheets are being filed in compliance with Ordering Paragraph (E) of the Commission's order issued July 19, 1985 in Docket No. TA85-4-17-000, et al. with respect to the requirement that Texas Eastern revise its rates to reflect the removal of exchange volumes from the sales volumes utilized in computing monthly Account No. 191 balances. Texas Eastern requests a stay of the requirement that revisions to its PGA clause be filed to amend the language governing the computation of its monthly Account No. 191 balances consistent with such July 19, 1985 order.

The rates on the above tariff sheets are increased $0.0022/dth as a result of removing net exchange volumes from sales volumes as directed. Texas Eastern proposes that the Commission not place the above tariff sheets into effect and allow the tariff sheets filed on June 19, 1985 to be effective July 1, 1985.

Texas Easter believes that the Commission is in error in its July 19, 1985 order in stating that Texas Eastern's handling of exchange gas volumes is in violation of the Commission's Regulations. Indeed Texas Eastern believes that the Commission's requirement in the order with respect to exchange volumes is in violation of its Regulations. As a result Texas Eastern requests that the Commisssion not place into effect the tariff sheets filed herein in compliance with the order, and stay its requirement to revise Texas Eastern's PGA clause until such time as all differences of opinion can be aired, developed and resolved. Texas Eastern will file an application for rehearing of the Commission's July 19, 1985 order with respect to the exchange gas issue. Texas Eastern believes that good cause is shown for this stay. The public interest is served by avoiding a rate increase at the present time. Such an increase could conceivably lead to lost sales, the effect of which is irreparable. Finally, Texas Eastern submits that the public interest is served by having the Commission consider Texas Eastern's application for rehearing prior to ordering an additional rate increase at a time when Texas Eastern seeks to reduce its rates.

The proposed effective date of the above tariff sheets is July 1, 1985.

In addition in compliance with Ordering Paragraph (F) of the July 19, 1985 order, Texas Eastern has submitted the additional information regarding its supporting schedules to Account No. 191. The additional information is enclosed as Schedule No. 31.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before August 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but wil not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19398 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA85-5-17-000, TA85-5-17-001]

Proposed Changes in FERC Gas Tariff; Texas Eastern Transmission Corp.

August 8, 1985.

Take notice that Texas Eastern Transmission Corporation (Texas Eastern) on August 2, 1985 tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies each of the following primary tariff sheets:

Substitute Seventy-fourth Revised Sheet No. 14 (3 pages)
Substitute Seventy-fourth Revised Sheet No. 14A
Substitute Seventy-fourth Revised Sheet No. 14B
Substitute Seventy-fourth Revised Sheet No. 14C
Substitute Seventy-fourth Revised Sheet No. 14D

The above primary revised tariff sheets are being issued to reflect in Texas Eastern's rates the impact of Texas Eastern's latest exercise of "market-out" provisions in certain of its gas purchases contracts. Texas Eastern has exercised such market-out provisions to reduce the price under those certain gas purchase contracts to $2.50 per dth plus taxes effective August 1, 1985. In addition, the above primary revised tariff sheets reflect cost reductions Texas Eastern has experienced from one of its major pipeline suppliers, Texas Gas Transmission Corporation (Texas Gas). The impact of such cost reduction on Texas Eastern's rates is a reduction of $0.011/dth in the demand component of rates and a reduction of $0.1090/dth in the commodity component.

On June 19, 1985 Texas Eastern filed its PGA filing requesting the appropriate waivers in order to make its regular semiannual tracking filing effective one month early on July 1, 1985 coincident with its market-out action to $2.75/dth plus taxes. The Commission granted waivers and conditionally accepted Texas Eastern's filing effective July 1, 1985 by Order issued July 19, 1985. Texas Eastern concurrently herewith has filed a revision to such July 1, 1985 rates in compliance with such July 19, 1985 order.

As mentioned above Texas Eastern has filed concurrently herewith in compliance with the Commission's July 19, 1985 order a revision to its July 1, 1985 rates. The revision results in an increase in rates. Texas Eastern proposes that the Commission not place into effect the rate increase embodied in its compliance filing. However in the event that the Commission accepts the compliance rates to be effective July 1, 1985, Texas Eastern also tendered for filing as a part of its FERC Gas Tariff, Fourth Revised Volume No. 1, six copies each of the following alternate tariff sheets:

Alternate Substitute Seventy-fourth Revised Sheet No. 14 (3 pages)
Alternate Substitute Seventy-fourth Revised Sheet No. 14A
Alternate Substitute Seventy-fourth Revised Sheet No. 14B
Alternate Substitute Seventy-fourth Revised Sheet No. 14C
Alternate Substitute Seventy-fourth Revised Sheet No. 14D

At the time of the June 19, 1985 filing Texas Eastern did not anticipate its market-out action to $2.50/dth plus taxes effective August 1, 1985. Nor was Texas Eastern able to include in its filing of June 19, 1985 rate changes by Texas Gas proposed to be effective both July 1, 1985 and August 1, 1985 equating to a net reduction. Because of the magnitude of the rate reduction resulting from its market-out action and the magnitude of its supplier reduction, Texas Eastern requests waiver of the Commission's Regulations to permit the immediate flow through in rates to its customers of the substantial impact of

these cost reductions effective August 1, 1985.

The above primary revised tariff sheets are based upon the current cost of gas adjustment and surcharge adjustment filed on June 19, 1985 adjusted only to reflect the cost reduction resulting from Texas Eastern's exercise of market out provisions effective August 1, 1985 and the net reduction in cost resulting from Texas Gas' rate changes effective July 1, 1985 and August 1, 1985.

The alternate tariff sheets reflect the increase resulting from compliance with the Commission's July 19, 1985 order, in conjunction with the rate reductions proposed by the instant filing.

The proposed effective date of the above tariff sheets is August 1, 1985.

Texas Eastern has respectfully requested waiver of the provisions of its tariff, and any Regulations that the Commision may deem necessary to accept the above tariff sheets to be effectiv August 1, 1985, coincidently with the cost reduction resulting from Texas Eastern's exercise of market-out provisions, as well as to reflect the Texas Gas reduction.

Copies of the filing were served on Texas Eastern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before August 19, 1985. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19399 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA85-45-000]

Petition for Adjustment; Woods Exploration and Producing Co. and Southeastern Pipe Line Co.

Issued August 8, 1985.

Take notice that on July 31, 1985, Woods Exploration and Producing Company and Southeastern Pipe Line Company filed with the Commission a petition for adjustment under Section 502(c) of the Natural Gas Policy Act of 1978. Woods and Southeastern seek relief from the August 30, 1985 deadline established by the Commission in Order 399-B for making Btu refunds.

Petitioners state that they have retained funds monthly for Btu reimbursement and will be in a position to make partial payment in August 1985. Petitioners request an additional 120 days within which to complete payment of their Btu refund obligation. Petitioners state that the additional time is required in order to avoid cash flow problems and disruption of their business.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commision's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the provisions of Subpart K within 15 days after publication of this notice in the **Federal Register**.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19400 Filed 8-14-85; 8:45 am]

BILLING CODE 6712-01-M

[Docket Nos. CP85-727-000, et al.]

Natural Gas Certificate Filings; Columbia Gas Transmission Corp., et al.

Take notice that the following filings have been made with the Commission

1. Columbia Gas Transmission Corporation

[Docket No. CP85-727-000]

August 8, 1985.

Take notice that on July 18, 1985, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP85-727-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of ICI Americas, Inc. (ICI), under the authorization issued in Docket No. CP83-76-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Columbia proposes to transport up to 2,400 Mcf of natural gas per day for ICI. It is stated that the gas to be transported would be purchased from Industrial Energy Service Company (IESCO) and would be used as process gas and boiler fuel in ICI's plant in Hopewell, Virginia. Columbia would receive the gas from IESCO at an existing point on its pipeline in Clearfield, Pennsylvania, and would redeliver the gas at an existing interconnection with Commonwealth Gas Pipeline Corporation (CGPC), which would redeliver the gas to Commonwealth Gas Services, Inc. (CGS), the distributor serving ICI's plant in Hopewell, Virginia. It is proposed that the transportation service would continue through October 31, 1985.

It is stated that Columbia would charge one of the rates in its Rate Schedule TS-1 for the transportation service: gas received from receipt points other than Leach, Kentucky,—29.93 cents per MMBtu provided the volumes are within CGPC's and CGS's total daily entitlements (TDE) and 41.27 cents per MMBtu for volumes in excess of the TDE. It is further stated that Columbia would retain 2.43 percent of the total quantity of gas delivered into its system for company-use and unaccounted-for gas.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. Texas Gas Transmission Corporation

[Docket No. CP85-643-000]

August 8, 1985.

Take notice that on June 24, 1985, Texas Gas Transmission Corporation (Texas Gas), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP85-643-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Texas American Energy Corporation, through its unincorporated division, Western Kentucky Gas Company (Western), as agent for Green River Steel Corporation (Green River), under the certificate issued in Docket No. CP82-407-000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Assuming the Commission extends the blanket end-user program, Texas Gas proposes to transport beyond the primary term ending June 30, 1985, to October 31, 1985, up to 2,000 MMBtu equivalent of low-priority natural gas per day on an interruptible basis for ultimate delivery to Green River at its Owensboro, Kentucky, plant.

Texas Gas proposed to charge for its service the rate provided in its Rate Schedule TSC-3 for Rate Schedule G sales customers, which is currently 21.90

cents, and the GRI surcharge of 1.25 cents.

Texas Gas indicates that the proposed transportation would be through the use of existing facilities. Texas Gas would transport the gas from the tailgate of the Champlin Petroleum Company plant in Panola County, Texas, to an existing interconnection between Western and Texas Gas in Daviess County, Kentucky, for further transportation by Western to Green River.

Texas Gas indicates that the gas would be used in firing soaking pits for the purpose of heating steel and in annealing furnaces and boilers at Green River's Owensboro plant. Green River is said to have purchased its gas supplies from EnTrade Corporation in a first sale.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

3. Transcontinental Gas Pipe Line Corporation

[Docket No. CP84-624-002]

August 8, 1985.

Take notice that on July 18, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP84-624-002 a petition to amend the authorization in Docket No. CP84-624-000, as previously amended, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas, under the certificate issued in Docket No. CP82-426-000 pursuant to Section 7(c) of the Natural Gas Act, on behalf of Tuscan Dairy Farms, Inc., Hunterdon Development Center and Raritan River Steel Company (collectively referred to as the three end-users), all of whom Transco indicates are being represented by Energy Marketing Exchange, Inc., all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Transco states that it would receive the gas at: (1) The interconnection with GHR Transmission Corporation (GHR) in the Agua Dulce Field, Nueces County, Texas; (2) the Sun TCB plant in the Canales Field, Jim Wells County, Texas; (3) the Sun Starr plant in Starr County, Texas; (4) the interconnection with Valero Transmission Company in LaSalle County, Texas; (5) the interconnection with Victoria Gas Company on Transco's Bayou Piquant lateral in Terrebonne Parish, Louisiana; (6) the interconnection with Gas Gathering Company in Goliad County, Texas; (7) the interconnection with GHR at Miranda Prospect, Duval County, Texas; and (8) the tailgate of the Katy Exxon plant in Waller County, Texas. Transco states it would redeliver, on an interruptible basis, equivalent quantities (less quantities retained for compressor fuel and line loss make-up) to existing points of delivery between Transco and Elizabethtown Gas Company (Elizabethtown), which in turn, would redeliver such gas to the three end users' plants as follows:

to Tuscan Dairy Farms, Inc., at its plant in Union, New Jersey—on a peak day 550 dt; on an average day 300 dt; and on an annual basis 109,500 dt;

to Hunterdon Development Center at is facility in Clinton, New Jersey—on a peak day 1,000 dt; on an average day 700 dt; and on an annual basis 225,500 dt;

to Raritan River Steel Company at its plant in Perth Amboy, New Jersey—on a peak day 4,120 dt; on an average day 3,000 dt; and on an annual basis 921,500 dt.

It is stated that the total volume of gas to be transported to the three end-users' plants on a peak day is 5,670 dt; on an average day is 4,000 dt; and on an annual basis is 1,247,500 dt and represent all of the gas requirements of each plant. Transco states that the transportation for the three end-users would continue through October 31, 1985. Transco would charge the rates provided by its Rate Schedule T-II (43.6 cents per dt plus a 1.21-cent Gas Research Institute allowance and a 6.6 percent fuel allowance). Transco states that the terms and conditions of transportation for the three end-users would be the same as for the end-users as authorized in Docket No. CP84-624-000, as previously amended.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

4. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-726-000]

August 7, 1985.

Take notice that on July 19, 1985, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77251, filed in Docket No. CP85-726-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of American Hoechst Corporation (American Hoechst), which is being represented by the Commission of Public Works, City of Greer, South Carolina (Greer), as agent, under the certificate issued in Docket No. CP82-426-000 pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Transco proposes to transport through October 31, 1985, an average daily volume of 2,750 dekatherms equivalent of natural gas on an interruptible basis for boiler fuel use in American Hoechst's Greer, South Carolina, plant. Transco estimates the peak day and annual volumes to be 3,000 and 440,000 dekatherms equivalent of natural gas, respectively. Transco states that Greer, acting as agent for American Hoechst, is purchasing gas from Transco Energy Marketing Company at various locations in Texas. It is further stated that Transco would receive the gas at existing interconnections with GHR Transmission Corporation (GHR) in Nueces and Duval Counties, Texas, Valero Transmission Company (Valero) in LaSalle County, Texas, and at the tailgate of the Katy Exxon Plant (Katy Plant) in Waller County, Texas. It is also stated that the gas received from Valero would be transported by Valero, on Transco' behalf, from an interconnection with GHR in Webb County, Texas' and that the gas received at the Katy Plant would be transported by United Texas Transmission Company (UTTCO), on Transco's behalf, from an interconnection with GHR in Webb County, Texas, to the Katy Plant. Transco would deliver equivalent quantities of gas (less quantities retained for compressor fuel and line loss make-up) to Greer at existing delivery points for delivery to American Hoechst. Transco also requests that it be granted "flexible authority" to add and/or delete sources of supply and/or receipt points.

It is stated that Transco's transportation would be pursuant to Transco's Rate Schedule T-11, FERC Gas Tariff, Second Revised Volume No. 1.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Williston Basin Interstate Pipeline

[Docket No. CP85-722-000]

August 8, 1985.

Take notice that on July 18, 1985, Williston Basin Interstate Pipeline Company (Williston Basin), 304 East Rosser Avenue, Suite 200, Bismarck, North Dakota 58501, filed in Docket No. CP85-722-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate one sales tap and appurtenant facilities under the certificate issued in Docket No. CP83-1-000, *et al.*, pursuant to Section 7 of the

Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Williston Basin proposes to construct and operate one sales tap and appurtenant facilities on its natural gas transmission system for the delivery of gas under its T-3 program. Williston Basin states the proposed sales tap would be used to deliver up to 65,000 Mcf of natural gas annually to Western Gas Processors, Ltd. (Western), to provide fuel to a field gathering compressor used in gathering gas condensate and oil well gas to be ultimately processed at a gas processing plant. Williston Basin states further that the estimated cost for the sales tap would be $6,000 and would be 100% reimbursed by Western.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraph

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19381 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP85-713-000, et al.]

Natural Gas certificate filings; ANR Pipeline Co., et al.

I. ANR Pipeline Company

[Docket No. CP85-713-000]

August 8, 1985.

Take notice that on July 17, 1985, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-713-000 a request pursuant to §157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to transport natural gas on behalf of Admiral Appliance, Division of Magic Chef, Inc. (Admiral), through its agent, Petro Source Energy, Inc. (Petro Source), under the certificate issued in Docket No. CP82-480-000 pursuant to section 7 of the Natural Gas Act, all as more fuly set forth in the request on file with the Commission and open to public inspection.

ANR proposes to transport up to three billon Btu equivalent of natural gas per day on an interruptible basis for Petro Source on behalf of Admiral under §157.209 of the Regulations through October 31, 1985. ANR states that Admiral has entered into a gas sales agreement to purchase gas from Petro Source and that such gas was not committed or dedicated to interstate commerce on November 8, 1978. Petro Source will deliver up to three billion Btu equivalent of natural gas per day to Transok, Inc. (Transok), for delivery to ANR at various points of interconnection of the pipeline systems of ANR and Transok in Oklahoma. ANR would redeliver such natural gas, less 6.23 percent for fuel use and lost and unaccounted-for gas, to Illinois Power Company (IPC) for Petro Sources' account on behalf of Admiral at the interconnection of the pipeline systems of IPC and ANR in Henry County, Illinois. IPC would transport and deliver the gas to Admiral at its Galesburg, Illinois, facility.

ANR proposes to charge a transportation rate of 25.8 cents per dth for all gas transported on behalf of Admiral. The rate is based upon Rate Schedule EUT-1 on file in ANR's FERC Gas Tariff, Original Volume No. 1, it is explained.

ANR also requests flexible authority to add and/or delete receipt and/or delivery points. Any changes made under the flexible authority would be to Admiral's facility in Galesburg, Illinois, and would be within the proposed transportation volumes, it is explained.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipeline Company

[Docket No. CP85-713-001]

August 8, 1985.

Take notice that on July 17, 1985, ANR pipline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-713-001 an application pursuant to section 7(c) of the Natural Gas act for a certificate of public concenience and necessity authorizing transportation of natural gas on behalf of Admiral Appliance, Division of Magic Chef, Inc. (Admiral), through its agent Petro Soruce Energy, Inc. (Petro Source), all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR proposes to transport up to three billon Btu equivalent of natural gas per day on an interruptible basis for Petro Source on behalf of Admiral under §157.6 of the Commission's Regulations for a period, from November 1, 1985, through December 31, 1986, following the termination of service for which authorization is sought in Docket No. CP85-713-000. ANR states that Admiral has entered into a gas sales agreement to purchase gas from Petro Source and that such gas was not committed or dedicated to interstate commerce on November 8, 1978. It is stated that Petro Source will deliver up to three billion Btu equivalent of natural gas per day to Transok, Inc. (Transok), for delivery to ANR at various points of interconnection of the pipeline systems of ANR and Transok in Oklahoma. ANR would redeliver such natural gas, less 6.23 percent for fuel use and lost and unaccounted-for gas, to Illinois Power Company (IPC) for petro Soruces' account on behalf of Admiral at the interconnection of the pipeline systems of IPC and ANR in Henry County, Illinois. IPC would transport and deliver the gas to Admiral at its Galesburg, Illinois, facility.

ANR proposes to charge a transportation rate of 25.8 cents per dt for all gas transported on behalf of Admiral. The rate is based upon Rate Schedule EUT-1 on file in ANR's FERC Gas Tariff, Original Volume No. 1, it is explained.

ANR also requests flexible authority to add and/or delete receipt and/or delivery points. Any changes made under the flexible authority would be to Admiral's facility in Galesburg, Illinois, and would be within the proposed transportation volumes, it is explained.

Comment date: August 29, 1985, in accordance with Standard Paragraph F at the end of this notice.

3. ANR Pipeline Company

[Docket No. CP85-716-000]

August 8, 1985.

Take notice that on July 17, 1985, ANR Pipeline Company (Applicant), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP85-716-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible transportation of natural gas for Bethlehem Steel Corporation (Bethlehem), all as more fully set forth in the application on file with the

Commission and open to public inspection.

Applicant proposes to transport up to 25,000 dt equivalent of natural gas per day, imported from Canada, on a best-efforts basis for Bethlehem pursuant to a transportation agreement dated April 24, 1985. The agreement provides that Applicant would receive natural gas which Bethlehem purchases from Northridge Petroleum Marketing, Inc., and which Bethlehem causes Midwestern Gas Transmission Company (Midwestern) or Great Lakes Gas Transmission Company (Great Lakes) to deliver to Applicant at an existing interconnection of the pipeline systems of Applicant and Midwestern near Marshfield, Wisconsin, and at an existing interconnection of the pipeline systems of ANR and Great Lakes near Crystal Falls, Michigan.

Applicant states that it would transport and deliver thermally equivalent volumes, less one percent retained for fuel and lost and unaccounted-for gas, to Natural Gas Pipeline Company of America (NGPL) for Bethlehem's account at the existing interconnection of the pipeline systems of Applicant and NGPL near Joliet, Illinois. It is alleged that NGPL would provide further transportation and Northern Indiana Public Service Company will transport and deliver the gas to Bethlehem for use at its Burns Harbor, Indiana, facility. The term of the proposed service would expire on November 1, 1986.

Bethlehem would pay 12.6 cents per dt for all gas received from Great Lakes and transported on behalf of Bethlehem and 11.2 cents per dt for all gas received from Midwestern and transported on behalf of Bethlehem.

Comment date: August 29, 1985, in accordance with Standard Paragraph F at the end of this notice.

4. Colorado Interstate Gas Company

[Docket No. CP85-747-000]

August 9, 1985.

Take notice that on July 31, 1985, Colorado Interstate Gas Company (CIG), P.O. Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP85-747-000 a request pursuant to § 157.205 of the Regulations under the National Natural Gas Act (18 CFR 157.205) for authoization to revise the maximum daily volume obligation for delivery to Public Service Company of Colorado (PSCo) at the Fort Morgan Country Club delivery point and to construct and operate appurtenant facilities to effectuate changes in delivery pressure to PSCo at the Fort Morgan delivery point and to Greeley Gas Company (Greeley) at the Canon City delivery point under its certificate issued in Docket No. CP83-21-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to decrease the maximum daily volume obligation to PSCo at the Fort Morgan delivery point located in Morgan County, Colorado, from 150 Mcf per day to 100 Mcf per day in order to provide a more realistic volume for delivery by CIG at that location based upon estimated requirements by PSCo. CIG also proposes to increase the delivery pressure at the Fort Morgan delivery point from 60 p.s.i.g. to 150 p.s.i.g. in order to enable PSCo to provide service to a new residential development that would be served by deliveries through Fort Morgan. CIG states that it would change the delivery pressure at Fort Morgan by modifying the existing facilities at that delivery location.

CIG further proposes to change the delivery pressure at the Canon City delivery point in Fremont County, Colorado, pursuant to a request from Greeley. It is stated that the delivery pressure would be changed from line pressure but not less than 100 p.s.i.g. to a minimum of 100 p.s.i.g. and a maximum of 150 p.s.i.g. It is further stated that for normal operations, CIG's line pressure is greater than the 150 p.s.i.g. maximum pressure requested by Greeley. CIG proposes to change the delivery pressure at Canon City by modifying the existing facilities at that delivery location. It is asserted that the change would enable Greeley to operate its regulating facility at Canon City in a more effective manner.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Company Division of InterNorth, Inc.

[Docket No. CP85-731-000]

August 9, 1985.

Take notice that on July 23, 1985, Northern Natural Gas Company, Division of InterNorth, Inc. (Northern), 2223 Dodge Street, Omaha, Nebraska 68102, filed in Docket No. CP85-731-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authority to use an existing delivery point to accommodate natural gas deliveries to Northern States Power Company (NSP) and Northern States Power Company of Wisconsin (NSP-WI) under the certificate issued in Docket No. CP82-401-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern requests authority to use an existing delivery point located at the interconnection between the facilities of Northern and ANR Pipeline Company (ANR) at Janesville, Wisconsin, to deliver natural gas on a best-efforts basis to NSP and NSP-WI. Northern states that gas deliveries to NSP and NSP-WI at Janesville would be made within the existing authorized level of firm entitlement for NSP and NSP-WI under Rate Schedule CDO-1 of Northern's F.E.R.C. Gas Tariff. Northern states that the Janesville delivery point is presently used to deliver about 170,000 Mcf of natural gas on a peak day to ANR. It is stated that, on a best-efforts basis, additional volumes of up to 10,000 Mcf per day will be delivered to NSP and up to 10,000 Mcf per day will be delivered to NSP-WI at the Janesville delivery point.

Northern states that the natural gas to be delivered to NSP-WI at Janesville will be used to satisfy the natural gas requirements of the community of Eau Claire, Wisconsin, where additional gas is required to serve existing and anticipated loads. It is further stated that gas deliveries to NSP at Janesville will be used to satisfy NSP's general system requirements, primarily in the communities of Fargo and Grand Forks, North Dakota.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

6. Northwest Central Pipeline Corporation

[Docket No. CP85-742-000]

August 9, 1985.

Take notice that on July 29, 1985, Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP85-742-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for permission and approval to abandon the transportation of gas for a direct sale of natural gas to High Plains Corporation (High Plains), formerly Petro Fuels Corporation (Petro Fuels), and to abandon by reclaim certain measuring, regulating, and appurtenant facilities located in Sedgwick County, Kansas, under the abandonment authorization issued in Docket No. CP82-479-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northwest Central states that said facilities were installed in 1970 under authorization issued in Docket No. CP70-166, to make a direct sale of natural gas to Petro Fuels for office heating. Northwest Central further states that it has been requested by High Plains to terminate their gas sale contract. Northwest Central is, therefore, proposing to abandon its transportation of gas to High Plains and to reclaim the facilities installed.

Northwest Central avers the facilities it proposes to reclaim are located above ground on its transmission pipeline in Sedgwick County, Kansas. Northwest Central estimates it would cost $225 to reclaim said facilities and that the facilities have a $25 salvage value.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

7. Texas Gas Transmission Corporation

[Docket No. CP85-737-000]

August 9, 1985.

Take notice that on July 26, 1985, Texas Gas Transmission Corporation (Applicant), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP85-737-000 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to sell natural gas to the Town of Basile, Louisiana (Basile), for resale, and to construct and operate facilities therefor, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant proposes to sell Basile up to 750 Mcf per day of natural gas from its general system supply, with an annual maximum of 78,500 Mcf, for residential, commercial and agricultural use. Such service would be rendered pursuant to Applicant's Rate Schedule SG-SL.

Applicant proposes to construct and operate a sales meter station and related facilities, in order to render service to Basile. The cost of such facilities is estimated at $47,140 and would be financed by Applicant from funds on hand.

Applicant states that Basile currently purchases natural gas on a day-to-day basis from the city of Eunice, Louisiana.

Comment date: August 30, 1985, in accordance with Standard Paragraph F at the end of this notice.

8. Transcontinental Gas Pipe Line Corporation

[Docket No. CP85-102-001]

August 9, 1985.

Take notice that on July 19, 1985, Transcontinental Gas Pipe Line Corporation (Transco), Post Office Box 1396, Houston, Texas 77251, filed in Docket No. CP85-102-001 a request for amendment to the authorization granted in Docket No. CP85-102-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for further authorization to add a second end-user, to add three receipt points, and to increase peak day volumes delivered to the existing end-user, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco states that it would transport gas on behalf of Witco Chemical Company (Witco) in addition to Diamond Glass Company (Diamond Glass) as previously authorized. It is stated that receipt points would be added using existing facilities at Charlene Field, Live Oak County, Texas; at the Katy Exxon Plant in Weller County, Texas; and at an existing interconnection with Victoria Gas Corporation in Terrebonne Parish, Louisiana. It is further stated that peak day volumes delivered to Diamond Glass' Royersford, Pennsylvania, plant would be increased from 1,000 dt to 3,500 dt equivalent of gas on a peak day, from 1,000 dt to 2,500 dt equivalent of gas on an average day, and from 328,500 dt to 912,500 dt equivalent of gas on an annual basis.

Transco explains that it would transport up to 2,060 dt on a peak day for Witco, 1,133 dt on an average day and 412,000 dt on an annual basis. It is further explained that the gas for Witco would be purchased from Energy Marketing Exchange Inc. and would be redelivered at existing points of interconnection to Philadelphia Electric Company, the distributor serving Witco's plant in Trainer, Pennsylvania.

It is asserted that the transportation for both end-users would continue through October 31, 1985. In all other respects the transportation would remain the same as authorized in Docket No. CP85-102-000.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP85-723-000]

August 9, 1985.

Take notice that on July 18, 1985, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 filed in Docket No. CP85-723-000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate a tap in order to implement the delivery of natural gas to Entex, Inc. (Entex) under its certificate issued in Docket No. CP82-430-000 pursuant to section 7 of the Natural Gas Act, as more fully set forth in the request on file with the Commission and open to public inspection.

United requests authorization to install a 2-inch tap on its Billeaud Sugar Mill 4-inch pipeline in Lafayette Parish, Louisiana. It is stated that the proposed tap would enable United to sell and deliver natural gas to Entex for resale through Entex's Cade, Louisiana, distribution system for residential and commercial use. It is further stated that United would sell an estimated daily average of 70 Mcf to Entex through the proposed delivery point.

It is asserted that the proposed tap would not result in an increase in Entex's aggregate base requirements or contractural Maximum Daily Quantity under United's curtailment plan.

Comment date: September 23, 1985, in accordance with Standard Paragraph G at the end of this notice.

10. Zenith Natural Gas Company and Northwest Central Pipeline Corporation

[Docket No. CP85-718-000]

August 9, 1985.

Take notice that on July 18, 1985, Zenith Natural Gas Company (Zenith), 15 W. Sixth Street, Tulsa, Oklahoma 74119, and Northwest Central Pipeline Corporation (Northwest Central), P.O. Box 3288, Tulsa, Oklahoma 74101 filed in Docket No. CP85-718-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application on file with the Commission and open to public inspection.

Zenith proposes to transport natural gas in connection with a direct sale of up to 1,000 Mcf of natural gas per day to Doskocil Companies, Incorporated (Doskocil), for use in Doskocil's plant near Hutchinson, Kansas. It is stated that the point of sale would be at the interconnection of facilities of Zenith and Northwest Central in Barber County, Kansas. Zenith states that the price to be paid by Doskocil would equal the sum of (1) Zenith's weighted average cost of gas during the month in which deliveries occur and (2) the cost of service component of Zenith's sale for resale tariff approved by the Commission for sales of gas to Panhandle Eastern Pipe Line Company (Panhandle) at the same delivery point. Zenith further states that the volumes to be purchased by Doskocil would reduce Zenith's sales to Panhandle.

Northwest Central proposes to transport up to 750 Mcf of natural gas per day or 180,000 Mcf on an annual basis for Doskocil. It is stated that Northwest Central would receive gas from Zenith for Doskocil's account in Barber County and transport and redeliver such gas to The Gas Service Company (Gas Service) for Doskocil's account at an existing interconnection of facilities in Reno County, Kansas. It is stated that Gas Service would deliver such gas to Doskocil's plant near Hutchinson, Kansas.

Northwest Central states that since the direct sale to Doskocil by Zenith displaces an equivalent amount of existing sales on its system, Northwest Central proposes a transportation rate designed to allow recovery of the same amount of revenues less gas costs that Northwest Central would have recovered if it had continued to sell the gas proposed to be transported. Northwest Central proposes that 37.90¢ per Mcf, Northwest Central's presently effective Rate Schedules I–1 rate, less gas costs, be charged for the transportation service. It is stated that the I–1 rate is the applicable rate for gas currently sold by Northwest Central to Gas Service for resale to Doskocil.

Comment date: August 30, 1985, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85–19383 Filed 8–14–85; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. QF85–618–000, et al.]

Small Power Production and Cogeneration Facilities; Qualifying Status; Certificate Applications, etc.; Robert N. Fackrell, et al.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Take notice that the following filings have been made with the Commission.

1. Robert N. Fackrell

[Docket No. QF85–618–000]

August 8, 1985.

On July 25, 1985, Robert N. Fackrell (Applicant), of P.O. Box 1, Preston, Idaho 83263 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 2.5 megawatt hydroelectric facility (P. 8646) is located near Mink Creek in Franklin County, Idaho.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

2. Borough of Slatsburgh, Pennsylvania and Pennsylvania Renewable Resources Associates

[Docket No. QF85–621–000]

August 8, 1985.

On July 24, 1985, Borough of Slatsburgh, Pennsylvania and Pennsylvania Renewable Resources Associates (Applicants), of 1700 Broadway, Suite 2501, New York, New York 10019 submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 15 megawatt hydroelectric facility (P. 3207) is located near the Conemaugh River and Lake in Westmoreland County, Pennsylvania.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

3. General Electric Company

[Docket No. QF85–617–000]

August 8, 1985.

On July 23, 1985, General Electric Company, (Applicant) of 1 River Road, Building 2—7th floor, Schenectady, New York 12345, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The combined cycle cogeneration facility will be located adjacent to Mobay's Chemical Plant in Baytown,

Texas. It will consist of three combustion turbine-generating units with three supplementary fired waste heat recovery boilers, and an extraction/condensing steam turbine-generating unit. Steam produced by the facility will be supplied to meet the Mobay process steam requirements. The net electric power production capacity of the facility will be 253 MW. The primary energy source will be natural gas. The installation of the facility will begin in November 1985.

4. Gregg Falls Hydroelectric Assoc.

[Docket No. QF85-619-000]

August 8, 1985.

On July 24, 1985, Gregg Falls Hydroelectric Assoc. (Applicant), of 77 Franklin Street, 9th Floor, Boston, Massachusetts 02110, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The small power production facility is located on the Piscataguog River in Hillsborough County, near Goffstown, New Hampshire. The facility will consist, in part, of two hydroelectric generators. The electric power production capacity of the facility will be 3.8 MW. The primary source of energy is water.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

5. Indian Country Development, Inc.

[Docket No. QF85-622-000]

August 8, 1985.

On July 25, 1985, Indian Country Development, Inc. (Applicant), of 1498 Goodwin Avenue, St. Paul, Minnesota, 55119, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility will be located in Brule, Wisconsin. The facility will consist, in part, of a wood fired boiler, a steam turbine/generator, and a cooling tower. The electric power production capacity of the facility will be 25,000 kW. The primary source of energy will be biomass in the form of wood sawdust, chips, and bark.

6. Kaiser Foundation Hospital, Inc.

[Docket No. QF85-623-000]

August 8, 1985.

On July 22, 1985, Kaiser Foundation Hospital, Inc., (Applicant) of 4647 Zion Avenue, San Diego, California 92120, submitted for filing an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The cogeneration facility will be located at San Diego, California. It will consist of a reciprocating engine/generator set with waste heat recovery facilities. Steam produced by the facility will be used for heating, cooling, and domestic hot water generation. The electric power production capacity of the facility will be 580 kW. The primary energy source will be natural gas. The installation of the facility will begin in October 1985.

7. Mark Technologies Corporation

[Docket No. QF85-616-000]

August 8, 1985.

On July 25, 1985, Mark Technologies Corporation (Applicant), of Markwind Power Station, 333 Hayes Street, San Francisco, California 94102, submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The 14 megawatt wind facility will be located on Section 28 of the San Gorgonio Pass/Coachella Valley area near Palm Springs, California.

8. Pembroke Hydro Associates

[Docket No. QF85-620-000]

August 9, 1985.

On July 24, 1985, Pembroke Hydro Associates (Applicant), of 77 Franklin Street, Boston Massachusetts 02110 Submitted for filing an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The proposed small power production facility is located on the Suncook River in Merrimack County, near Pembroke, New Hampshire. The facility will consist, in part, of a hydroelectric generator. The electric production capacity is 2.6 MW. The primary source of energy is water.

A separate application is required for a hydroelectric project license, preliminary permit or exemption from licensing. Comments on such applications are requested by separate public notice. Qualifying status serves only to establish eligibility for benefits provided by PURPA, as implemented by the Commission's regulations, 18 CFR Part 292. It does not relieve a facility of any other requirements of local, State or Federal law, including those regarding siting, construction, operation, licensing and pollution abatement.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 85-19503 Filed 8-14-85; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL COMMUNICATIONS COMMISSION

Beverly Hills Hotel Corp. et al.; Hearing Designation Order

In re Applications of MM Docket No. 85-236; Beverly Hills Hotel Corporation, File No. BPCT-850129KF; Moore Broadcast Industries, Inc. File No. BPCT-850211KE; Faye Daye Corporation, File No. BPCT-850320KE; Susan S. Mulkey, File No. BPCT-850320KF; Koontz Communications Limited Partnership, File No. BPCT-850320KH; Family 55 TV, Inc., File No. BPCT-850320KI; Catawba Communications, Inc., File No. BPCT-850320KJ; DSL Broadcasting, Inc., File No. BPCT-850320KP; Urban Broadcasting, Ltd., File No. BPCT-850320KQ; Rock Hill Telecasters Associates, Ltd., File No. BPCT-850320KW; Neisler Limited Partnership, File No. BPCT-850320LE; Metrolina Media Inc., File No. BPCT-850320LF. For Construction

Permit for New Television Station Rock Hill, South Carolina.

Adopted: July 30, 1985.
Released: August 12, 1985.

By the Chief, Video Services Division:

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for authority to construct a new commercial television station on Channel 55, Rock Hill, South Carolina.

2. On May 6, 1985, the Association of Maximum Service Telecasters (AMST) filed informal objections against DSL Broadcasting, Inc. (DSL) and Metrolina Media Inc. (Metrolina), on the grounds that their transmitter sites would be short-spaced 10.5 miles and 4.7 miles, respectively to television station WAXA, Channel 40, Anderson, South Carolina.[1] However, on May 6, 1985, DSL and Metrolina each amended its application to change its transmitter to a site that meets all Commission requirements. Consequently, AMST's objections with respect to these two applications will be dismissed as moot. AMST also filed an informal objection against Moore Broadcast Industries, Inc. (Moore) on the grounds that Moore's transmitter site would be short-spaced 6.9 miles to television station WAXA, Anderson, South Carolina. Sections 73.610 and 73.698, Table VI, of the Commission's rules require a minimum separation of 75 miles between a station operating on Channel 55 and a station or city to which Channel 40 is allocated. Accordingly, an issue will be specified to determine whether circumstances exist warranting a waiver of the rule. In assessing the circumstances to determine whether a waiver is warranted, the Administrative Law Judge will consider the fact that the other applicants have specified fully-spaced sites.

3. No determination has been reached that the tower heights and locations proposed by Beverly Hills Hotel Corporation, Moore, Faye Daye Corporation, Susan S. Mulkey, Koontz Communications Ltd. Partnership, DSL and Neisler Limited Partnership would not each constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

5. Moore and DSL did not certify their financial qualifications. Rock Hill Telecasters indicated that at some future date it "will certify to financial qualifications after completing the necessary documentation." Moore, DSL and Rock Hill Telecasters will each be given 20 days from the release date of this Order to review its financial proposal in light of Commission requirements, to make any changes that may be necessary, and, if appropriate, to submit a certification to the Administrative Law Judge in the manner called for in Section III, FCC Form 301, as to its financial qualifications. If Moore, DSL or Rock Hill Telecasters cannot make the required certification, each shall so advise the Administrative Law Judge who shall then specify an appropriate issue. *Minority Broadcasters of East St. Louis, Inc.*, BC Docket No. 82-378 (released July 15, 1982).

6. Section II, Item 9, FCC Form 301, inquires whether there are any documents, instruments, contracts or understandings related to ownership or future ownership rights including, but not limited to, non-voting stock interests, beneficial stock ownership interests, options, warrants, or debentures. Item 10, of Section II, inquires whether or not documents instruments, agreements or understandings for the pledge of stock of a corporate applicant, as security for loans or contractual performance, provide that (a) voting rights will remain with the applicant, even in the event of default on the obligation; (b) in the event of default, there will be either a priviate or public sale of stock; and (c) prior to the exercise of stockholder rights by the purchaser at such sale, the prior consent of the Commission (pursuant to 47 U.S.C. 310(d)) will be otained. Moore has failed to answer these questions. Moore will be required to submit an amendment providing its answer to the presiding Administrative Law Judge within 20 days after this Order is released.

7. Susan S. Mulkey's application indicates that the applicant is a limited partnership. Section II, Item 5(a), FCC Form 301, requires that if the applicant is a partnership, the requested information must be given for each general or limited partner. Ms. Mulkey's application identifies only the general partner and states that the identity of its limited partners would be submitted later. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997 (1984), *recon. granted in part*, FCC 85-252, released June 24, 1985, the Commission stated that, henceforth, limited partners' interests were not attributable for the purposes of the multiple ownership rules, if the applicant certifies that the limited partners will not be involved in any material respect in the business or operation of the station. 97 FCC 2d at 1023. The Commission defined the degree of noninvolvement in paragraphs 48-50 of the June 24 decision on reconsideration. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards. 97 FCC 2d at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the lmited partners if Ms. Mulkey can submit the necessary certification. If the certification is not appropriate, of course, the limited partners would be considered to have attributable interests, and the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Ms. Mulkey will be required either to sate that her limited partners have no other media interests subject to the cross-interest policy or identify the limited partners with such interests, identify the other local media and state the nature and extent of the ownership interests.

8. Section V-C, Item 10, FCC Form 301, requires an applicant to submit the area and population within its predicted Grade B contour. Rock Hill Telecasters has not done so. Rock Hill Telecasters, therefore, will be required to submit an amendment showing the required information, within 20 days of the release of this Order, to the presiding Administrative Law Judge.

9. Rock Hill Telecasters stated, in its environmental narrative statement, that it believes that its proposed site is available to it but it has not yet completed arrangements which would constitute reasonable assurance that the site is available. Under those circumstances, an issue will be required to determine whether the applicant has

[1] On May 13, 1985, Mark III Broadcasting Company, Inc., licensee of Station WAXA, filed a pleading adopting AMST's objection.

reasonable assurance that its proposed site will be available.

10. Section 73.685(f) of the Commission's rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and tabulated at least every 10° plus any minima or maxima. Neisler has not supplied this data. Accordingly, the applicant will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch, and Chief, Hearing Branch, Mass Media Bureau, within 20 days of the release of this Order.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant will serve the public interest, convenience, and necessity. Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is Ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine with respect to Moore Broadcast Industries, Inc., whether the proposal is consistent with § 73.610 of the Commission's rules and, if not, whether circumstances exist which would warrant a waiver of the rule.

2. To determine with respect to Rock Hill Telecasters Associates, Ltd., whether the applicant has reasonable assurance that its proposed transmitter site will be available.

3. To determine with respect to Beverly Hills Hotel Corporation, Moore Broadcast Industries, Inc., Faye Daye Corporation, Susan S. Mulkey, Koontz Communications Ltd. Partnership, DSL Broadcasting, Inc. and Neisler Limited Partnership, whether there is a reasonable possibility that the tower heights and locations proposed by each would constitute a hazard to air navigation.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That, Moore Broadcast Industries, Inc., DSL Broadcasting, Inc. and Rock Hill Telecasters Associates, Ltd. shall, within 20 days of the release of this Order each submit a financial certification in the form required by Section III, FCC Form 301, or advise the Administrative Law Judge that the certification cannot be made, as may be appropriate.

14. It is further ordered, That, Moore Broadcast Industries, Inc., shall submit its response to Section II Items 9 and 10, FCC Form 301, to the presiding Administrative Law Judge within 20 days of the release of this Order.

15. It is further ordered, That, Susan S. Mulkey shall submit the certification, statement and/or information requried by paragraph 8, *supra*, to the presiding Administrative Law Judge within 20 days of the release of this Order

16. It is further ordered, That, Rock Hill Telecasters Associates, Ltd. shall submit an amendment stating the area and population within its predicted Grade B contour, to the presiding Administrative Law Judge within 20 days of the release of this Order

17. It is further ordered, That, Neisler Limited Partnership shall submit an amendment providing the information required by § 73.685(f) of the Commission's rules, to the presiding Administrative Law Judge and a copy each to the Chief, Television Branch and to the Chief, Hearing Branch, within 20 days of the release of this Order.

18. It is further ordered, That, Association of Maximum Service Telecasters, Inc., and Mark III Broadcasting Company, Inc., are made parties respondent to this proceeding.

19. It is further ordered, That the objections filed by the Association of Maximum Service Telecasters, Inc. are dismissed as moot with respect to DSL Broadcasting, Inc. and Metrolina Media Inc.

20. It is further ordered, That the Federal Aviation Administration is made a party respondent to this proceeding with respect to issue 3.

21. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the parties respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

22. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau

[FR Doc. 85-19369 Filed 8-14-85; 8:45 am]

BILLING CODE 6712-01-M

Nelson Media, Inc., et al.; Hearing Designation Order

In re Applications of: MM Docket No. 85238; Nelson Media, Inc., File No. BPCT-850208KF; Burwood Broadcasting Corporation, File No. BPCT-850417KI; Sumner County Television, Inc., File No. BPCT-850422KE; Channel 50, Tennessee Broadcasting Limited Partnership, File No. BPCT-850422KQ; Peggy Gutierrez, File No. BPCT-850422KZ. For Construction Permit, Hendersonville, Tennessee.

By Chief, Video Services Division:

Adopted: July 31, 1985.
Released: August 12, 1985.

1. The Commission, by the Chief, Video Services Division, acting pursuant to delegated authority, has before it the above-captioned mutually exclusive applications for a new commercial television station to operate on Channel 50, Hendersonville, Tennessee.

2. The effective radiated visual power, antenna height above average terrain and other technical data submitted by the applicants indicate that there would be a significant difference in the size of the area and population that each proposes to serve. Consequently, the areas and populations which would be within the predicted 64 dBu (Grade B) contour, together with the availability of other television service of Grade B or greater intensity, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

3. No determination has been reached that the tower height and location proposed by Channel 50, Tennessee Broadcasting Limited Partnership and Peggy Gutierrez each would not constitute a hazard to air navigation. Accordingly, an issue regarding this matter will be specified.

4. Section 73.685(f) of the Commission's Rules requires an applicant proposing to use a directional antenna to include a tabulation of relative field pattern, oriented so that 0° corresponds to True North and

tabulated at least every 10° plus any minima or maxima. Nelson Media, Inc.'s application did include the tabulation, but it is not tabulated in accordance with § 73.685(f). Accordingly, Nelson Media, Inc. will be required to submit an amendment with the appropriate information, to the presiding Administrative Law Judge and copies to the Chief, Television Branch and the Chief, Hearing Branch, Mass Media Bureau, within 20 days after this Order is released.

5. On May 1, 1985, the Federal Aviation Administration (FAA) issued a determination that the tower height and location proposed by Burwood Broadcasting Corporation would constitute a hazard to air navigation. Since the Commission traditionally defers to the FAA in such matters, Burwood must, within 20 days after the date of release of this Order or such additional time as the presiding Administrative Law Judge may allow, amend its application to specify a tower height and location which will meet with the approval of the FAA.

6. Thomas Nelson Publishers (TNP) is the 100 percent owner of Nelson Media, Inc. Brownlee O. Currey, Jr., as member of the board of directors of TNP is the chairman of the *Nashville Banner* a daily newspaper in Nashville, Tennessee. Nashville is within the applicant's proposed City Grade contour. Section 73.3555(c) of the Commission's Rules states that no license for a television station shall be granted to any party if such party directly or indirectly owns, operates or controls a daily newspaper and the grant of such license will result in the Grade A contour encompassing the entire community in which such newspaper is published. Consequently, Mr. Currey's interests in the newspaper and in the applicant may violate § 73.3555. However, in *Attribution of Ownership Interests*, 97 FCC 2d 997, 1025–1026 (1984), *recon. granted in part*, FCC 85–252, released June 24, 1985, the Commission stated that it is appropriate to provide attribution relief for corporate officers or directors of multi-faceted parent corporations where these individuals' duties and responsibilities are neither directly nor indirectly related to the activities of any broadcast licensee in which their corporation has a cognizable interest.[1] Under this policy, an eligible officer or director will be accorded an exemption from attribution upon submission of the individual's name, his full title and a description of his duties and responsibilities, along with an explanation of why an interest, should not be attributed to that person. Furthermore, the Commission has retained the cross-interest policy as to other attributable media interests in the same geographical area, 97 FCC 2d at 1030. Although Nelson Media, Inc., has stated that Mr. Currey will have no duties or responsibilities relating to the proposed television station, we do not have enough information regarding Mr. Currey's duties as a director of TNP to determine whether Mr. Currey will be sufficiently insulated. Additionally, Mr. Currey has not indicated the nature and extent of any future relationship between the *Nashville Banner* and the proposed station. Accordingly, an issue will be specified to determine whether Mr. Currey's interest in the newspaper and his position as a director of TNP is consistent with § 73.3555 of the rules and the Commission's cross-interest policy, and, if not, whether grant of the application is in the public interest.

7. Peggy Gutierrez states that the applicant is a limited partnership. The general partner has been identified; however, the applicant indicates that the limited partners are to be determined. Section 73.3514(a) of the Commission's Rules requires an applicant to provide all information called for by FCC forms, unless the information is inapplicable. However, in *Attribution of Ownership Interests, supra*, the Commission stated that, henceforth, limited partnership interests were not attributable for the purpose of the multiple ownership rules, if the applicant certifies that the limited partners will "not be involved in any material respect in the management or operation of" the proposed station, 97 FCC 2d at 1023. The Commission defined the degree of noninvolvement in paragraphs 48–50 of the June 24 decision on reconsideration. Further, the Commission directed that Form 301, among others, be amended to conform to the new attribution standards, 97 FCC 2d at 1034. Although changes in the form have not yet been made, there is now no need to provide information as to the limited partners if Ms. Gutierrez can submit the necessary certification. If the certification is not appropriate, of course, the limited partners would be considered to have attributable interests, and the necessary information as to them would have to be filed as an amendment. Further, the Commission retained the cross-interest policy as to other attributable media interests in the same area. *Id.* at 1030. Accordingly, Ms. Gutierrez, upon determining the limited partners, will be required either to state that the limited partners have or will have no other media interests subject to the cross-interests policy or identify the limited partners with such interest, identify the other local media and state the nature and extent of the ownership interest.

8. At the time Peggy Gutierrez filed her application, she indicated that Exhibit A to Section II, item 6(b), FCC Form 301, would be forthcoming. To date, the exhibit, which pertains to the applicant's other broadcast interests, has not been received. Accordingly, Ms. Gutierrez will be required to submit Exhibit A to Section II, item 6(b), to the presiding Administrative Law Judge, within 20 days after this Order is released.

9. In Section V–C, item 5, FCC Form 301, Peggy Gutierrez specifies an overall height above ground (OHAG) of the tower as 1,047 feet and the overall height above mean sea level (OHAMSL) as 2,049 feet. The corresponding information filed with the FAA specifies the OHAG of the tower as 1,006 feet and the OHAMSL as 3,014 feet. Accordingly, Ms. Gutierrez will be required to file a clarifying amendment with the presiding Administrative Law Judge, within 20 days after this Order is released.

10. The transmitter sites proposed by Sumner County Television, Inc., Channel 50, Tennessee Broadcasting Limited Partnership and Peggy Gutierrez now meet all of the Commission's minimum separation requirements. There is, however, a rulemaking proposal (RM–4910) pending which would allocate Channel 50 to Salem, Indiana. If this proposal is adopted, each of these transmitter sites would be 149 miles out of the required 155 miles from the reference point in Salem. Therefore, each of the transmitter sites would be 6 miles short-spaced. An issue would then be required to determine whether circumstances exist which would warrant a waiver of § 73.610 of the Commission's rules. In assessing the circumstances to determine whether a waiver would be warranted, the presiding Administrative Law Judge would consider the fact that the remaining 2 applicants have specified sites which would comply with the separation requirements. Accordingly, a contingent issue with respect to the possible short-spacing will be specified.

11. Except as indicated by the issues specified below, the applicants are qualified to construct and operate as proposed. Since the applications are mutually exclusive, the Commission is unable to make the statutory finding that their grant would serve the public interest, convenience, and necessity.

[1] Thomas Nelson Publishers is a publicly held corporation which publishes and markets bibles, religious and secular books.

Therefore, the applications must be designated for hearing in a consolidated proceeding on the issues specified below.

12. Accordingly, it is ordered, That pursuant to section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding, to be held before an Administrative Law Judge at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine, with respect to Channel 50, Tennessee Broadcasting Limited Partnership and Peggy Gutierrez, whether the tower height and location proposed by each would constitute a hazard to air navigation.

2. To determine, with respect to Nelson Media, Inc., whether Brownlee O. Currey's interest in the *Nashville Banner* and his position as a director of Thomas Nelson Publishers, parent corporation of the applicant, is consistent with Section 73.3555 of the Commission's Rules and the Commission's cross-interest policy and, if not, whether grant of the application is in the public interest.

3. In the event that the Commission adopts the pending rulemaking proposal to allocate Channel 50 to Salem, Indiana, to determine, with respect to Sumner County Television, Inc., Channel 50, Tennessee Broadcasting Limited Partnership and Peggy Gutierrez, whether circumstances exist which would warrant a waiver of § 73.610 of the Commission's rules.

4. To determine which of the proposals would, on a comparative basis, best serve the public interest.

5. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

13. It is further ordered, That, the Federal Aviation Administration is made a party Respondent with respect to issue 1.

14. It is further ordered, That Nelson Media, Inc. shall submit an amendment providing a tabulation of relative field pattern tabulated as required by § 73.685(f) of the Commission's rules, to the presiding Administrative Law Judge and copies to the Chief, Television Branch and Chief, Hearing Branch, Mass Media Bureau, within 20 days after the release date of this Order.

15. It is further ordered, That, within 20 days after this Order is released or such additional time as the presiding Administrative Law Judge may allow, Burwood Broadcasting Corporation shall amend its application as may be necessary to meet with the approval of the Federal Aviation Administration.

16. It is further ordered, That Peggy Gutierrez shall submit the certification, statement and/or information required by paragraph 6, *supra*, to the presiding Administrative Law Judge, within 20 days after this Order is released.

17. It is further ordered, That Peggy Gutierrez shall submit Exhibit A to Section II, item 6(b), FCC Form 301, to the presiding Administrative Law Judge, within 20 days after this Order is released.

18. It is further ordered, That Peggy Gutierrez shall submit an amendment which clarifies the overall height above ground and the overall height above mean sea level of her proposed tower, to the presiding Administrative Law Judge, within 20 days after this Order is released.

19. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants and the party respondent herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

20. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's Rules, give notice of the hearing within the time and in the manner prescribed in such Rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communicatioins Commission.

Roy J. Stewart,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 85-19370 Filed 8-14-85; 8:45 am]

BILLING CODE 6712-01-M

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

August 9, 1985.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511.

Copies of these submissions are available from the Commission by calling Doris R. Peacock, (202) 632-7513. Persons wishing to comment on any information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-7231.

OMB No.: 3060-0079

Title: Application to Renew or Modify an Amateur Club, RACES, or Military Recreation Station License.

Form No.: FCC-610B.

Action: Revision.

Estimated Annual Burden: 1,000 Respondents; 83 Hours.

OMB No.: 3060-0068.

Title: Application for Consent to Assignment of Radio Station Construction Permit or License—Other than Broadcast.

Form No.: FCC 702.

Action: Extension.

Estimated Annual Burden: 50 Respondents; 250 Hours.

William J. Tricarico,

Secretary, Federal Communications Commission.

[FR Doc. 85-19368 Filed 8-14-85; 8:45 am]

BILLING CODE 6712-01-M

Radio Page Communications et al.; Memorandum Opinion and Order Designating Applications for Hearing

In re applications of: J.M. Blodgett d/b/a/ Radio Page Communications For Authority to construct an additional facility for Station KWT885 to operate on frequency 35.58 MHz in the Public Land Mobile Service at Penns Grove, New Jersey, CC Docket No. 85-237, File No. 20100-CD-P-79; Answering Service of Trenton, Inc. for authority to construct an additional facility for Station KED352 to operate on frequency 35.58 MHz in the Public Land Mobile Service at Penns Grove, New Jersey, File No. 20540-CD-P-79; Radio Broadcasting Co., For authority to construct a new facility for Station WXR961 to operate on frequency 35.58 MHz in the Public Land Mobile Service at Wilmington, Delaware, File No. 20582-CD-P-79 (Dismissed).

Adopted: July 30, 1985.

Released: August 12, 1985.

By the Common Carrier Bureau:

1. Presently before the Chief, Mobile Services Division, pursuant to delegated authority, are the captioned applications of J.M. Blodgett d/b/a Radio Page Communications (Radio Page), Answering Service of Trenton, Inc. (ASOT), and Radio Broadcasting Company (RBC); a letter request of Radio Page to dismiss ASOT's application as defective, and ASOT's response; Radio Page's Petition for Expedited Issuance of a Hearing Designation Order and for Other Relief, and responsive pleadings; and ASOT's Motion to Strike, and responsive pleadings. Also pending are Radio Page's Informal Objection and Request for Commission Action respecting RBC's application, and RBC's dismissal request.

2. Radio Page's application was filed on October 12, 1978 and was placed on public notice on October 23, 1978. ASOT's application was filed on December 15, 1978 and was placed on public notice on December 26, 1978. RBC's application was filed on December 21, 1978 and was placed on public notice on January 2, 1979.

3. On August 27, 1980, Radio Page filed a letter requesting that ASOT's application be dismissed as defective. Radio Page asserted that it "now understands that ASOT has been marketing paging in the Penns Grove area through some sort of Intercarrier Agreement with Radiofone, another carrier." Since ASOT's application does not disclose that ASOT is marketing and providing service in the Penns Grove area and also does not include a traffic load study of the facility involved in the Intercarrier Agreement, Radio Page argues that ASOT's application is defective and should be dismissed. ASOT opposed Radio Page's request and asserted that there is no Intercarrier Agreement but rather a "Dealership Agreement" executed by ASOT and Radiofone. ASOT asserts that it acts as an independent dealer in the Trenton area in making available to the general public leased pagers on Radiofone's frequency. Radiofone's tariffs are applicable to the leased pagers, and "the agreement does *not* provide for any interconnection between ASOT's and Radiofone's *separate* radio paging services, nor are their respective coverage areas combined for the marketing of a single paging service." ASOT argues that neither disclosure of its "Dealership Agreement" nor a traffic load study are required, so Radio Page's dismissal request should be denied.

4. On February 25, 1985, Radio Page filed a Petition for Expedited Issuance of a Hearing Designation Order and for Other Relief. The Petition was filed in the instant proceeding and in a separate mutually exclusive proceeding involving Radio Page and ASOT applications.[1] As pertinent here,[2] Radio Page requested that the ASOT application be dismissed, or that the aplications be immediately designated for comparative hearing. ASOT filed an Opposition which opposed dismissal but supported designation for a comparative hearing.

5. Radio Page filed a Reply which asserted: "If the Commission chooses not to immediately dismiss ASOT's Penns Grove application, at the very least ASOT should be required to produce the agreement for review by the Commission and Radio Page, and appropriate issues should be included in the hearing designation order." Radio Page also provided "Model Language" for the issues it seeks to have designated against ASOT. ASOT filed a Motion to Strike Radio Page's Reply. ASOT argues that Radio Page's Reply constitutes a premature request for the addition of issues in contravention of § 1.229 of the Commission's rules. Radio Page filed an Opposition.

Discussion

6. On June 3, 1985, Radio Page filed an Informal Objection against RBC's application. Radio Page seeks dismissal of RBC's application, noting that control of RBC was subsequently acquired by Metromedia, Inc. (Metromedia) which, on December 1, 1982, filed a 900 MHz application co-located with RBC's application. Radio Page argues that the 900 MHz application was a major amendment of RBC's application rendering it cut-off and subject to dismissal. On June 14, 1985, RBC filed a letter which requests the dismissal. On June 14, 1985, RBC filed a letter which requests the dismissal of its 35.58 MHz application.

7. Initially, we will grant RBC's request for dismissal of its application. The dismissal of RBC's application moots the Informal Objection filed by Radio Page.

8. After careful consideration, we have concluded that ASOT's Motion to Strike should be denied. Section 1.229 of the Commission's Rules does not preclude the filing of a pre-designation request for the designation of a factual issue against an applicant. However, while Radio Page's request is procedurally permissible, we find that its request is defective for failure to support its factual allegations with "affidavits of a person or persons having personal knowledge thereof." Furthermore, we believe that Radio Page's vague assertion that it "understands" that "some sort of Intercarrier Agreement" exists has been sufficiently rebutted by ASOT's detailed September 24, 1980 description of its "Dealership Agreement" with Radiofone. Accordingly, we will deny Radio Page's request for the designation of factual issues against ASOT. Radio Page's dismissal request is predicated upon the existence of an Intercarrier Agreement between ASOT and Radiofone, an assertion which has been rebutted. Furthermore, Radio Page is incorrect in its assertion that the existence of an Intercarrier Agreement between ASOT and Radiofone would require ASOT to provide a traffic load study of the involved facility. Section 22.516(a) of the Commission's Rules does not require the submission of any traffic load study where the applicant is not an existing licensee in the area sought to be served. Since ASOT has no existing licensed facility in the Penns Grove area, no traffic load study is required. Accordingly, we will also deny Radio Page's dismissal request.

9. The involved applications of Radio Page and ASOT are electrically mutually exclusive. Public Notice, No. PMS–85–15, released May 8, 1985. After careful consideration, we find the applicants to be legally, technically, and otherwise qualified to construct and operate the proposed facilities. Since the applications were filed prior to August 1981, these applications are not subject to lottery selection;[3] therefore, a comparative hearing will be held to determine which applicant would best serve the public interest.

10. Accordingly, it is ordered, that the June 14, 1985 dismissal request of Radio Broadcasting Company is granted, and that its application in File No. 20582–CD–P–79 is dismissed.

11. It is further ordered, that the Motion to Strike filed by Answering Service of Trenton, Inc. is denied.

12. It is further ordered, that the requests of J.M. Blodgett d/b/a Radio Page Communications to dismiss the application of Answering Service of Trenton, Inc., File No. 20540–CD–P–79, as defective, or to designate factual issues against Answering Service of Trenton, Inc. are denied.

13. It is further ordered, pursuant to Section 309 of the Communications Act of 1934, as amended, that the applications of J.M. Blodgett d/b/a Radio Page Communications, File No. 20100–CD–P–79, and Answering Service of Trenton, Inc., File No. 20540–CD–P–79, are designated for hearing in a Consolidated Proceeding upon the following issues:

(a) To determine on a comparative basis, the nature and extent of service proposed by each applicant, including

[1] File No. 21012–CD–P–78, a Radio Page application to modify the antenna system of Station KWT885 at its base station operating on frequency 35.58 MHz at Atlantic City, New Jersey; File No. 21284–CD–P–78, an ASOT application to construct a new facility for Station KED352 on frequency 35.58 MHz at Stafford Township, New Jersey; and File No. 21325–CD–P–78, a Radio Page application to construct a new facility for Station KWT885 on frequency 35.58 MHz at Forked River, New Jersey.

[2] Radio Page's requests for consolidation and for interim authority were denied in *Memorandum Opinion and Order*, Mimeo No. 5617, released July 8, 1985.

[3] *See*, Second Report and Order, Gen. Docket 81–768, released May 27, 1983, 91 FCC 2d 911, para. 129.

the rates, charges, maintenance, personnel, practices, classifications, regulations, and facilities pertaining thereto;

(b) To determine on a comparative basis, the areas and populations that each applicant will serve within the prospective interference-free area within 43 dBu contours,[4] based upon the standards set forth in § 22.504(a) of the Commission's Rules [5] and to determine and compare the relative demand for the proposed services in said areas; and

(c) To determine, in light of the evidence adduced pursuant to the foregoing issues, what disposition of the referenced applications would best serve the public interest, convenience, and necessity.

14. It is further ordered, that the hearing shall be held at a time and place and before an Administrative Law Judge to be specified in a subsequent Order.

15. It is further ordered, that the Chief, Common Carrier Bureau, is made a party to the proceeding.

16. It is further Ordered, that the applicants shall file written notices of appearance under Section 1.221 of the Commission's Rules within 20 days of the release date of this Order.

17. This order is issued under § 0.291 of the Commission's rules and is effective upon its release date. Petitions for reconsideration will not be entertained. See § 1.106(a)(1) of the rules. Applications for review will be entertained pursuant to § 1.115(e)(3). See also § 1.4(b)(2).

Federal Communications Commission.

Michael Deuel Sullivan,

Chief, Mobile Services Division, Common Carrier Bureau.

[FR Doc. 85-19371 Filed 8-14-85; 8:45 am]

BILLING CODE 6712-01-M

[4] For the purpose of this proceeding, the interference-free area is defined as the area within the 43 dBu contour as calculated from § 22.504, in which the ratio of desired-to-undesired signal is equal to or greater than R in FCC Report No. R-6404, equation 8.

[5] Section 22.504(a) of the Commission's Rules and Regulations describes a field strength contour of 43 decibels above one microvolt per meter as the limits of the reliable service area for base stations engaged in one-way communications service. Propagation data set forth in § 22.504(b) are the proper bases for establishing the location of service contours F(50,50) for the facilities involved in this peoceeding. (The applicants should consult with the Bureau counsel with the goal of reaching joint technical exhibits.)

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA-REP-3-MD-1]

The Maryland Radiological Emergency Response Plan Site-Specific to the Calver Cliffs Nuclear Power Plant; Certification of FEMA Findings and Determination

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR Part 350, the State of Maryland submitted its plans relating to the Calvert Cliffs Nuclear Power Plant to the Regional Director of FEMA Region III on May 26, 1982, for FEMA review and approval. On April 8, 1985, the Regional Director forwarded his evaluation of plans and preparedness to the Associate Director for State and Local Programs and Support in accordance with § 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans, an evaluation of the joint exercises conducted on September 14, 1983, September 28, 1982, and November 17, 1981, in accordance with § 350.9 of the FEMA rule, and a public meeting held on May 25, 1982, to discuss the site-specific aspects of the State and local plans around the Calvert Cliffs Nuclear Power Plant, in accordance with § 350.10 of the FEMA rule. In addition, the Regional Director submitted an addendum dated April 30, 1985, that considered the revision in plans and preparedness. This addendum reported that the remaining outstanding deficiencies have been resolved.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarters staff, I find and determine that, subject to the condition stated below, the State and local plans and preparedness for the Calvert Cliffs Nuclear Power Plant are adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and are capable of being implemented. The condition for the above approval is that the adequacy of the public alert and notification system already installed and operational must be verified as meeting the standards set forth in the Nuclear Regulatory Commission/FEMA criteria in NUREG-0654/FEMA-REP-1, Rev.1, Appendix 3, and in the "Standard Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants" (FEMA-43).

FEMA will continue to review the status of offsite plans and preparedness associated with the Calvert Cliffs Nuclear Power Plant in accordance with § 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA-REP-3-MD-1 maintained by the Regional Director, FEMA Region III, Liberty Square Building (Second Floor), 105 South Seventh Street, Philadelphia, Pennsylvania, 19106.

Dated: August 8, 1985.

For the Federal Emergency Management Agency.

Samuel W. Speck,

Associate Director, State and Local Programs and Support.

[FR Doc. 85-19442 Filed 8-14-85; 8:45 am]

BILLING CODE 6718-21-M

FEDERAL HOME LOAN BANK BOARD

[No. 85-699]

Agency Information Collection Activities Under OMB Review; Application for Membership and Subscription to Stock in the Federal Home Loan Bank System

Dated: August 9, 1985.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board has submitted an extension, without revision, of its information collection request, "Application for Membership and Subscription to Stock in the Federal Home Loan Bank System, to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments: Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503, Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Kathy O'Dea, Office of the District Banks. Phone: 202–377–6789.

By the Federal Home Loan Bank Board.

Nadine Y. Penn,

Acting Secretary.

[FR Doc. 85–19444 Filed 8–14–85; 8:45 am]

BILLING CODE 6720–01–M

GOVERNMENT PRINTING OFFICE

Depository Library Council to the Public Printer; Meeting

August 9, 1985.

The Depository Library Council to the Public Printer will next meet October 16–18, 1985, at the Government Printing Office in Washington, D.C.

The purpose of this meeting is to discuss the Depository Library Program.

The meeting will be open to the public. Anyone who wishes to attend should notify the Meeting Coordinator, U.S. Government Printing Office, Library Programs Service (SL), Washington, D.C. 20401. Telephone: (202) 275–1114.

General participation by members of the public, or questioning of Council members or other participants, shall be permitted with approval of the Chair.

Dated: August 9, 1985.

Ralph E. Kennickell, Jr.,

Public Printer.

[FR Doc. 85–19506 Filed 8–14–85; 8:45 am]

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 85M–0369]

Coopervision, Inc.; Premarket Approval of Horizon ™ Model 2000 ND:YAG Ophthalmic Laser

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by CooperVision, Inc., Irvine, CA, for premarket approval, under the Medical Device Amendments of 1976, of the HORIZON ™ Model 2000 Nd:YAG Ophthalmic Laser. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by September 16, 1985.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Philip J. Phillips, Center for Devices and Radiological Health (HFZ–460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–8221.

SUPPLEMENTARY INFORMATION: On January 7, 1985, CooperVision, Inc., Irvine, CA 92714, submitted to CDRH an application for premarket approval of the HORIZON ™ Model 2000 Nd:YAG Ophthalmic Laser. The device is a neodymium:yttrium-aluminum-garnet (Nd:YAG) ophthalmic laser that is indicated for discussion of the posterior capsule of the eye (posterior capsulotomy). On May 13, 1985, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On July 12, 1985, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file with the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Philip J. Phillips (HFZ–460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and of CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under 21 CFR 10.33(b). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register.** If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before September 16, 1985, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554–555, 571 (21 U.S.C. 360e(d), 360j(h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: August 8, 1985.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 85–19375 Filed 8–14–85; 8:45 am]

BILLING CODE 4160–01–M

Public Health Service

Medical Technology; Scientific Evaluations; Cardiac Rehabilitation Services

The Public Health Service (PHS), through the Office of Health Technology Assessment (OHTA), announces that it is coordinating an assessment of what is known of the safety, clinical effectiveness, and for use of specific elements involved in providing cardiac rehabilitation services. Specifically, we are interested in the medical necessity of exercise therapy programs known as "cardiac rehabilitation services" for cardiac patients; the criteria for selection of patients who might benefit from such services; the content as well as duration of a course of therapy; the medical necessity of continuous EKG telemetric monitoring during cardiac rehabilitation; and the measurement of improvement in the cardiac status of patients receiving cardiac rehabilitation services. We are also interested in determining the specific time period

within which cardiac rehabilitation program services should start after onset of the cardiac event being treated. In particular, what is the optimal period after acute myocardial infarction, coronary artery bypass surgery, or stable angina pectoris for initiating cardiac rehabilitation program services?

For the purposes of this announcement "cardiac rehabilitation services" are defined as a form of exercise therapy for patients who have had a documented diagnosis of myocardial infarction within the preceding 12 months, have had coronary bypass surgery, and/or have stable angina pectoris. Comments are invited regarding this proposed definition of the subject services.

PHS assessments consist of a synthesis of information obtained from appropriate organizations in the private sector as well as from PHS agencies and others in the Federal Government. The assessments are based on the most current knowledge concerning the safety and clinical effectiveness of a technology. Based on these assessments, a PHS recommendation will be formulated to assist the Health Care Financing Administration (HCFA) in establishing Medicare coverage policy. Any person or group wishing to provide OHTA with information relevant to this assessment should do so in writing no later than November 13, 1985.

Written material should be submitted to: Ernest Feigenbaum, M.D., National Center for Health Services Research and Health Care Technology Assessment, Office of Health Technology Assessment, Park Building, Room 3–10, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4990.

Dated: August 6, 1985.

Enrique D. Carter, M.D.,

Director, Office of Health Technology Assessment, National Center for Health Services Research and Health Care Technology Assessment.

[FR Doc. 85–19413 Filed 8–14–85; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[A–18943 and A–19271]

Conveyance of Public Land; Reconveyed Land Opened to Entry; Arizona

August 7, 1985.

Notice is hereby given that pursuant to section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716, the following described lands were transferred out of Federal ownership in exchange for privately-owned land. The lands transferred into private ownership are described as follows:

T. 10 N., R. 7 W., GSR Mer., Arizona,
Sec. 18, lots 2, 3, 4, N½NE¼, E½W½;
Sec. 19, lots 1, 2, 3, 4, E½W½, E½.
T. 10 N., R. 8 W.,
Sec. 13, N½.
T. 13 S., R. 19 E.,
Sec. 1, lot 4, SW¼NE¼, SW¼NW¼, NW¼SW¼, W½SE¼;
Sec. 12, E½NW¼.
T. 6 S., R. 26 E.,
Sec. 32, lots 3, 4.
T. 8 S., R. 26 E.,
Sec. 3, SW¼SW¼;
Sec. 4, NW¼SE¼;
Sec. 9, SE¼NE¼, E½SE¼;
Sec. 10, NW¼NW¼, S½NW¼, W½SW¼;
Sec. 15, W½NW¼, SE¼NW¼, N½SW¼;
Sec. 18, E½NW¼;
Sec. 20, SW¼SW¼;
Sec. 21, W½NE¼NE¼, W½NE¼, E½NE¼NW¼, SE¼NW¼, NE¼SW¼, E½NW¼SW¼, SW¼SW¼, NW¼SE¼;
Sec. 22, S½SW¼;
Sec. 28, NW¼NW¼;
Sec. 29, NW¼NW¼.
T. 9 S., R. 26 E.,
Sec. 6, lot 4.
T. 20 S., R. 32 E.,
Sec. 15, E½SE¼;
Sec. 23, lots 3, 4.

The above-described lands comprise 3,081.72 acres in Cochise Graham, and Yavapai Counties.

The purpose of this notice is to inform the public and interested State and local government officials of the transfer of public land and the acquisition of private land by the Federal Government.

The following described land acquired by the Federal Government in this exchange will be open to entry under the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on September 18, 1985, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

T. 3 S., R. 16 E., GSR Mer., Arizona,
Sec. 16, lots 1, 2, 3, 4, S½S½.
T. 5 S., R. 21 E.,
Sec. 32, NE¼, S½;
Sec. 36, all lands lying south of the San Carlos Indian Reservation Boundary.
T. 2 S., R. 22 E.,
Sec. 2, lots 1, 2, 3, 4;
Sec. 36, S½NE¼, NW¼, S½.
T. 3 S., R. 22 E.,
Sec. 36, N½, W½SW¼.
T. 4 S., R. 22 E.,
Sec. 2, lots 1, 2, 3, 4.
T. 3 S., R. 23 E.,
Sec. 16, all.
T. 4 S., R. 24 E.,
Sec. 32, all;
Sec. 36, SW¼SE¼.
T. 5 S., R. 24 E.,
Sec. 2, S½N½, W½SW¼, N½SE¼.

The above-described lands comprise 4,156.73 acres in Gila and Graham Counties.

At 9 a.m. on September 18, 1985, the reconveyed land described above will be open to location and entry under the United States mining laws. Appropriation under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

At 9 a.m. on September 18, 1985, the reconveyed land described above will be open to applications and offers under the mineral leasing laws, subject to existing State-issued leases and permits for the terms of said leases and permits. All applications and offers received prior to 9 a.m. on September 18, 1985 will be considered as simultaneously filed as of that time and date, and a drawing will be held in accordance with 43 CFR 1821.2–3, if necessary. Those applications and offers received thereafter shall be considered in the order of filing.

The following described land acquired by the Federal Government in this exchange will not be open to appropriation under the public land laws, including the mining and mineral leasing laws:

T. 5 S., R. 9 E., GSR Mer., Arizona,
Sec. 14, that part of the NW¼SW¼ lying northwesterly of the west bank of the Florence-Casa Grande Canal, described as follows:
Beginning at the west quarter corner of said Section 14, Thence east along the east-west mid-section line to the west bank of the Florence-Casa Grande Canal;
Thence southwesterly along the west bank of the Florence-Casa Grande Canal to the intersection of the west line of said Section 14;
Thence northerly along the west line of said NW¼SW¼ to the point of beginning.
T. 6 S., R. 9 E.,
Sec. 6, that part of the SW¼SE¼ lying westerly of the west bank of the Florence-Casa Grande Canal, described as follows:
Beginning at the south quarter corner of said Section 6, Thence northerly 100 feet along the north-south mid-section line;
Thence South 89°51' East being parallel with the South line of said Section to a

point, from which the westerly bank of said Florence-Casa Grande Canal lies South 89°51' East 100 feet;
Thence northeasterly and parallel with the West bank of said Canal 50 feet to a point;
Thence South 89°51' East 100 feet to the Westerly bank of said Canal;
Thence Southwesterly along said Westerly bank of the Canal to the South line of said Section 6;
Thence North 89°51' West along said South line to the point of beginning.
T. 3 S., R. 17 E.,
Sec. 16, lots 1, 2, 3, 4, S½S½.
T. 3 S., R. 23 E.,
Sec. 2, lots 3, 4, S½NW¼, NW¼SW¼.
T. 3 S., R. 24 E.,
Sec. 32, all.
T. 4 S., R. 24 E.,
Sec. 2, NW¼SW¼.
T. 13 S., R. 27 E.,
Sec. 25, lots 1, 2, 3, 4, W½E½, W½;
Sec. 36, lots 1, 2, 3, 4, W½E½, W½.
T. 14 S., R. 28 E.,
Sec. 16, N½, SW¼, N½SE¼.

The above-described lands comprise 2,867.45 acres in Cochise, Gila, Graham, and Pinal Counties.

The exchange was made based on approximately equal values.

Inquiries concerning the land should be addressed to the Chief, Branch of Lands and Minerals Operations, Arizona State Office, Bureau of Land Management, P.O. Box 16563, Phoenix, Arizona 85011.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 85-19425 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-32-M

[M 58537]

Conveyance and Opening of Public Lands; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Conveyance and Order Providing for Opening of Public Land in Fergus County, Montana.

SUMMARY: The order will open lands reconveyed to the United States in an exchange under the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701, et seq. (FLPMA), to the operation of the public land laws. It also informs the public and interested state and local governmental officials of the issuance of the conveyance document. No minerals were transferred by either party in the exchange.

DATE: At 9 a.m. on September 25, 1985, the lands reconveyed to the United States shall be open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law. The lands described in paragraph 1 below were segregated from settlement, sale, location and entry, including the mining laws, but not from exchange, by the Notices of Realty Action published in the **Federal Register** on March 1, 1984 (49 FR 7663) an on December 19, 1984 (49 FR 49384). The segregation terminated on issuance of the quitclaim deed on July 3, 1985.

ADDRESS: For further information contact: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657-6082.

SUPPLEMENTARY INFORMATION: 1. Notice is hereby given that pursuant to section 206 of the Act of October 21, 1976 (43 U.S.C. 1716), the following described surface estate was conveyed to Thomas J. DeMars and Jacqueline DeMars:

Principal Meridian, Montana

T. 21 N., R. 19 E.,
Sec. 35, SW¼
T. 20 N., R. 20 E.,
Sec. 4, W½SW¼;
Sec. 5, lot 12, E½SE¼;
Sec. 6, lots 1-4, 7-14, 17-19;
Sec. 8, SE¼NE¼.
T. 21 N., R. 20 E.,
Sec. 31, lots 3, 4, E½SW½.

Aggregating 1,160.59 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following land in Fergus County, Montana:

Principal Meridian, Montana

T. 23 N., R. 22 E.,
Sec. 17, lots 6, 7, NW¼SW¼;
Sec. 18, lot 13, SW¼SE¼; and
Sec. 19, lots 1 and 2.

Containing 241.10 acres.

3. The following described public lands were segregated from settlement, sale, location and entry, including the mining laws, by the Notice published on March 1, 1984, but were not used in the exchange:

Principal Meridian, Montana

T. 20 N., R. 20 E.,
Sec. 8, N½NE¼, SW¼NE¼, NW¼

Containing 280 acres.

4. The values of Federal public land and the nonfederal land in the exchange were both appraised at $136,000.

5. At 9 a.m. on September 25, 1985, the lands described in paragraph 2 above that were conveyed to the United States and those lands described in paragraph 3 above that were segregated from entry will be open to the operation of the public land laws.

Dated: August 5, 1985.

John A. Kwiatkowski,

Acting State Director.

[FR Doc. 85-19424 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-DN-M

Meeting; Lakeview District Grazing Advisory Board

Notice is hereby given, in accordance with Pub. L. 92-463 of a meeting of the Lakeview District Grazing Advisory Board to be held September 5, 1985. The meeting will take place at 10:00 a.m. in the conference room of the Bureau of Land Management office located at 1000 South 9th Street, P.O. Box 151, Lakeview, Oregon 97630. The agenda will center on the following information items:

1. Opening remarks and current issues by the District Manager.
2. Allocation of forage.
3. Grazing Board charter.
4. Fiscal year 1986 funding.
5. Range Maintenance Evaluation.
6. Range Monitoring Policy.

The meeting is open to the public. Anyone wishing to attend and/or make written or oral statements to the board is requested to contact the District Manager at the above address prior to August 30, 1985. Summary minutes of the meeting will be available for review within 30 days following the meeting.

Dated: August 13, 1985.

Dick Harlow,

Associate District Manager.

[FR Doc. 85-19445 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-33-M

Bakersfield District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Bakersfield District Grazing Board Meeting.

SUMMARY: Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) and the Federal Land Policy and Management Act (Pub. L. 94-579) that the Bakersfield District Grazing Advisory Board will meet formally from 9 a.m. to 4 p.m. on Thursday, September 19, 1985 in Room 335 of the Federal Building, 800 Truxtun Avenue, Bakersfield, California.

SUPPLEMENTARY INFORMATION: The agenda for the meeting will include discussion of FY85 project accomplishments, FY 86 planned projects, the nationwide grazing fee study, the experimental stewardship

program, and the range improvement maintenance policy.

The meeting is open to the public. Interested persons may make oral statements to the Board, or file written statements for the Board's consideration. Anyone wishing to make an oral statement must notify, in writing, the Bakersfield District Manager (Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301) by September 16, 1985.

Summary minutes of the meeting will be maintained in the Bakersfield District Office and will be available for reproduction, during business hours, within 30 days following the meeting.

FOR FURTHER INFORMATION CONTACT: Tim Burke, District Range Conservationist, Bureau of Land Management, 800 Truxtun Avenue, Room 311, Bakersfield, CA 93301; (805) 861–4191

Dated: August 8, 1985.

Robert D. Rheiner, Jr.,

District Manager.

[FR Doc. 85–19479 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–40–M

Butte District Montana; Grazing Advisory Board Meeting

The Butte District Grazing Advisory Board will meet on Wednesday, September 18, 1985 in the conference room of the Dillon Resource Area Office, at the Ibey Building, Dillon, Montana. The meeting will begin at 7:00 a.m.

The meeting will consist of a field trip in conjunction with the Butte District Advisory Council to various activities and points of interest in the Centennial Valley.

The field trip is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager, Bureau of Land Management, P.O. Box 3388, Butte, Montana 59702.

Summary minutes of the meeting will be maintained in the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 8, 1985.

Jack A. McIntosh,

District Manager.

[FR Doc. 85–19480 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–DN–M

Butte District Montana; District Advisory Council Meeting

Notice is hereby given in accordance with Pub. L. 94–579 and 43 CFR Part 1780 that a meeting of the Butte District Advisory Council will be held Tuesday and Wednesday, September 17 and 18, 1985.

The meeting will begin at 1 p.m., September 17 in the conference room of the Dillon Resource Area Office, Ibey Building, Dillon, Montana. The agenda will include (1) the Montana land adjustment program, (2) the drought situation, (3) the BLM/Forest service Interchange, (4) stream access and hunger access, and (5) council topics. On Wednesday there will be a field trip to various points of interest in the Centennial Valley.

The meeting is open to the public. Interested persons may make oral statements to the council or file written statements for the council's consideration. Anyone wishing to make an oral statement should make advance arrangements with the District Manager.

Summary minutes of the meeting will be maintained in the district office and be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: August 8, 1985

Jack A. McIntosh,

District Manager.

[FR Doc. 85–19481 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–DN–M

[A–19162]

Public Land Exchange; Pima County, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action—Exchange; Public Lands in Pima County, AZ.

SUMMARY: BLM is considering the following described public lands for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

T. 12 S., R. 11 E., Sec. 33: Lot 2; Lot 3: S½; Lot 4: S½, S½S½S½NW¼; Lots 5, 6, 7, 11: E½SW¼NE¼; E½E½W½SW¼NE¼; E½W½E½W½SW¼NE¼; SW¼NW¼; W½W½SE¼NW¼; W½W½E½W½ SE¼NW¼; W½E½W½E½W½SE¼ NW¼; W½E½E½W½E½W½SE¼ NW¼.

Comprising approximately 323 acres.

In exchange for these lands, the federal government would acquire approximately 295 acres from John Woodin of Marana, Arizona. These private lands are within crucial desert bighorn sheep range in the Silver Bell Mountains northwest of Tucson, Arizona.

Publication of this notice terminates scrip classification A 58 on all the above described federal land and segregates them from appropriation, under the public land laws, including the mining laws, but not from exchange pursuant to section 206 of the Federal Land Policy and Management Act of 1976. The segregative effect of this notice will terminate upon issuance of patent or in two years from the date of the publication of this notice, whichever occurs first.

Upon completion of the environmental assessment and land use decision, a final Notice of Realty Action will be published. The Notice will provide a final description of the Federal and private lands to be exchanged, including reservations.

SUPPLEMENTARY INFORMATION: Detailed information concerning the exchange, including a listing of the selected privately owned lands, may be obtained from the Area Manager, Phoenix Resource Area, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

For a period of forty-five (45) days from date of issuance of this notice, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Dated: August 9, 1985.

Marlyn V. Jones,

District Manager.

[FR Doc. 85–19492 Filed 8–14–85; 8:45 am]

BILLING CODE 4310–32–M

Emergency Closure of King Range Roads; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of road closure.

SUMMARY: Pursuant to 43 CFR 8364.1 the following roads are being closed to public vehicular use to protect people and property and hazardous conditions, prevent trespass on private property, protect resource values, and minimize potential impact to wilderness study areas: (1) Cooskie Creek Road in Sections 5, 8, and 9 of T. 3 S., R. 2 W., H.M., (2) a portion of Johnny Jack Ridge Road in Section 6, T. 2 S., R. 3 W., H.M., (3) Whale Gulch Road, (4) Smith-Etter Road west of Telegraph Ridge, and (5)

access to Spanish Ridge Road is Sections 14, 15, and 23 of T. 3 S., R. 2 W., H.M. This is an emergency closure which will continue in effect until vehicle route designations are completed for the entire King Range National Conservation Area.

DATES: This closure is effective August 9, 1985.

FOR FURTHER INFORMATION CONTACT: Bruce Cann, Outdoor Recreation Planner, Arcata Resource Area, P.O. Box II, Arcata, California 95521, telephone (707) 822-7648.

Dated: August 7, 1985.

Timothy P. Julius,

Acting District Manager.

[FR Doc. 85-19493 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-40-M

Oregon: Diamond Craters Recreation Management Plan; Draft

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Draft Diamond Craters Recreation Management Plan availability.

SUMMARY: This notice sets forth the public comment period when written and verbal comments will be accepted on the Diamond Craters Recreation Management Plan draft document.

DATES: September 3, 1985: Draft document available: October 2, 1985 30-day comment period ends.

ADDRESS: For further information contact: Joshua L. Warburton, District Manager, Burns District, Bureau of Land Management, 74 South Alvord, Burns, Oregon 97720. Telephone (503) 573-5241.

Copies of the Diamond Craters Recreation Management Plan are available for review at the following public libraries or obtainable at the following BLM offices:

Harney County Library, 80 West 'D' Street, Burns, OR 97720 (503) 573-6670

Grant County Library, 507 S. Canyon Boulevard, John Day, OR 97845 (503) 575-1992

BLM—Burns District Office, 74 South Alvord Street, Burns, OR 97720 (503) 573-5241

BLM—Oregon State Office (912), 825 N.E. Multnomah Street, Portland, OR 97208 (503) 231-6274

SUPPLEMENTARY INFORMATION: This plan provides more detail than a previous management plan. It outlines the management direction the Bureau of Land Management will be taking in the coming years on the public land in Diamond Craters Outstanding Natural Area which is known for its great variety of basaltic igneous-volcanic structures. During the public comment period, no public meetings are scheduled, as this document is a result of public comments and recommendations from interested people in numerous public meetings held throughout 1979 and 1980 prior to when Diamond Craters was designated as an Outstanding Natural Area (ONA) and Area of Critical Environmental Concern (ACEC).

Dated: August 7, 1985.

Joshua L. Warburton,

District Manager.

[FR Doc. 85-19490 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-33-M

Meeting: Montrose District Grazing Advisory Board

AGENCY: Bureau of Land Management, Interior.

ACTION: Montrose District Grazing Advisory Board meeting notice.

SUMMARY: Notice is hereby given in accordance with Pub. L. 92-463 that a meeting of the Montrose District Grazing Advisory Board will be held in Paonia, Colorado.

DATE: Friday, September 13, 1985, 10:00 a.m. at the Town Hall located at 214 Grand Avenue, Paonia, Colorado. Requests to present oral comments must be received by September 11, 1985. Depending on the number of persons requesting time, a per person time limit may be established by the District Manager.

ADDRESS: Submit requests to comment or for further information to: District Manager, Montrose District Office, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado 81401, (303) 249-7791.

SUPPLEMENTARY INFORMATION: All meetings of the Grazing Advisory Board are open to the public. Interested persons may file written statements or make oral statements to the Board between 10:00 and 11:00 a.m. The business meeting will include the following topics:

1. Review District Rangeland Improvement proposals;
2. Briefing on Grazing Advisory Board and current member status;
3. Briefing on the Wild Horse Removal and Adoption Project;
4. Update on the BLM/FS Interchange Program and the Montrose District Planning efforts;
5. Advisory Board expenditures for Range Improvement work;
6. Arrangements for the next meeting.

Summary minutes of the board will be maintained in the District Office and be available for public inspection and reproductions [during regular business hours] within 30 days following the meeting.

Dated: August 9, 1985.

Paul W. Arrasmith,

District Manager.

[FR Doc. 85-19496 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-JB-M

Minerals Management Service

Outer Continental Shelf; Development Operations Coordination Document; Sohio Petroleum Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the Receipt of a Proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Sohio Petroleum Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 6280, Block 165, East Breaks Area, offshore Texas. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Sabine Pass, Texas.

DATE: The subject DOCD was deemed submitted on August 5, 1985.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service; Gulf of Mexico OCS Region; Rules and Production; Plans, Platform and Pipeline Section; Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The prupose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected states, executives of affected local governments, and other interested parties became effective December 13, 1979 (44 FR 53685). Those practices and

procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: August 7, 1985.

John L. Rankin,

Regional Director, Gulf of Mexico, OCS Region.

[FR Doc. 85-19498 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

Jordan Aqueduct, Bonneville Unit, Central Utah Project, UT; Proposed Draft Contracts With Salt Lake County Water Conservancy District, Metropolitan Water District, and Central Utah Water Conservancy District Available

In accordance with procedures established by the Department of the Interior concerning public participation in water service and repayment contract negotiations, the Bureau of Reclamation announces the availability of two draft repayment contracts, one with the Salt Lake County Water Conservancy District (SLCWCD) and the other with the Metropolitan Water District (MWD) of Salt Lake City. The contracts will repay 66 percent of the costs of the Jordan Aqueduct. The remaining 34 percent of the Jordan Aqueduct costs will be repaid by the Central Utah Water Conservancy District (CUWCD) under the provisions of an existing 1965 repayment contract. The CUWCD will be a party to each of the aforementioned contracts.

The Jordan Aqueduct is a feature of the municipal and industrial system of the Bonneville Unit, Central Utah Project. The contract is written pursuant to Reclamation Laws and authorized under the Act of Congress approved April 11, 1956 (70 Stat. 105). The Jordan Aqueduct was constructed to deliver 70,000 acre-feet of M&I water to communities in Salt Lake County. These two contracts will provide total repayment coverage for the Aqueduct, which is near completion.

The terms and conditions of the proposed contracts were approved as to form by CUWCD on August 8, 1985, by MWD on August 9, 1985, but have not yet been approved by SLCWCD and the Secretary of the Interior, which will be necessary before the contracts are executed.

The public is invited to submit written comments on the form of the proposed contracts no later than August 28, 1985. The Commissioner of Reclamation will review comments submitted. Based on the number, source, and nature of the comments, he will decide whether to hold a public hearing.

Requests for copies of the proposed contracts and comments on the contracts should be addressed to: Regional Director, Bureau of Reclamation, Attention: 400, P.O. Box 11568, Salt Lake City, Utah 84147.

Dated: August 12, 1985.

Clifford I. Barrett,

Acting Commissioner.

[FR Doc. 85-19522 Filed 8-14-85; 8:45 am]

BILLING CODE 4310-09-M

INTERSTATE COMMERCE COMMISSION

[No. 39976; Ex Parte No. 346 (Sub-No. 8)]

CSX Railroads; Multi-Carrier Boxcar Contracts and Quotations; Exemption

AGENCY: Interstate Commerce Commission.

ACTION: Notice of dismissal of exemption petition.

SUMMARY: The Commission dismisses a petition by the CSX Railroads seeking exemption of multi-carrier boxcar freight rate contracts and Opportunity Pricing Actions (OPA's) from the contract filing requirements of 49 U.S.C. 10713. (OPA's are unsigned written confirmations of oral transportation agreements.) The Commission finds that these contracts and OPA's do not constitute joint rates and are not subject to the Commission's reasserted jurisdiction over boxcar joint rates [50 FR 20419].

ADDRESSES: Petitions and replies referring to N. 39976 should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423; and served on all parties to Ex Parte No. 346 (Sub-No. 8).

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 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

Decided: July 25, 1985.

By the Commission, Chairman Taylor, Vice Chairman Gradison, Commissioners Sterrett, Andre, Simmons, Lamboley and Strenio. Commissoners Simmons and Lanboley dissented with separate expressions.

James H. Bayne,

Secretary.

[FR Doc. 85-19418 Filed 8-14-85; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Consent Decree in Action To Enjoin Emission of Air Pollutants; Dennison Monarch Systems, Inc.

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a consent decree in *United States* v. *Dennison Monarch Systems, Inc.*, Civil Action No. 85-CIV-5656, has been lodged with the United States District Court for the Southern District of New York. The consent decree establishes a compliance program for the New Windsor, Orange County, New York plant owned and operated by Dennison Monarch Systems, Inc., to bring the plant into compliance with the Clean Air Act, 42 U.S.C. 7401 *et seq.* and the New York State Implementation Plan ("SIP"), relating to the emission of volatile organic compounds ("VOC"), and requires payment of a civil penalty.

The Department of Justice will receive for thirty (30) days from the date of publication of this notice, written comments relating to the consent decree. Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530 and should refer to *United States* v. *Dennison Monarch Systems, Inc.*, D.J. Ref. No. 90-5-2-1-683.

The consent decree may be examined at the office of the United States Attorney, Southern District of New York, One St. Andrews Plaza, New York, New York 10007; at the Region II office of the Environmental Protection Agency, 26 Federal Plaza, New York, New York 10278; and the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.00 (10 cents per page

reproduction charge) payable to the Treaurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 85-19491 Filed 8-14-85; 8:45 am]

BILLING CODE 4410-01-M

Bureau of Justice Assistance

Criminal Justice Discretionary Grants; Extension of Program Deadline for Family Violence Intervention Demonstration Program

AGENCY: Bureau of Justice Assistance.

ACTION: Notice.

SUMMARY: This notice supplements the earlier **Federal Register** Notice of Friday, July 26, 1985 (50 FR 30,664), Part VI, Subpart I of that notice described a demonstration program for Family Violence Intervention.

SUPPLEMENTARY INFORMATION: Because of delays in the preparation of the noted program reference materials, the program deadlines are being extended as follows:

The due date for Family Violence Intervention concept papers is extended one month from August 30, 1985, to September 30, 1985. Best qualified candidates selected by the Bureau of Justice Assistance and inter-agency screening panels will be invited to submit applications by October 31, 1985. Project awards are projected for mid-December, 1985.

No other deadlines in the original Notice are changed.

Mack Vines,

Director, Bureau of Justice Assistance.

[FR Doc. 85-19478 Filed 8-14-85; 8:45 am]

BILLING CODE 4410-18-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-341]

Fermi-2 Facility; Issuance of a Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Inspection and Enforcement, has issued a decision pursuant to 10 CFR 2.206 concerning a petition filed by Stanley Nietubicz. The Petitioner requested that the Commission institute legal action to rectify the alleged lack of viable evacuation routes under flood conditions for certain areas near the Fermi-2 facility.

After considering the Petitioner's request, the staff has determined that adequate measures have been taken to resolve the issue raised by the Petitioner. The reasons for this decision are more fully explained in the "Director's Decision Under 10 CFR 2.206" (DD-85-13) issued today. A copy of this decision will be available for public inspection in the Commission's Public Document Room at 1717 H Street, NW., Washington, DC 20555 and in the local public document room at the Monroe County Library, Reference Department, 3700 South Custer Road, Monroe, Michigan 41861.

A copy of the decision will be filed with the Secretary of the Commission for Commission review in accordance with 10 CFR 2.206(c). As provided in 10 CFR 2.206(c), the decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, decides to review that decision.

Dated at Bethesda, Maryland, this 12th day of August 1985.

For the Nuclear Regulatory Commission.

James M. Taylor,

Director, Office of Inspection and Enforcement.

[FR Doc. 85-19497 Filed 8-14-85; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. STN 50-447]

General Electric Co.; General Electric Standard Safety Analysis Report (GESSAR II BWR/6 Nuclear Island Design); Issuance of Amendment No. 1 to Final Design Approval No. FDA-1

Notice is hereby given that the staff of the Nuclear Regulatory Commission (NRC) has issued Amendment No. 1 to FDA-1, the Final Design Approval for the BWR/6 Nuclear Island design described in the General Electric Standard Safety Analysis Report GESSAR II. FDA-1, which was issued by the NRC staff on July 27, 1983 (48 FR 35050), permitted the GESSAR II design to be referenced in utility applications for operating licenses for those plants that referenced the Preliminary Design Approval for the GESSAR-238 Nuclear Island design (PDA-1) at the construction permit stage. Amendment No. 1 to FDA-1 removes the present constraint on the foreward referenceability of the GESSAR II design and permits it to be referenced in new construction permit and operating license applications as provided by Paragraph B.3.b of the Commission's "Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants" (50 FR 32138).

GESSAR II contains final safety-related design information for the nuclear island portion of a BWR-6/Mark III containment boiling water reactor type nuclear power plant which includes the nuclear steam supply system (NSSS), engineered safety feature systems, reactor building (including shield building and containment), auxiliary building, control building, radwaste building, fuel handling building, and related systems and structures. The BWR/6 Nuclear Island reference design is for a facility which would operate at a core thermal power level of 3730 megawatts (1269 megawatts electrical, nominal net).

The GESSAR II design was reviewed by the NRC staff pursuant to Appendix 0 to 10 CFR Part 50. The Safety Evaluation Report (SER), NUREG-0979, dated April 1983 and Supplement 1 thereto dated July 1983 document the results of the NRC staff's review and evaluation of the GESSAR II design including Amendments 1 through 16 thereto. The SER also addresses the comments of the Advisory Committee on Reactor Safeguards (ACRS) as reflected in its report to the Commission dated June 15, 1983. A copy of the ACRS' report is included to Appendix F to SER Supplement 1.

Based on its review, the NRC staff has concluded, subject to the conditions set forth in Amendment 1 to FDA-1, that the information provided in GESSAR II complies with the requirements of 10 CFR Part 50, Appendix 0, and with Paragraph B.3.b(1) of the Commission's "Policy Statement on Severe Reactor Accidents Regarding Future Designs and Existing Plants," and is acceptable for incorporation by reference in utility applications for construction permits and operating licenses. Upon completion of NRC Staff and ACRS review for severe accident considerations, this Final Design Approval will be further amended.

Issuance of Amendment No. 1 to FDA-1 does not constitute a commitment to issue a permit or license, or in any way affect the authority of the Commission, Atomic Safety and Licensing Appeal Board, Atomic Safety and Licensing Boards and other presiding officers in any proceeding under Subpart G of 10 CFR Part 2. This action only approves the design of a facility for use for reference purposes in applications for construction permits and operating licenses for nuclear power plants. It does not authorize the operation of any nuclear power plant or any other facility. The environmental impacts associated with any facility proposed to be operated utilizing the approved reference design will be considered in accordance with the

Commission's regulations in 10 CFR Part 51.

The Final Design Approval as amended is effective as of its date of issuance and shall be further amended at the completion of the severe accident review described in Paragraph 6(c) therein to implement the results of that review.

For further details with respect to this action, see (1) Amendment No. 1 to FDA–1 and Attachment A thereto; (2) the NRC staff's Safety Evaluation Report, NUREG–0979, dated April 1983 and Supplement 1 thereto, dated July 1983; (3) the report of the Advisory Committee on Reactor Safeguards dated June 15, 1983; (4) the General Electric Standard Analysis Report GESSAR II and Amendments 1 through 16 thereto; and (5) the Commission's "Policy Statement on Severe Reactor Accidents regarding Future Design and Existing Plants." These documents are available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555. A copy of Amendment No. 1 to FDA–1 and Attachment A thereto may be obtained upon request to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and Supplement 1 thereto may be purchased by calling (202) 275–2060 or (202) 275–2171 or by writing to the Superintendent of Documents, U.S. Government Printing Office, Post Office Box 37082, Washington, D.C. 20013–7982.

Dated at Bethesda, Maryland, this 9th day of August, 1985.

For the Nuclear Regulatory Commission.

Hugh L. Thompson, Jr., Director,

Division of Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 85–19499 Filed 8–14–85; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–352]

Limerick Generating Station, Unit No. 1 Issuance of Facility Operating License

Notice is hereby given that pursuant to the approval given in a Memorandum and Order dated August 8, 1985, the Nuclear Regulatory Commission (the Commission), has issued Facility Operating License No. NPF–39 to the Philadelphia Electric Company, (the licensee) which authorizes operation of the Limerick Generating Station, Unit No. 1 (the facility), by Philadelphia Electric Company at reactor core power levels not in excess of 3293 megawatts thermal in accordance with the provisions of the License, the Technical Specifications and the Environmental Protection Plan. On October 26, 1984, the Commission issued Facility Operating License No. NPF–27, which authorized operation of the Limerick Generating Station, Unit No. 1. Facility Operating License No. NPR–39 supersedes Facility Operating License No. NPF–27.

The Limerick Generating Station, Unit No. 1, is a boiling water nuclear reactor located on the licensee's site in Montgomery and Chester Counties, Pennsylvania on the banks of the Schuylkill River approximately 1.7 miles southeast of the city limits of Pottstown, Pennsylvania and 21 miles northwest of the city limits of Philadelphia, Pennsylvania.

The application for the license complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the License. Prior public notice of the overall action involving the proposed issuance of an operating license was published in the **Federal Register** on August 21, 1981 (46 F.R. 42557–42558).

The Commission has determined that the issuance of this license will not result in any environmental impacts other than those evaluated in the Final Environmental Statement since the activity autorized by the license is encompassed by the overall action evaluated in the Final Environmental Statement.

For further details in respect to this action, see (1) Facility Operating License NPF–39 complete with Technical Specifications and the Environmental Protection Plan; (2) the interim report of the Advisory Committee on Reactor Safeguards, dated October 18, 1983; (3) the subsequent report of the Advisory Committee on Reactor Safeguards dated November 6, 1984; (4) The Commission's Safety Evaluation Report, dated August 1983, Supplement No. 1 dated December 1983, Supplement No. 2 dated October 1984, Supplement No. 3 dated October 1984, Supplement No. 4 dated May 1985, Supplement No. 5 dated July 1985 and Supplement No. 6 dated August 1985; (4) the Final Safety Anslysis Report and Amendments thereto; (5) the Environmental Report and supplements thereto; (6) the Final Environmental Statement dated April 1984; and (7) the Commission Memorandum and Order dated August 8, 1985.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555, and at the Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania, 19464. A copy of Facility Operating License NPF–39 may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing. Copies of the Safety Evaluation Report and its supplements 1, 2, 3, 4, 5 and 6 (NUREG–0991) and the Final Environmental Statement (NUREG–0974) may be purchased by calling 301–492–9530 or by writing to the Publication Services Section, Division of Technical Information and Document Control, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, or may be purchased from the National Technical Information Service, Department of Commerce 5285 Port Royal Road, Springfield, Virginia 22161.

Dated at Bethesda, Maryland, this 8th day of August 1985

For the Nuclear Regulatory Commission.

Walter R. Butler,

Chief, Licensing Branch No. 2, Division of Licensing.

[FR Doc. 85–19500 Filed 8–14–85; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Civil Service Retirement System; Interest Rate for Deposits and Redeposits in 1985

AGENCY: Office of Personnel Management.

ACTION: Notice of Interest Rate to be Charged on Unpaid Balances as of December 31, 1985.

SUMMARY: The Office of Personnel Management announces that a 13 percent interest rate will be charged on the unpaid balance as of December 31, 1985, for certain deposits and redeposits to the Civil Service Retirement Fund.

FOR FURTHER INFORMATION CONTACT: John Ray, Office of Pay and Benefits Policy, Office of Personnel Management, Washington, D.C. 20415, (202) 254–7052.

SUPPLEMENTARY INFORMATION: The Omnibus Budget Reconciliation Act of 1982, (Pub. L. 97–253) provided that, beginning in calendar year 1985, the interest rate charged applicants for certain deposits for noncontributory service and redeposits for prior refunds would change from 3 percent to a variable rate determined by the Secretary of the Treasury. Further, § 831.105(g) of the Code of Federal Regulations states that, "For calendar

year 1985 and for each subsequent calendar year, OPM will publish a notice in the **Federal Register** that will be in effect during that calendar year." This notice will serve to satisfy that regulatory requirement.

The variable interest rate applies only to: (1) Deposits of refunds when the application for refund was received after September 30, 1982; (2) deposits for noncontributory service performed after September 30, 1985; and (3) deposits for post-1956 military service paid after September 30, 1985, or two years after the applicant was first employed in a position subject to the Civil Service Retirement System, whichever is later.

For calendar year 1985, the interest rate is 13 percent. However, this rate will only apply to certain deposits or redeposits unpaid on December 31, 1985. Therefore, individuals either making or considering making deposits will not be directly affected by this change in the interest rate until December 31, 1985.

U.S. Office of Personnel Management.

Constance Horner,

Director.

[FR Doc. 85-19454 Filed 8-14-85; 8:45 am]

BILLING CODE 6325-01-M

Federal Prevailing Rate Advisory Committee; Open Committee Meeting

According to the provisions of section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that meetings of the Federal Prevailing Rate Advisory Committee will be held on:

Thursday, September 5, 1985
Thursday, September 12, 1985
Thursday, September 19, 1985
Thursday, September 20, 1985

These meetings will start at 10 a.m. and will be held in Room 5A06A, Office of Personnel Management Building, 1900 E Street, NW, Washington, D.C.

The Federal Prevailing Rate Advisory Committee is composed of a Chairman, representatives from five labor unions holding exclusive bargaining rights for Federal blue-collar employees, and representatives from five Federal agencies. Entitlement to membership of the Committee is provided for in 5 U.S.C. 5347.

The Committee's primary responsibility is to review the Prevailing Rate System and other matters pertinent to establishing prevailing rates under subchapter IV, chapter 53, 5 U.S.C., as amended, and from time to time advise the Office of Personnel Management.

These scheduled meetings will start in open session with both labor and management represenatatives attending. During the meeting either the labor members or the management members may caucus separately with the Chairman to devise strategy and formulate positions. Premature disclosure of the matters discussed in these caucuses would unacceptably impair the ability of the Committee to reach a consensus on the matters being considered and would disrupt substantially the disposition of its business. Therefore, these caucuses will be closed to the public because of a determination made by the Director of the Office of Personnel Managemnet under the provisions of section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) and 5 U.S.C. 552b(c)(9)(B). These caucuses may, depending on the issues involved, constitute a substantial portion of the meeting.

Annually, the Committee publishes for the Office of Personnel Management, the President, and Congress a comprehensive report of pay issues discussed, concluded recommendations, and related activities. These reports are available to the public, upon written request to the Committee's Secretary.

The public is invited to submit material in writing to the Chairman on Federal Wage System pay matters felt to be deserving of the Committee's attention. Additional information on these meetings may be obtained by contacting the Committee's Secretary, Office of Personnel Management, Federal Prevailing Rate Advisory Committee, Room 1340, 1900 E Street, NW, Washignton, D.C. 20415 (202) 632-9710).

William B. Davidson, Jr.,

Chairman, Federal Prevailing Rate Advisory Committee.

August 12, 1985.

[FR Doc. 85-19455 Filed 8-14-85; 8:45 am]

BILLING CODE 6325-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, D.C. 20549.

Extension

File No. and Rule/Form

270-128—Rule 20(b), Rule 100(a), 20(c) & .23, Form U-1, Form U-A
270-129—Rule 24, Rule 50
270-162—Rule 44
270-169—Rule 29a, Rule 29b, Rule 72
270-166—Rule 62, Form U-R-I
270-79—Rule 93, Rule 94, Part 256, Part 256a, Form U-13-60
270-164—Rule 45
270-83—Rule 2, Form U-3A-2
270-77—Rule 3, Form U3A-3-1
270-74—Rule 95, Form U-13E-1
270-81—Rule 20(d), Rule 47(b), Form U-6B-2
270-168—Rule 1(a), Rule 1(b) Rule 1(c), Form U5A, Form U-5B, Form U5S
270-75—Rule 7, Rule 7(d), Form U-7D
270-163—Rule 42
270-161—Rule 71(a), Form U-12(I)A, Form U-12(I)B
270-82—Rule 83
270-80—Rule 87, Rule 88, Form U-13-1
270-78—Rule 26

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for extension the following rules/forms under the Public Utility Holding Company Act of 1935:

Rule 20(b), Rule 100(a), 20(c) & .23, Form U-1, Form U-A—Family of Form U-1, Amendments thereto; filings containing data following U-1 required for hearings;
Rule 24, Rule 50—Reports of consummation of transactions;
Rule 44—Sales of securities and assets;
Rule 29a, 29b, Rule 72—Filing of reports to stockholders and state commissions;
Rule 62, Form U-R-I—Solicitation of securities;
Rule 93, Rule 94, Part 256, Part 256a, Form U-13-60—Family of uniform system of accounts for mutual and subsidiary service companies;
Rule 45—Loans and capital contributions to associate companies in a registered holding company system;
Rule 2, Form U-3A-2—Statement by holding company claiming exemption;
Rule 3, Form U3A3-1—Statement by bank claim exemption;
Rule 95, Form U-13E-1—Reports required from affiliated and non-affiliated service companies, and companies principally engaged in performing services;
Rule 20(d), Rule 47(b), Form U-6B-2—Certificate of Notification;
Rule 1(c), Form U5S—Annual report of registered public utility holding company;
Rule 7, Rule 7(d), Form U-7D—Certificate;
Rule 1(a), Rule 1(b), Form U5-A, Form U5B—Family of registration filings;

Rule 42—Acquisition, retirement, and redemption of securities by issuer;
Rule 71(a), Form U–12(I)A, Form U–12(I)B—Family of reports on Section 12(I) activities;
Rule 83—Exemption in the case of transactions with foreign associates;
Rule 87, Rule 88, Form U–13–1—Approval of mutual service companies, organization and conduct of business of a subsidiary service company;
Rule 26—Financial statement and recordkeeping requirements for registered holding companies and subsidiaries.

Submit comments to OMB Desk Officer: Ms. Katie Lewin, (202) 395–7231, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, D.C. 20503.

John Wheeler,

Secretary.

August 7, 1985.

[FR Doc. 85–19459 Filed 8–14–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23788; 70–7137]

The Connecticut Light and Power Co., Proposal To Issue and Sell First and Refunding Mortgage Bonds

August 8, 1985.

The Connecticut Light and Power Company ("CL&P"), Selden Street, Berlin, Connecticut 06037, an electric and gas utility subsidiary of Northeast Utilities ("NU"), a registered holding company, has filed an application-declaration with this Commission pursuant to sections 6(b), and 9(c) under the Public Utility Holding Company Act of 1935 ("Act") and Rules 40 and 50 thereunder.

CL&P proposes to issue up to $150,000,000 principal amount of its First and Refunding Mortgage Bonds (Bonds) in one or more series from time to time, through December 31, 1986. The Bonds may be sold through public offerings ("Public Offering Bonds") or private placements ("Private Placement Bonds") or through a combination of public offerings and private placements.

The Bonds will be issued under a Supplemental Indenture to the Indenture of Mortage and Deed of Trust ("Indenture").

Each series of the Bonds would have a maturity of two to thirty years. The interest rate and the price, exclusive of accrued interest, shall not be less than 98% nor more than 100% of the principal amount.

The net proceeds from the issue and sale of the Bonds will be used to refund four series of approximately $138 million outstanding CL&P bonds bearing relatively high interest rates ("High Coupon Bonds"), with fixed redemption dates in 1985 and 1986.

Any net proceeds from the issue and sale of a series of the Bonds that are in excess of the amount necessary to redeem High Coupon Bonds will be used to repay short-term borrowings or construction trust borrowings. Since the Bonds will probably be sold in advance of the redemption of the High Coupon Bonds, the net proceeds may be invested temporarily in high-grade securities, or they may be used to repay outstanding short-term or construction trust borrowings, pending subsequent short-term or construction trust borrowings to finance redemptions.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 3, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicant-declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–19460 Filed 8–14–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. IC–14667; File No. 812–6020]

Eaton Vance Government Obligations Trust; Application for an Order Permitting Monthly Distributions of Long-Term Capital Gains

August 9, 1985.

Notice is hereby given that Eaton Vance Government Obligations Trust ("Applicant"), 24 Federal Street, Boston, MA 02110, filed an application on January 10, 1985, and amendments thereto on June 4 and June 20, 1985, requesting an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from the provisions of section 19(b) of the Act and Rule 19b–1 thereunder to the extent necessary to permit Applicant to distribute as often as monthly its long-term capital gains, including gains resulting from options and futures transactions and sales of portfolio securities. All interested persons are referred to the application on file with the Commission for a statement of the representations therein, and to the Act and the rules thereunder for the text of their relevant provisions.

According to the application, Applicant is registered under the Act as an open-end, management investment company whose investment objective is to realize a high current return by investing in securities issued, guaranteed or otherwise backed by the United States Government (including Government National Mortgage Association mortgage-backed certificates and issues of federal agencies and federally chartered corporations) and by engaging in active management strategies with options on these securities. Applicant states that it will also engage in future transactions and related techniques for hedging purposes. Eaton Vance Management, Inc. ("EVM") acts as investment adviser to Applicant managing its investments and affairs subject to the supervision of the Applicant's Board of Trustees.

Applicant states that it pays monthly dividends from net investment income and may also make distributions of short-term capital gains as often as monthly. Applicant states further that pursuant to Rule 19b–1 under the Act, it is permitted to make distributions of long-term capital gains only once for each fiscal year.

According to the application, Applicant does not expect to recognize any long-term capital gains on transactions in portfolio securities during the period from inception to June 30, 1985, and intends that long-term gains on portfolio securities transactions will be a de minimus component of dividends and distributions paid by Applicant in the future. However, Applicant may be required to recognize long-term capital gains or losses in connection with its transactions in options, futures and options on futures. Applicant represents that, under the Internal Revenue Code, gains or losses incurred on such transactions are treated as 60% long-term and 40% short-term for Federal income tax purposes. Although Applicant might be able to elect out of such 60/40 treatment for the gains and losses incurred on proposed options and futures transactions, it has

decided not to pursue this possibility because it believes such 60/40 treatment to be more favorable to its tax-paying shareholders than treating 100% of gains and losses from these transactions as short-term gains and losses.

Applicant asserts that, if it is not permitted to distribute more often than annually all of its long-term capital gains from options and futures transactions, a portion of gains and losses from these transactions would be reported and distributed monthly to shareholders while the remainder of such gains and losses would be reported and distributed annually. Applicant represents that this practice would give to shareholders a distorted and confusing picture of the return earned on Applicant's investments, especially since the source and character of the 60% of gains and losses treated as long-term are no different from the 40% of gains and losses treated as short-term.

According to the application, gains or losses recognized on the sale of portfolio securities pursuant to the exercise of an option or delivery of securities under a futures contract involve two elements of gain or loss. Gain or loss attributable to the options or futures transaction receives 60/40 treatment without regard to the length of Applicant's holding period. On the other hand, gain or loss reflecting ordinary appreciation or depreciation in the value of the securities is treated as short-term or long-term depending on the length of Applicant's holding period. Applicant believes that shareholders may be confused if the portion of long-term gains or losses on the sale of portfolio securities attributable to options and futures transactions were being distributed and reported monthly while gains or losses attributable to ordinary appreciation or depreciation in the value of portfolio securities were being distributed annually. Applicant further represents that its proposed distribution and reporting of all income and capital gains distributions on the same schedule would also simplify the calculation of distributions and the administration of Applicant.

Applicant states that the concerns which led to the adoption of section 19(b) of the Act and Rule 19b–1 thereunder are inapplicable to the Applicant's proposed procedure for distributing long-term capital gains and losses monthly. In response to the Commission's concern that shareholders would be misled by mixing dividends and short-term capital gains distributions with long-term capital gains distributions, Applicant asserts that such mixing has become unavoidable due to the Internal Revenue Code's arbitrary characterization of gains and losses from options and futures transactions as 60% long-term and 40% short-term. Applicant proposes to minimize confusion by providing statements to shareholders that itemize the amount and percentage of dividends and distributions attributable to each type of transaction.

In addition, Applicant states that there will be no improper pressure to realize long-term capital gains on options and futures transactions because such gains are artifically created by the 60/40 rule. Applicant further believes that its portfolio managers are under no pressure to generate long-term capital gains on portfolio securities transactions because, as stated expressly in Applicant's prospectus, capital appreciation is not an investment objective of Applicant.

Applicant also asserts that its proposed distribution procedure will not give rise to improper sales practices relating to long-term gains because there is no measurable value in promoting Applicant by emphasizing long-term capital gains on futures and options transactions. The same assertion is made with respect to long-term gains on portfolio securities transactions, because Applicant is being marketed, consistent with its investment objective, as an income fund, not as a fund designed to generate long-term capital gains.

Finally, Applicant states that administrative expenses would not be significantly increased if it were permitted to distribute long-term capital gains more frequently than once a year, since Applicant undertakes in any event to compute dividends daily, declare and pay dividends monthly and compile periodic reports. Furthermore, under the proposed distribution procedure, all dividends and distributions could be reported on one monthly statement.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 3, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon 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. 85–19461 Filed 8–14–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23791; 70–7134]

Jersey Central Power and Light Co.; Proposal to Enter Fuel Lease Agreement

August 9, 1985.

Jersey Central Power and Light Company ("JCP&L), Madison Avenue at Punch Bowl Road, Morristown, New Jersey 07960, a subsidiary of General Public Utilities Corporation, a registered holding company, has filed an application with this Commission pursuant to 9(a) and 10 of the Public Utility Holding Company Act of 1935 ("Act").

JCP&L proposes to enter into a nuclear fuel lease agreement ("Lease") with PruLease, Inc. ("Lessor"), an affiliate of The Prudential Insurance Company of America. Under the terms of the proposed Lease, the Lessor would acquire from and simultaneously lease to JCP&L certain nuclear fuel, fuel assemblies and component parts ("Nuclear Material") for use in its Oyster Creek nuclear generating station ("Oyster Creek"). JCP&L expects that, based upon past operating history and its current operational expectations, the Nuclear Material covered by the Lease would be used in the reactor for approximately eight years.

Title to the Nuclear Material so acquired will vest and remain with the Lessor. The Lessor would also made payments for related milling, conversion, enrichment and fabrication services, pursuant to contracts for such services assigned to the Lessor by JCP&L, and other costs generally associated with the Nuclear Material. The Lease provides that the Lessor's unrecovered acquisition costs for Nuclear Material and payments for such related services and other cost ("Acquisition Costs"), may not exceed, in the aggregate, $60 million outstanding at any one time. The initial Lease term will be for approximately six months and, subject to the satisfaction of certain conditions, will be extended for monthly periods thereafter, subject to certain termination provisions.

During the term of the Lease, JCP&L would pay to the Lessor, in advance, a monthly rental payment consisting of a British Thermal Unit, or so-called "burn-up", charge ("BTU Charge"), and a lease rate ("Lease Rate"). The BTU Charge will consist of an amount, estimated in advance, based upon the anticipated rate of consumption of the fuel in the reactor. During the Lease term, JCP&L may revise the BTU Charge to reflect changes in the anticipated operating life, energy output or utilization of the Nuclear Material, as initially estimated. To the extent that JCP&L makes BTU Charge payments to the Lessor under the Lease, the amount of outstanding Acquisition Costs will be correspondingly reduced, thereby creating additional availability under the Lease for the Lessor to acquire Nuclear Material.

The Lease Rate, which will be based upon the unamortized cost of the Nuclear Material from time to time, will be 2% above the yield adjusted rate charged on 30-day dealer placed commercial paper issued by Prudential Funding Corportion (an affiliate of the Lessor), as such rate is in effect from time to time on the 15th day of each month. (At the date hereof, the Lease Rate would be approximately 9.5% per annum.) JCP&L will be required to make monthly Lease Rate payments to the Lessor from the time the Nuclear Material is acquired by the Lessor or in the event Acquisition Costs reach $60 million, and to make BTU Charge payments beginning as of the time fuel consumption commences. Pending installation of the Nuclear Material in Oyster Creek, Lease Rate payments may be deferred and included as an Acquisition Cost.

Except as provided below, upon termination of the Lease, JCP&L would be obligated to pay to the Lessor the "Stipulated Casualty Value" ("Value") of any Nuclear Material acquired by Lessor, which amount is designed to reflect the then unamortized cost of the Nuclear Material. However, JCP&L would use its best efforts to dispose of such Nuclear Material on behalf of the Lessor to a third party; the proceeds of any such disposition in excess of the Value would be paid to the Lessor. The Lease may be terminated voluntarily by either party upon five months written notice. If the Lease is so terminated by the Lessor, JCP&L would be required to purchase the Nuclear Material but may, at its option, do so during such notice period at the higher of its then fair market value and Value. If JCP&L does not exercise such option, or in the event JCP&L elects to terminate the Lease, JCP&L would pay the Lessor the Value of the Nuclear Material, in the manner described above. If JCP&L is unable to dispose of the Nuclear Material to a third party upon termination of the Lease, the Lessor may then convey the Nuclear Material to JCP&L.

JCP&L has agreed to pay the Lessor a lease origination fee of $75,000 (representing ⅛ of 1% of the total Acquisition Costs of $60 million of the Nuclear Material, which may be outstanding at any one time) upon execution and delivery of the Lease, together with Lessor's expenses in connection with the execution of the Lease and consummation of the transactions contemplated thereby. JCP&L will also indemnify the Lessor against certain liabilities, hazards, contingencies and risks of loss in connection with the Lessor's acquisition and lease of Nuclear Material to JCP&L.

The application and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 3, 1985 to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the applicants at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application, as amended or as it may be further amended, may be granted.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-19462 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14662; 812-6139]

Keystone Tax Exempt Trust; Filing of Application for an Order Granting Exemption

August 7, 1985.

Notice is hereby given that Keystone Tax Exempt Trust (" Applicant"), 99 High Street, Boston, Massachusetts 02110, an open-end, diversified, management investment company registered under the Investment Company Act of 1940 ("Act"), filed an application on June 24, 1985, pursuant to section 6(c) of the Act for an order of the Commission, exempting Applicant from the provisions of section 2(a)(32), 2(a)(35) and 22(c) of the Act and Rule 22c-1 thereunder to the extent necessary to permit Applicant to assess a contingent deferred sales charge on certain redemptions of its shares. 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 and regulations for the text of relevant provisions thereof.

Applicant proposes to offer its shares without imposition of a sales load at the time of purchase, thereby permitting shareholders to have the benefit of greater investment dollars working for them from the time of their purchase of Applicant's shares. Instead of the traditional sales charge assessed at purchase, Applicant proposes to assess a contingent deferred sales charge on certain redemptions of its shares.

Applicant proposes to sell its shares through Keystone Massachusetts Distributions, Inc. (("KMDI") as principal underwriter, and to finance in part the distribution of its shares under a distribution plan pursuant to Rule 12b-1 under the Act. Applicant's Rule 12b-1 plan provides for the payment, out of Applicant's assets, of commissions on sales of Applicant's shares made by KMDI. Applicant's distribution fee would be computed quarterly on the basis of a maximum amount approximately equal to 1.25% per year of Applicant's average daily net assets.

Accordingly to the Application, the contingent deferred sales charge will never exceed 4% of the lesser of that net asset value of the shares redeemed or the total cost of such shares. Where a contingent deferred sales charge is imposed, the amount of the charge will depend on the number of years since the purchase payment comprising the source of the redemption was made, starting at 4 percent, decreasing one percent a year.

Applicant represents that no contingent deferred sales charge will be imposed when the investor redeems (1) shares with respect to which Applicant did not pay a commission on issuance (including shares acquired through reinvestment of divided income and capital gains distributions), (2) shares which, together with exchanged shares, have been held during all or part of more than four consecutive calendar years, or (3) shares exchanged for shares in other mutual funds in the Keystone Massachusetts Group; however, if such shares are subject to a contingent deferred sales charge, The

charge and calendar year of purchase will carry over to the shares being acquired. The application states that in determining whether a contingent deferred sales charge is payable, and, if so, the percentage charge applicable, it is assumed that shares held the longest are the first to be redeemed.

Applicant submits that the imposition of the contingent deferred sales charge in the manner described above would not cause its shares to fall outside the definition of "redeemable securities" in section 2(a)(32) of the Act. Applicant states that the imposition of the contingent deferred sales charge in no way restricts a shareholder from receiving a proportionate share of the current net assets of Applicant, but merely defers the deduction of a sales charge and makes it contingent upon an event which may never occur. Accordingly, Applicant requests an exemption from section 2(a)(32) of the Act to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Applicant asserts that the proposed contingent deferred sales charge is consistent with the intent of the definition of "sale load" contained in section 2(a)(35) of the Act. Applicant contends that the deferral of the sales charge, and is contingency upon an event which may not occur, does not change the basic nature of this charge, which is in every other respect a sales charge. Accordingly, Applicant requests an exemption from the provisions of section 2(a)(35) to the extent necessary to implement the proposed charge.

Applicant contends that when a redemption of its shares is effected the price of the shares that when a redemption of its shares is effected, the price of the shares on redemption will be based on current net asset value. The contingent deferred sales charge will merely be deducted form the redemption proceeds at the time of redemption in arriving at the net proceeds payable to the shareholder. Applicant requests an exemption from the provisions of section 22(c) of the Act and Rule 22–1 thereunder to the extent necessary to permit implementation of the proposed contingent deferred sales charge.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 30, 1985, at 5:50 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. 85–19463 Filed 8–14–85; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 35–23787; 70–7087]

New England Electric System; Proposed Issuance and Sale of Short-Term Notes to Banks

August 8, 1985.

New England Electric System ("NEES"), 25 Research Drive, Westborough, Massachusetts 01582, a registered holding company, has filed with this Commission a post-effective amendment to the declaration in this proceeding pursuant to sections 6(a) and 7 of the Public Utility Holding Company Act of 1935 ("Act").

By order in this proceeding dated March 26, 1985 (HCAR No. 23641), NEES was authorized to issue and sell up to a maximum aggregate outstanding principal amount of $40,000,000 of short-term notes to a group of banks from time to time through March 31, 1987. NEES now proposes that such short-term borrowing authority be increased to $100,000,000. The notes will mature in less than one year from the date of issuance. The effective interest cost of borrowings will not be greater than the effective interest cost of borrowings at the bank's base or prime lending rate with compensating balance requirements of 10% of the line of credit and 10% of any borrowings thereunder. Based upon a prime rate of 9.5%, the effective interest cost would not exceed 11.9% per annum. NEES believes the requested short-term borrowing authority is necessary to enable the company to meet the financial needs of its subsidiaries.

The post-effective amendment to the declaration and any further amendments are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by September 3, 1985, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, and serve a copy on the declarant at the address specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the declaration, as now amended or as it may be further amended, may be permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85–19464 Filed 8–14–85; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–14054]

Application and Opportunity for Hearing; People Express Airlines, Inc.

August 9, 1985.

Notice is hereby given that People Express Airlines, Inc. ("Applicant") has filed an application under clause (ii) of section 310(b)(1) of the Trust Indenture Act of 1939, as amended (the "1939 Act"), for a finding by the Securities and Exchange Commission (the "Commission") that the trusteeships of United States Trust Company of New York ("U.S. Trust") under two indentures qualified under the 1939 Act 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 U.S. Trust from acting as trustee under the indentures.

The application alleges that:

(1) Applicant filed on June 5, 1985, a Registration Statement on Form S–3 covering the offering of $25,000,000 principal amount of non-specified interest bearing Secured Equipment Certificates Due 1990 (the "Series A Certificates") and $75,000,000 principal amount of non-specified interest bearing Secured Equipment Certificates Due 1995 (the "Series B Certificates"). The Series A Certificates and the Series B Certificates were to be issued pursuant to two seprate Secured Equipment Indentures and Lease Agreements, each dated as of June 15, 1985, between U.S. Trust and Applicant (collectively the "Indentures"). By pre-effective amendment to the Form S–3 filed with the Commission on June 13, 1985, the Applicant set the annual interest rates on the Series A and Series B Certificates at 13½% and 14%., respectively, and

increased the principal amount of the Series B Certificates to $100,000,000. The Registration Statement on Form S-3 was declared effective under the Securites Act of 1933 and the Indentures were qualified under the 1939 Act on June 13, 1985.

(2) Applicant believes that no material conflict of interest will result from U.S. Trust acting as trustee under the Indentures since the Series A Certificates and the Series B Certificates are secured by wholly separate and distinct collateral consisting of identified aircraft. In event that U.S. Trust should have the occasion to proceed against the security under one the Indentures, such action would not affect the security, or the use of any security, under the other Indenture. As a result, Applicant believes that the trusteeship of U.S. Trust under one of the Indentures should in no way inhibit or discourage the actions of U.S. Trust under the other Indenture.

Each of the Indentures contains the provisions permitted by the proviso of section 310(b)(1) of the 1939 Act which allow the Applicant to make the application under section 310(b)(1)(ii).

Applicant has waived (a) notice of hearing, (b) hearing on the issues raised by this application and (c) all rights to specify procedures under Rule 8(b) of the Commission's Rules of Practice.

For a more detailed account of the matters of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 450 5th Street, NW., Judiciary Plaza, Washington, D.C. 20549.

Notice is further given that any interested person may, not later than September 4, 1985 request, in writing, that a hearing be held on such matter, stating the nature of his interests, the reasons for such request, and the issues of law or fact raised by such application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed to: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. At any time after said date, the Commission may issue an order granting the application upon such terms and conditions as the Commission may deem necessary or appropriate in the public interest and for the protection on of investors, unless a hearing is ordered by the Commission.

For the Commission, pursuant to delegated authority, by the Division of Corporation Finance.

John Wheeler,

Secretary.

[FR Doc. 85-19465 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No.IC-14559; 812-6148]

Putnam Tax-Free Income Trust, et al. Notice of Application for Exemptive Order Relating to Contingent Deferred Sales Charge

August 6, 1985.

Notice is hereby given that Putnam Tax-Free Income Trust ("Trust"), One Post Office Square, Boston, Massachusetts 02109, an open-end, diversified, management, series investment company registered under the Investment Company Act of 1940 ("Act"), and Putnam Financial Services, Inc., its principal underwriter ("Distributor"), collectively, "Applicants"), filed an application on July 3, 1985, for an order pursuant to section 6(c) of the Act exempting Applicants from the provisions of sections 2(a)(32), 2(a)(35), 11(a) and 22(c) of the Act and Rule 22c-1 thereunder, to the extent necessary to permit the assessment (and waiver in certain cases) of a contingent deferred sales charge ("CDSC") on certain redemptions of Trust shares. Applicants request that the exemptive relief by applicable to any future series of the Trust and to any other registered investment companies in the Putnam family of mutual funds that may be formed in the future for which the Distributor or one of its affiliates serves as principal underwriter. 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 and rules thereunder for the text of the applicable provisions.

According to the application, the trust was organized as a Massachusetts business trust in June, 1985. It is managed by The Putnam Management Company Inc. ("Manager"). Applicants propose to offer Trust shares without imposition of a sales load at the time of purchase, thereby permitting shareholders to have the benefit of greater investment dollars working for them from the time of their purchase of Trust shares.

Applicants represent that the CDSC imposed upon redemption would not, in the aggregate, exceed five percent of the aggregate purchase payments made by the investor. The CDSC would generally be imposed if an investor redeems shares within six years of purchasing them. However, no CDSC would be imposed to the extent that the shares redeemed (1) were purchased within six years of redemption, (2) resulted from reinvestment of net investment income or capital gain distributions, (3) resulted from an exchange of shares of a Putnam fund with a "front-end" load for shares of the Trust, (4) represent net appreciation in the value of shares purchased during the six years preceding the redemption. Applicants state that the CDSC will be waived on redemptions made by a certain defined class of purchasers comprising its officers and trustees and employees of certain affiliated companies in compliance with Rule 22d-1 of the Act.

Applicants state that, in determining whether a CDSC is applicable, the Trust will first redeem shares purchased more than six years before redemption, shares representing reinvestment of capital gains and dividends and shares obtained through exchanges. If these shares are insufficient to cover the number of shares to be redeemed, shares attributable to appreciation of shares purchased during the preceding six years will be redeemed next. The Trust will attribute such shares to each of the preceding six years in proportion to the appreciation of shares purchased in each year. The amount of the charge will depend on the number of years since the investor purchased shares and the aggregate cost of purchases in each year. During the first year after purchase, the charge will be five percent of the amount redeemed. Thereafter, the charge will decrease one percent annually until the expiration of six years, at which time no charge would be imposed. Applicants state that in determining the amount of any applicable CDSC, the amount of dollars redeemed will be charged against the aggregate cost of shares purchased in each year not previously subject to a charge, beginning with the oldest.

The Trust proposes to finance distribution expenses pursuant to a distribution plan adopted under Rule 12b-1 under the Act. Under the proposed distribution plan, the Trust will pay an annual fee equal to one percent of its average daily net asset value to the Distributor for services provided and expenses incurred by the Distributor in connection with the offering of the Trust's shares. These expenses include sales charges paid to broker-dealers at the time of sale.

Applicants state that when a shareholder of the Trust transfers shares, the transferring shareholder will

pay no CDSC. The Trust proposes to transfer shares in the following manner. The Trust will compute the proportion of shares being transferred to the total number of shares owned by the shareholder. The Trust will then transfer a proportional amount of share (i) owned by the transferring shareholder for more than six years or acquired through reinvestment or transfer out of a fund with a "front-end" sales load and (ii) those purchased by the transferring shareholder in each of the six years preceding the transfer. When the receiving shareholder redeems the transferred shares, he will be treated as if he acquired the transferred shares in the same manner and at the same time as the transferring shareholder for purposes of applying the CDSC to the transferred shares.

Applicants further state that when a shareholder of the Trust exchanges shares in one series for shares in another series of the Trust or for shares in any future Putnam fund with a CDSC, or exchanges shares of any such future fund for shares of the Trust, the shareholder will be able to exchange such shares without paying a CDSC. When the shareholder redeems the shares he acquired through the exchange, he will be treated as if no exchange took place for purposes of applying the CDSC when the shares acquired by the exchange are redeemed.

The Applicants submit that the proposed CDSC is consistent with all provisions of the Act. However, to avoid any possibility that questions may be raised as to the potential applicability of various definitional and regulatory sections of the Act, the Applicants request exemption to the extent necessary or appropriate from the provisions of sections 2(a)(32), 2(a)(35), 11(a) and 22(c) of the Act and Rule 22c-1 thereunder.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 30, at 5:30 p.m. do so by submitting a written request setting forth in 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-lay, 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. 85-19466 Filed 8-14-85; 8:45 am]

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[Release No. IC-14663; 813-65]

Shearson Lehman Brothers Capital Partners-85 and SLB Investment Inc; Notice of Application for an Order for an Exemption From Certain Provisions and an Order Granting Confidential Treatment

August 7, 1985.

Notice is hereby given that Shearson Lehman Brothers Capital Partners-85, a limited partnership organized under the laws of the State of New York ("Partnership") 55 Water Street, New York, New York 10041, and SLB Investment Inc., a Delaware corporation, the general partner of the Partnership ("General Partner") (Partnership and General Partner collectively, "Applicants"), filed an application on February 22, 1985, and amendments thereto on May 1, 1985, and June 12, 1985, pursuant to sections 6(b) and 6(e) of the Investment Company Act of 1940 ("Act"), exempting Applicants and all similar partnerships offered to the same class of investors as the limited partner investors in the Partnership and entities formed to serve a general partners thereof ("Subsequent Partnerships") (Subsequent Partnerships and the Partnership collectively, "Partnerships"), from all provisions of the Act and the rules and regulations thereunder except: (1) Sections 9, 17(a) and 17(d) (with certain exceptions), 30 (with certain exceptions), 36 and 37 of the Act and the rules and regulations thereunder necessary to implement the above referenced Sections of the Act, and (2) all administrative and jurisdictional Sections of the Act, and the rules and regulations thereunder necessary to enforce compliance with the terms of the order as granted. Applicants also request an order, pursuant to section 45(a) of the Act, granting confidential treatment for certain reports to be filed with the Commission. 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 applicable statutory provisions.

Applicants state that the Partnership was organized on February 13, 1985, to enable certain key employees of Shearson Lehman/American Express Inc. ("Shearson Lehman"), an indirect wholly-owned subsidiary of American Express Company ("American Express") and its affiliates, to pool their investment resources and participate in investment opportunities which come to the attention of Shearson Lehman. Applicants state their intention is for the General Partner to serve as general partner for the Subsequent Partnerships, and that the Partnerships are expected to contain substantially identical limited partnership agreements ("Agreements"). Applicants may create one or more separate, direct or indirect, wholly-ownerd subsidiaries of Shearson Lehman or one of its affiliates to serve as general partner to one or more of the Subsequent Partnerships. Any such entities will be subject to each relevant reference to the General Partner made herein.

The Partnerships are expected to operate as non-diversified, closed-end, management investment companies. The investment objectives and policies of the Partnerships may very, and Applicants state that the specific investment objectives for a particular Partnership will be set forth in a private placement memorandum provided to selected, eligible employees in connection with an investment in the Partnerships.

Applicants represent that units in the Partnerships ("Units") will be offered only to certain senior officers and employees of Shearson Lehman and certain upper level officers of Shearson Lehman affiliates ("Eligible Employees") who must (1) qualify as an "accredited investor" under Rule 501(a)(7) of Regulation D under the Securities Act of 1933 ("Securities Act") and, (2) have had a minimum reportable income from employment in excess of $100,000 in the calendar year. Eligible Employees will be experienced professionals in the investment, banking, securities, commodities or insurance businesses, or in administration or operation activities related to the various businesses engaged in by American Express and its subsidiaries. Units representing capital contributions of $1,000 each will be offered to Eligible Employees without fee by the Partnerships in reliance upon the exemption from registration provision of section 4(2) of the Securities Act. A committee of the Board of Directors of Shearson Lehman/American Express Holdings, Inc., Shearson Lehman's immediate parent, will determine the number of Units each Eligible Employee may be permitted to purchase. The purchase price may be payable either in cash upon commencement of the Partnership's

operations or in installments as determined by the General Partner. Applicants reserve the right not to sell Units in the event a specified number of Units are not sold.

Transferability of Units by limited partners, Applicants state, is prohibited unless the General Partner consents thereto, and then only to a member of the limited partner's immediate family. Units will not generally be redeemable; however, the Agreements may provide that the General Partner may or must repurchase Units under certain circumstances for a price determined based on the duration of Unit ownership.

Applicants state that management of the Partnerships will be exclusively invested in the General Partner which will be responsible for all investment decisions. No compensation will be paid to the General Partner for its services other than reimbursement for reasonable and necessary out-of-pocket expenses incurred during the course of conducting the Partnership business and any interest from loans the General Partner makes to the Partnerships. Applicants have undertaken to contribute capital to the Initial Partnership in an amount equal to five times the aggregate capital contributed by limited partners, and that Applicants recognize that the General Partner will be obligated to make contributions to Subsequent Partnerships in substantially similar amounts. The General Partner will be entitled to a cumulative return on the unreturned portion of its capital contribution, compounded semiannually and allocable annually ("Fixed Return"). The Fixed Return will be determined at the time the General Partner makes a capital contribution to the Partnership based upon all relevant facts and circumstances. The Fixed Return will be calculated with reference to the rate imposed in connection with certain loans under Section 7872 of the Internal Revenue Code of 1954, as amended. Applicants state the Fixed Return is a form of compensation to the General Partner for its disproportionate capital contribution. Applicants further state that the General Partner will be capitalized so as to satisfy Internal Revenue Service guidelines with respect to tax classification of partnerships.

Applicants state that Shearson Lehman and its affiliates may receive compensation from companies in which Shearson Lehman and the Partnerships invest. These amounts will be paid by the portfolio companies and not the Partnerships. Shearson Lehman may also make loans to the Partnerships and, in consideration therefor, will be entitled to receive out-of-pocket expenses incurred as well as interest on the loan at the prime rate as charged from time to time by a major money center bank.

The Partnerships may invest in opportunities offered to or by, or that come to the attention of, Shearson Lehman and its affiliates, including opportunities in which Shearson Lehman and its affiliates may invest for their own respective accounts. The Partnership may also sell securities positions to Shearson Lehman.

The General Partner will have discretion on distributing cash and proceeds from a Partnership's investments to the limited partners. The General Partner expects that its policy with respect to the Partnerships will be to distribute the proceeds of long-term investments upon the disposition thereof, and to determine, on a transaction by transaction basis, whether to distribute or reinvest the proceeds of short-term investments.

Profits and losses of the Partnerships will be distributed and determined in accordance with the Agreements; aside from distributions made first to the General Partner pursuant to the Fixed Return and to limited partners to pay taxes on allocation of Partnerships items, thereafter the General Partner, until its capital contribution is returned, will receive 10% of Partnership profits and losses and limited partners will receive 90% of Partnership profits and losses, except that the General Partner will remain liable for losses exceeding Partnership assets.

Applicants state that limited partners will receive annual reports regarding the Partnerships, audited by certified public accountants, that disclose any outstanding debts of the Partnerships. A report will also be sent to limited partners as soon as practicable at the end of the Partnerships' tax years setting forth distributive shares of income, gains, losses, credits and other items for federal income tax purposes resulting from Partnership operations during the year. Partnerships will have a scheduled term of 25 years unless dissolved upon the occurrence of certain events set forth in the Agreements. On the basis of the foregoing, and for other reasons set forth in the application, it is submitted that the requested exemptions are appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

An exemption from section 17(a) is requested to the extent necessary to permit the Partnerships to engage in certain transactions as principal with Shearson Lehman or its affiliates. The exemption is requested to permit the Partnership (a) to purchase from Shearson Lehman or its affiliates securities or interests in properties previously acquired for the account of Shearson Lehman or its affiliates; (b) to sell to Shearson Lehman or its affiliates its securities or interests in properties previously acquired by the Partnerships; (c) to invest in other investment vehicles, including partnerships, offered, sponsored or managed by Shearson Lehman or its affiliates ("SL Investments") or to purchase securities from an SL Investment; (d) to purchase interests in persons of which Shearson Lehman or its affiliates owns 5% or more of the outstanding voting securities, or that are otherwise affiliated with the Partnerships; (e) to purchase securities that are underwritten by Shearson at Lehman or its affiliates unless such purchase is on terms at least as favorable as those offered to persons other than affiliated persons of Shearson Lehman; (f) to participate as a selling shareholder in a public offering that is underwritten by Shearson Lehman or an affiliate or as a member of a selling group; (g) to invest in money market funds managed or underwritten by Shearson Lehman or its affiliates; (h) to purchase short-term instruments from, or sell to, Shearson Lehman or its affiliates at market value, and (i) to enter into repurchase transactions with Shearson Lehman pending investment by a Partnership.

Applicants represent that the Partnerships will not purchase investments from Shearson Lehman or its affiliates unless they were designated for future sale to a Partnership at the time of acquisition by Shearson Lehman. Applicants further state that the Partnerships will not pay any fees in connection with the purchase of short-term instruments from Shearson Lehman or its affiliates, and that Partnership funds invested in Shearson Lehman managed money market funds will be subject to those fees charged to and paid by persons unaffiliated with Shearson Lehman.

Applicants submit that the requested exemption under Section 17 of the Act is to assure that the Participants are able to invest in attractive companies or properties in which Shearson Lehman has an interest. Because Shearson Lehman's purpose is to reward existing employees and to attract highly qualified personnel, Applicants contend that such investments will not disadvantage the Partnerships.

Applicants also note the community of interest between the Partnerships and the General Partner, and that the General Partner is making a significantly larger capital contribution to the capital of the Partnerships. Applicants therefore maintain that the General Partner will always have a strong economic disincentive to engage in transactions to the detriment of the Partnerships.

Each transaction pursuant to the section 17(a) exemption, Applicants state, will be effected only upon a determination by the Board of Directors of the General Partner that the terms of the transaction are reasonable and fair and do not involve overreaching of the Partnership or its limited partners on the part of any person concerned. Applicants also acknowledge that any transactions subject to section 17(a) for which exemption has not been granted will require specific Commission approval.

Applicants also request an order for exemption from section 17(d) of the Act to the extent necessary to permit a Partnership to make an investment in which Shearson Lehman, a Shearson Lehman affiliate, or any officer, director or employee of the General Partner ("General Partner Employee") is a participant of plans concurrently or otherwise directly or indirectly to become a participant. The exemption is requested to permit one or more Partnerships to invest (a) in a company, partnership or investment vehicle offered, sponsored or managed by Shearson Lehman or a Shearson Lehman affiliate (1) in which Shearson Lehman or a Shearman Lehman affiliate or a General Partner Employee ("Co-Investors") is a participant or plans to become a participant, or (2) with respect to which a Shearson Lehman or a Shearson Lehman affiliate is entitled to receive placement fees, brokerage commissions or other economic benefits; (b) in an SL Investment, or (c) in one or more Partnerships in which an SL Investment is a participant or plans to become a participant, including instances in which Shearson Lehman or a Shearson Lehman affiliate or one or more General Partner Employees has a partnership interest or other interest in, or has some compensation arrangement with the SLV. Applicants represent that such concurrent investments by a Partnership will be made on the same basis as other persons.

Applicants expressly condition any order under section 17(d) upon the terms that the (1) General Partner invests at least (a) at any time prior to the date in which the General Partner has received as a distribution, in cash or kind, an amount equal to seventy-five percent of its capital contribution plus the Fixed Return ("Distribution Date") an amount equal to the amount invested by the Partnership, or (b) at any time on or after the Distribution Date, an amount equal to three times the amount invested by the Partnership ("Required Investment"), and (2) the General Partner obtains from the Co-Investor an undertaking to (a) maintain its investment in an amount equal to the Required Investment, (b) to give the General Partner sufficient, but not less than one day's notice of its intent to dispose of its investment, and (c) to refrain from any disposition unless the Partnership has the opportunity to dispose of its investment prior to or concurrently with, and on the same terms as, the Co-Investor.

Applicants state that for purposes of comparing the amount of a Co-Investor's investment with that of the Partnership, a portion of the General Partner's contribution to the capital of the Partnership may be added to the amount invested directly by the Co-Investor. The portion that may be added will be an amount equal to the product after an unreturned balance of the General Partner's capital contribution to the Partnership multiplied by a fraction, the numerator of which is the aggregate amount invested by the Partnership in a joint investment and the denominator of which is the aggregate of all Partnership investments. In any case, a joint investment may be made when the amount of the Co-Investor's investment is less than the Required Investment provided that (1) all joint investments by the Patnership, including any investments by a Co-Investor in an amount less than the Required Investment, will in the aggregate satisfy the undertaking that the amount invested by a Co-Investor will be at least equal to the Required Investment, (2) the Partnership will be premitted by the Co-Investor to determine what portion of the available investment the Partnership desires to purchase so that the Partnership would not be limited in its investment with respect to the Co-Investor; and (3) the Co-Investor undertakes to the Partnership that it will abide by the determination of the Partnership as to (a) disposition of the joint investment, of (b) exercise of any right to vote incident to the Joint Investment.

Applicants undertake, as a condition to the requested exemption, that the General Partner's officers and directors will review each joint investment and will make a determination that the investment by the Co-Investor will not disadvantage a Partnership in its investment, maintaining its position or in its disposition. Applicants also agree to make available for inspection by the Commission and limited partners the minutes of the meetings of the Boards of Directors of the General Partner, including the policies adopted by the General Partner for investment evaluation. Applicants acknowledge that any transactions for which exemption has not been granted will require approval by the Commission. Applicants further acknowledge that the General Partner is subject to, and will comply with the provisions of section 36 of the Act; and the recordkeeping requirements contained in section 57(f)(3), and 57(h) of the Act.

Applicants contend that the requested exemption is consistent with the Act's objectives and that the Partnership's participation in joint investments will be on a basis no different or less advantageous than that of SL Affiliates. Applicants concede that the General Partner will be allocated an amount equal to its capital contribution prior to any allocation of profits to the limited partners. However, Applicants assert that the General Partner will continue to have a strong economic disincentive to permit the Partnership to engage in unfavorable Joint Transactions because it will continue to share in the Patnership profits and will remain liable for the extent Partnership losses exceeds its assets. Applicants further submit that Co-Investors will at a minimum invest an amount equal to the Required Investment, thereby assuring the Partnership's participation is on a basis no less advantageous or different than that of the Co-Investor.

Applicants also request an order for exemption from sections 30(a), (b), (c), and (d) to the extent necessary to exempt the Partnerships from filing periodic reports with the Commission, but in lieu thereof will: (1) provide limited partners with the reports required under the terms of their respective Agreements, (2) file with the Commission, within 120 days after a Partnership's fiscal year end, a copy of the report sent to the limited partners pursuant to the Agreement, and (3) to file semi-annual reports on Form N-SAR with the Commission and to send copies thereof or limited partners. Applicants contend limited partners will thus receive the equivalent benefits that section 30 provides, and that granting the relief requested would be consistent with the protection of investors and the policies fairly intended by the act.

Applicants further request that any filings made under section 30 be afforded confidential treatment under section 45(a) of the Act. Such confidential treatment is requested on the basis that the investments made by the Partnerships are not generally available to the public, and that if the investments were made known to the public, unwarranted or incorrect impressions or expectations among investors could result.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than August 27, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for the request, and the specific issues of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 85-19467 Filed 8-14-85; 8:45 am]

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[Release No. IC-14668; 812-6126]

Shearson Lehman Special Portfolios; Application for Order Permitting Assessment (and Waiver) of a Contingent Deferred Sales Load and Permitting Offer of Exchange

August 9, 1985.

Notice is hereby given that Shearson Lehman Special Portfolios ("Applicant"), Two World Trade Center, New York, NY 10048, filed an application ("Application") on May 29, 1985, and an amendment thereto on July 26, 1985, for an order of the Commission pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act") (1) exempting Applicant from the provisions of sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rules 22c-1 and 22d-1 under the Act of the extent necessary to permit Applicant to assess a contingent deferred sales charge on redemptions of its initial and future series of shares, and to permit Applicant under certain circumstances to waive or apply credits against the contingent deferred sales charge, and (2) exempting Applicant from the provisions of section 11(a) of the Act to permit Applicant to offer to exchange shares of each of Applicant's series for shares of any other of Applicant's series on the basis of relative net asset values per share of the series at the time of the exchange, subject to a $5.00 service charge on each exchange. 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 and the rules thereunder for the text of the applicable statutory provisions.

According to the Application, Applicant is an open-end, diversified, management investment company that was organized as a business trust under the laws of the Commonwealth of Massachusetts on March 12, 1985. Applicant states that it is a series company currently composed of three series-the Option Income Portfolio, the Tax-Exempt Income Portfolio and the Intermediate Term Government Securities Portfolio (collectively the "Portfolios"). Applicant states further that shares of all of the Portfolios are distributed by Shearson Lehman Brothers Inc. ("Shearson Lehman"), and affiliates of Shearson Lehman serve as the investment advisers to the various Portfolios. According to the Application, The Boston Company Advisors, Inc. ("Boston Advisors"), an indirect wholly-owned subsidiary of Shearson Lehman, serves as the investment adviser of the Option Income Portfolio, and Bernstein-Macaulay, Inc., a wholly-owned subsidiary of Shearson Lehman, serves as the investment adviser of the Intermediate Term Government Securities Portfolio. The application states that the investment adviser of the Tax-Exempt Income Portfolio is Shearson Asset Management, Inc., a wholly-owned subsidiary of Shearson Lehman. The Application also states that Boston Advisors, in addition to its role as sub-investment adviser for the Tax-Exempt Income Portfolio and the Intermediate Term Government Securities Portfolio and as the administrator for each of the Portfolios.

According to the Application, Applicant Proposes to (1) offer shares of each Portfolio subject to a contingent deferred sales charge, (2) institute a plan of distribution in accordance with Rule 12b-1 under the Act and (3) provide Applicant's shareholders with the right to exchange shares of one Portfolio for shares of another Portfolio.

Under Applicant's proposal, shares of each of the Portfolios would be offered and sold without the deduction of a sales load at the time of the purchase. Applicant represents that certain redemption of shares of the Portfolios, however, would be subject to a contingent deferred sales charge, (the "Charge"). Applicant states that the proceeds of the Charge would be paid to Shearson Lehman and would be used by Shearson Lehman in whole or in part to defray costs incurred in connection with the sale of Applicant's shares, including payments of sales commissions to Shearson Lehman Financial Consultants on the sale of those shares.

According to the Application, the Charge would be imposed on a redemption of shares of any Portfolio that causes the current value of the shares of the Portfolio held by a shareholder to fall below the total dollar amount of payments for the purchase of shares of the Portfolio made by the shareholder during the preceding five years. The Application states that no Charge would be imposed to the extent that the net asset value of the shares redeemed by a shareholder does not exceed (1) the current net asset value of shares of the Portfolio purchased more than five years prior to the redemption ("Old Shares Value"), plus (2) the current net asset value of shares of the Portfolio purchased through reinvestment of dividends or capital gains distributions ("Reinvestment Shares Value"), plus (3) increases in the net asset value of the shares of the Portfolio above purchase payments made during the preceding five years ("Appreciation Value").

The Application states that, in effecting a particular redemption request of shares of a Portfolio made by a shareholder, Applicant would first redeem an amount that represents Appreciation Value. It the amount of the requested redemption exceed Appreciation Value, Applicant would next redeem an amount that represents Reinvestment Shares Value. If the amount of the redemption exceeded Appreciation Value and Reinvestment Shares Value, Applicant would then redeem an amount that represents Old Shares Value. The amount by which a redemption exceeds the total of Appreciation Value, Reinvestment Shares Value and Old Shares Value would be subject to the Charge.

Applicant represents that the amount of the Charge would depend on the number of years that have elapsed since the shareholder made the purchase payment from which an amount is being redeemed. Such charge would be 5% in the first year and decrease by 1% per year. Applicant also states that the amount of the Charge (if any) would be calculated by first determining the date

on which the purchase that is the source of the redemption was made, and then applying the appropriate percentage to the amount of the redemption subject to the Charge. All purchase payments for shares of a Portfolio made by a shareholder during a particular Shearson Lehman statement month will be aggregated and deemed to have been made on the last day of the preceding Shearson Lehman statement month for purposes of determining the number of years that have elapsed since the purchase payments were made.

Applicant states that, in determining whether a Charge is payable and, if so, the percentage Charge that is applicable, Applicant will assume that the purchase payment for shares of a Portfolio from which a redemption is made is the earliest purchase payment from which a full redemption has not already been effected. In addition, Applicant will assess no Charge on exchanges of shares between Portfolio. Moreover, when shares of one Portfolio are exchanged for shares of another Portfolio, the purchase date for the shares of the Portfolio exchanged into, will be assumed by Applicant to be the date on which the shares were purchased in the Portfolio from which the exchange was made.

Under Applicant's proposal, the Charge would be waived on the following redemptions: (1) Any partial or total redemption of shares of a shareholder who dies or becomes disabled, so long as the redemption is requested within one year of death or initial determination of disability; (2) any partial or complete redemption in connection with certain distributions form Individual Retirement Accounts ("IRA's") or other qualified retirement plans; (3) redemptions effected pursuant to Applicant's automatic cash withdrawal plan, under which a shareholder who owns shares of a Portfolio with a value in excess of $10,000 may elect to receive periodic cash payments of at least $50 monthly; (4) redemptions effected pursuant to Applicant's right to liquidate a shareholder's account if the aggregate net asset value of the shares held in the account is less than $250; (5) redemptions effected by (i) employees of American Express and its subsidiaries, (ii) IRA's, Keogh plans and employee benefit plans for those employees, and (iii) spouses and minor children of those employees, so long as orders for Applicant's shares on behalf of the spouses and children are placed by the employees; (6) redemptions effected by accounts managed by investment advisory subsidiaries of American Express registered under the Investment Advisers Act of 1940; (7) redemptions effected by directors or trustees of any investment company for which Shearson Lehman serves as distributor; and (8) redemptions effected by an investment company registered under the Act in connection with the combination of the investment company with Applicant by merger, acquisition of assets or by any other transaction. Applicant also proposes to institute a one-time only reinvestment privilege under which a shareholder who redeems shares subject to the Charge and reinvests the proceeds of the redemption within 30 days of the redemption would receive a credit against the amount of the Charge paid. Applicant represents that the percentage of the Charge credited to the shareholder would be the same as the percentage of the redemption proceeds that are reinvested.

Applicant proposes to finance its distribution expenses pursuant to a plan (the "Plan") adopted pursuant to Rule 12b-1 under the Act. Applicant states that, under the Plan, Applicant will pay an annual fee of .75 percent to Shearson Lehman for expenses incurred in connection with the offering of Applicant's shares.

Applicant proposes to offer to exchange shares of each Portfolio for shares of any other Portfolio at their relative net asset values. According to Applicant, a $5.00 service fee, however, which will be paid to Shearson Lehman, will be deducted on each exchange. Applicant points out that the $5.00 service charge is merely an administrative fee that will be paid by a shareholder to defray the expense of facilitating the exchange. The imposition of the service fee, Applicant contends, does not affect the basis on which exchanges between Portfolios will be made. Each exchange, Applicant submits, will be undertaken on the basis of the relative net asset values of the Portfolios involved and, for that reason, should be viewed as being consistent with the requirements of section 11(a).

Applicant submits that its proposal is consistent with the policies underlying the Act. Nonetheless, to avoid any possibility that questions may be raised as to the various definitional and regulatory sections of the Act, Applicant seeks an exemption to the extent necessary or appropriate from the provisions of section 2(a)(32), 2(a)35), 11(a), and 22(c) of the Act and Rules 22c-1 and 22d-1.

Applicant believes that the Charge and the exchange privilege are fair and in the best interests of Applicant's shareholders for a number of reasons. Applicant submits that the operation of the Charge will enable Applicant's shareholders to have the advantage of greater investment dollars working for them from the time of their purchase of Applicant's shares than would be the case if Applicant's shares were sold subject to a traditional front-end sales load. Applicant asserts further that the Charge is fair to shareholders because it applies only to redemptions of amounts representing purchase payments for shares of the Portfolios and does not apply to either increases in the value of a shareholders account through capital appreciation or to increases representing reinvestment of distributions.

Applicant contends that certain of the waivers from the Charge are justified on basic considerations of fairness to shareholders. Applicant submits, for example, that its waiving the Charge in the extraordinary circumstances of death or total disability of a shareholder is inherently fair to shareholders. Waiving the charge on an involuntary redemption effected pursuant to Applicant's right to liquidate shareholder accounts of an aggregate net asset value less than $250 is also justified, Applicant believes, on basic considerations of fairness, because to impose a charge for an involuntary redemption would be equivalent to the imposition of a penalty upon a shareholder. Applicant submits that its proposed waiver on redemptions effected pursuant to Applicant's automatic cash withdrawal plan is fair, because it will enable Applicant's shareholders to receive the full benefit of that plan.

Applicant believes that its proposed waiver of the Charge on redemptions in connection with certain distributions from IRA's or other qualified retirement plans is appropriate for public policy reasons. Waiving the Charge on certain distributions from qualified retirement plans, Applicant submits, is fully consistent with the Code's provisions granting favored tax treatment to accumulations under those plans and imposing additional taxes on early distributions from IRA's and other plans.

A number of the proposed waivers from the Charge, Applicant believes, are appropriate because they involve the redemption of shares sold at little or no selling expense to Shearson Lehman. Included in this group of waivers, Applicant states, are those on (1) redemptions effected by accounts managed by registered investment advisory subsidiaries of American Express, (2) redemptions by employees of American Express and its

subsidiaries and individuals and plans related to those employees, (3) redemptions effected by directors or trustees of any investment company for which Shearson Lehman serves as distributor, and (4) redemptions effected by a registered investment company in connection with the combination of the investment company with Applicant.

Applicant submits that, like its proposed waivers of the Charge, its proposed one-time only credit of all or a portion of the Charge applicable to a shareholder who redeems shares subject to the Charge and reinvests the proceeds of the redemption within 30 days of the redemption is in the interests of shareholders. Applicant notes that the crediting procedure will afford a shareholder of Applicant the opportunity to determine without fear of being subjected to the Charge whether the redemption was the best means of satisfying his current financial needs.

Applicant notes that the proposed exchange privilege will provide shareholders the opportunity to change their investment objective from time to time. Applicant submits that the imposition of the $5.00 service charge on exchange between Portfolios is fair and will not harm shareholders or discriminate among shareholders of any Portfolio. Applicant points out that the service charge is designed merely to compensate Shearson Lehman for the costs incurred in facilitating exchanges between Portfolios.

Notice is further given that any interested person wishing to request a hearing on the Application may, not later than August 28, 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, 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 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-19468 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22306; File No. SR-AMEX-85-29]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.; Relating to an AUTOAMOS Pilot Program

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1984, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 2, 1985 the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "Exchange") proposes to implement an AUTOAMOS pilot program for the automatic execution of certain Major Market Index (XMI) options contracts. The details of the pilot program are described below in Item 3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange implemented the Amex Options Switch (AMOS) System in 1979, which permits member firms to electronically route certain orders directly to specialists' posts for execution, and to receive back confirmations of trades by the same route. In 1983, the speed and accuracy of the AMOS system were substantially improved with the advent of touch-screen technology called AUTOAMOS. Under this new subsystem, market and marketable limit orders input into AMOS are automatically routed to the specialist for display on a touch-screen. The specialist, upon execution of these orders then touches the screen to enter the appropriate trade information—such as the number of contracts executed, the price, and the identity of the contra-broker(s)—and an execution report is then sent automatically to the firm which originally placed the order. Currently, the AUTOAMOS size parameters are ten contracts for both market and limit orders.

AUTOAMOS is utilized on a floorwide basis for all listed options and, on average, has reduced turnaround time from over two minutes to an average of 35 seconds. Its operational efficiency is particularly important for rapid executions in XMI index options, the Exchange's most actively traded option. As XMI trading volume continues to set new records and the number of firms using the system increases, it is anticipated that AUTOAMOS may strain under the increased order flow, and operational difficulties may result for both the system and the specialist. In fact, some operational inefficiency has surfaced in XMI options during limited periods of extreme order influx because (as noted above) (the specialist must manually enter various trade data into the system for each order.

To alleviate this inefficiency, the Exchange proposes to implement a three-month pilot program for the automatic execution and reporting of AUTOAMOS XMI options orders. The proposed system will provide automatic execution capabilities while protecting the limit order book. Under the pilot program, the AUTOAMOS system will be enhanced to differentiate between limit orders on the book and all other bids and offers. This information will be input by the reporter on the Floor at the time a quotation is submitted or updated for an options series eligible for automatic execution. If the best bid and/or offer in the marketplace is a book bid and/or offer, such information will be stored in and recognized by AUTOAMOS.

Pursuant to the pilot program, member firms may route public customers' market and marketable limit orders up to ten contracts through the system to be executed against the best bid or offer at the time the order is entered. If the best bid or offer is an order on the specialist's book, AUTOAMOS will recognize it as such, and route the order to the touch-screen terminal at the specialist's post for manual execution against the limit order book. Accordingly, all orders on the book will

retain priority over all orders in the crowd with regard to the execution of AUTOAMOS orders.

If the AUTOAMOS order (currently limited in size to ten contracts) is for a large number of contracts than the number of contracts bid or offered on the book, the specialist will have the affirmative obligation to fill the balance of the order at the same price as the quoted market. This will ensure that AUTOAMOS orders are executed at a single price at the quoted market. The system would then send an instantaneous report back to the member firm entering the order. In addition, a report of last sale, price and volume would be generated for dissemination to the public.

If the best bid or offer is not on the book, the order will be routed by the AUTOAMOS system for automatic execution at the best prevailing price. Orders will be assigned on a trade-by-trade rotational basis either to one of the Amex marketmakers (Registered Options Traders), who has signed on the system as a contra-broker, or to the specialist, who would participate with them in the automatic rotation. To ensure the integrity of the pilot program, the Exchange would require participating marketmakers to maintain adequate levels of capital and trading volume. Penalties would be levied against marketmakers who sign off the system prematurely. Moreover, participating marketmakers would not be permitted to place limit orders on the specialist's book.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by substantially reducing the operational burdens of executing and reporting XMI AUTOAMOS orders during heavy trading, while maintaining the traditional primacy of orders on the limit order book. Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The XMI Trading Procedures Committee has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 5, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-19470 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-2229; SR-Amex-85-13]

Self-Regulatory Organizations; American Stock Exchange, Inc.; Order Granting Approval of Proposed Rule Change Relating to Listing guidelines for Real Estate Investment Trusts

The American Stock Exchange, Inc. ("Amex") submitted on April 26, 1985, copies of a proposed rule change pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") and Rule 19b-4 thereunder, to amend section 114 of the Amex *Company Guide* to permit Amex Listing of Real Estate Investment Trusts ("REITs") with total operating expenses of up to 2% of their average invested assets in any fiscal year. According to the Amex, the proposed rule would be consistent with guidelines for REITs provided by the North American Securities Administrators Association ("NASAA") and thereby facilitate processing of REIT listing applications by the Exchange.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by the issuance of a Commission release (Securities Exchange Act Release No. 22061, May 29, 1985) and by publication in the **Federal Register** (50 FR 23567, June 4, 1985).[2] No comments were received with respect to the proposed rule change.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder

[1] The proposed Amex definition of "total operating expenses" is the same as the current NASAA definition and excludes costs for direct property operation, maintenance and management. *See* NASAA Statement of Policy Regarding REITs, Section 7.5-1(1) ("Statement"). NASAA, however, recently proposed to amend its definition of total operating expenses to include among other things, direct property operation, maintenance and management costs. *See* Proposed Amendments to Statement, proposed Section 7.5-1(a), issued July 15, 1985. According to a NASAA official, NASAA membership is scheduled to vote on the proposal at its September 1985 meeting. Telephone conversation between Donald Nisonoff, SEC, and Jeffrey Smith, Pennsylvania Securities Commission, on July 18, 1985. The Amex has indicated that it will reconsider the definition of the term, "total operating expenses," if NASAA adopts its proposed amendment to such term. Telephone conversation between Donald Nisonoff, SEC, and Michael Ehlen, Vice President, Amex, August 1, 1985.

[2] On June 4, 1985, the Commission issued a release providing temporary accelerated approval for the above-mentioned Amex proposal relating to REITs. *See* Securities Exchange Act Release No. 22112, June 4, 1985, 50 FR 24728, June 12, 1985. The Amex's request for temporary accelerated approval for the Amex REIT proposal was submitted to the Commission as SR-Amex-85-21. In its release, the Commission indicated that it had published for public comment separate notice of SR-Amex-85-13.

applicable to a national securities exchange and, in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 6, 1985.

John Wheeler,

Secretary

[FR Doc. 85-19472 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22307; File No. SR-AMEX-85-28]

Self-Regulatory Organizations; Proposed Rule Change by the American Stock Exchange, Inc.; Relating to Emergency Procedures for the Execution of AUTOAMOS Orders

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 2, 1985, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("AMEX" or "Exchange") proposes a policy change to permit the implementation of emergency procedures for the execution of AUTOAMOS orders during unusual market conditions. The details of the policy change are set forth below in Item 3.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Exchange implemented the Amex Options Switch (AMOS) System in 1979, which permits member firms to electronically route certain orders directly to specialists' posts for execution, and to receive back confirmations of trades by the same route. In 1983, the Exchange upgraded the AMOS system by implementing AUTOAMOS, whereby marketable options orders are routed directly to the specialist and displayed on a touch-screen terminal.

Under current procedures, AUTOAMOS orders are exposed to the crowd by the specialist for execution at the best available price. Executions may be against an order on the book, the specialist as principal, or one or more brokers or traders in the crowd. To complete the transaction, information indentifying the broker(s) on the other side of the AUTOAMOS trade ("contra-broker") is entered on the touch-screen terminal by the specialist, and a report is automatically sent back to the firm initiating the order.

AUTOAMOS, which is currently used for up to ten contract orders, has proven to be a highly efficient system during usual market conditions of moderate order flow. It enables specialists to execute AUTOAMOS orders and dispatch reports to the firms within an average of 35 seconds.

The AUTOAMOS system, however, becomes less efficient during breakout situations (i.e., when there is an extremely large influx of both system and non-system orders). Occurring infrequently and usually for only a brief period, breakouts historically have impaired the usefulness of AUTOAMOS. As a result, turnaround time for AUTOAMOS orders are substantially increased.

Delays in the execution and reporting of AUTOAMOS orders result primarily from the requirement that specialists expose each AUTOAMOS order to the trading crowd. The problem is exacerbated when more than one party participates in the trade because for each participant (contra-broker) the specialist must input information regarding the number of contracts, the execution price, clearing symbol, and badge number. In comparison, if a specialist executes an AUTOAMOS order against an order on the book, turnaround time is decreased because contra-broker identification is more easily entered. Additionally, when an order is executed with the specialist as principal, turnaround time is further reduced since all pertinent information as to the specialist's clearing agent and badge number is automatically entered from files maintained in the system.

To ensure the continued and prompt execution of AUTOAMOS orders during breakout situations, the Exchange proposes that certain emergency procedures be adopted. Specifically, the Exchange proposes that during a breakout situation, a specialist be permitted to execute AUTOAMOS orders against the book or against himself, as principal, without exposing the orders to the crowd. A breakout situation could be declared with the authorization of two Floor Governors. The same two Floor Governors also would be responsible for monitoring the situation for abatement and termination of the emergency condition. Both the imposition and removal of a breakout emergency condition will be announced at the trading post.

It should be noted that the Exchange's proposal would continue to provide protection for limit orders at all times since specialists would continue to fulfill their agency obligations for all orders entrusted to them before executing an AUTOAMOS order as principal. In addition to substantially improving turnaround times (by reducing the amount of contra-broker information required to be input into the system), the proposed procedures would allow specialists more time to handle non-system orders during these critical periods of high order flow.

The proposed change is consistent with the requirements of the Securities Exchange Act of 1934 ("1934 Act") and the rules and regulations thereunder applicable to the Exchange by developing procedures to maintain the speed and efficiency of the AUTOAMOS system. Therefore, the proposed rule change is consistent with section 6(b)(5) of the 1934 Act, which provides in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The AMEX believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The XMI Trading Procedures Committee has endorsed the proposed rule change.

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 5, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Shirley E. Hollis,

Assistant Secretary.

August 9, 1985.

[FR Doc. 85-19471 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22310; File No. SR-CBOE-85-34]

Self-Regulatory Organizations; Proposed Rule Change by Chicago Board Options Exchange, Incorporated; Relating To Fees, Dues and Charges

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 6, 1985, the Chicago Board Options Exchange, Incorporated filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Text of the Proposed Rule Change

Pursuant to Exchange Rules 2.20 and 2.22, the Exchange proposes to revise certain of its dues, fees and other charges as described below; the revisions are intended to become effective on September 1, 1985, with the exception of the revision concerning member dues, which is intended to become effective on October 1, 1985.

	Present fee	Proposed fee
Member dues	$1,000 per year	$2,000 per year.
Trade match [1]	3 cents	4 cents.
RAES-market makers (OEX).		25 percent per contract.
Market maker (OEX)	4 cents	5 cents.
OBO fees	70 cent average	30 percent discount.

[1] For fiscal 1986, the trade match fee increase of 1¢ will be reviewed on a quarterly basis. If the Exchange's fiscal year-to-date average daily contract volume exceeds 660,000 contracts at the end of any fiscal quarter, the 1¢ increase will not be effective for the next quarter.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections (A), (B), and (C) below.

(A) Procedures of the Self-Regulatory Organization

The purpose of this proposed rule change is to enable the Exchange to remain both competive and fiscally sound. The statutory basis for the proposed revisions is section 6(b)(4) of the Securities Exchange Act of 1934 (the Act), in that they provide for an equitable allocation of reasonable dues, fees and other charges among Exchange members.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe the proposed fee revisions impose a burden on competition, though some floor broker members believe that the OBO fee decrease may have an impact on competition. If the OBO fee decrease has any impact on floor brokers' ability to compete with the public order book, it is a limited impact. Only certain kinds of orders can be booked. Floor brokers can compete with the book by means of the quality of services provided and/or their ability to discount their fees. Moreover, the Exchange believes that the decrease is necessary in order to compete with other option exchanges.

(C) Self-Regulatory Organization's Statements on Comments on the Proposed Rule Change Received From Members, Participants or Others

Attached to this filing are two letters received and considered by the Exchange from floor-broker groups opposed to the reduction in OBO fees. The Exchange has responded to these comments in Items three and four above.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission 450 Fifth Street, Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed

rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above ahd should be submitted by September 5, 1985.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 9, 1985.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-19473 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22309; SR-CBOE-85-24]

Self-Regulatory Organizations: Chicago Board Options Exchange, Inc.; Order Approving Proposed Rule

The Chicago Board Options Exchange, Incorporated ("CBOE"), submitted on June 10, 1985, a proposed rule change pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act") [1] and Rule 19b-4 [2] thereunder which would convert the Standard and Poor's 500 Stock Index option ("SPX") from an American to a European-style option. The Commission solicited comments on the proposal, but received none.[3]

As an American-style option, SPX options currently can be exercised at any time until the expiration date. As a European-style option, however, SPX options will be able to be exercised only on the last trading day prior to expiration, and not at any other time during the term of the contract. The proposal also provides that the expiration cycle for the SPX European-style option will be four consecutive months,[4] and that the cash-settlement feature of the index option will remain the same.[5]

To accommodate the listing and trading of European-style options on CBOE, the proposed rule change amends CBOE Rule 24.1 to include paragraph (j), which defines the term "European option" to mean "an option contract that can be exercised only on the last trading day prior to the day it expires." In addition, the proposal includes new paragraph (c) in CBOE Rule 24.9, Terms of Option Contracts, to provide for European-style exercises. This paragraph states that "options on the Standard and Poor's 500 Stock Index can be exercised only on the last trading day prior to the option's expiration."

In its filing, CBOE indicates that European-style SPX options may offer some significant advantages in certain strategies for some index option market participants. For example, the proposal should facilitate the ability to hedge portfolios of stocks because the seller of European-style call options need not be concerned about the early assignment of his short options position. Essentially, this should preclude the portfolio from being forced into an unanticipated partially or wholly unhedged position. Accordingly, CBOE indicates that the exposure to risk (*i.e.*, to price movements that may work against the portfolio manager) should be reduced with the use of European-style options. CBOE also notes that the absence of an early exercise appears to benefit investors who hold spread positions in SPX, as well, because it would be impossible to have a spread strategy defeated through the exercise of one leg of the position during the term of the option contract.[6]

Because the use of spreads and related strategies enhances the depth and liquidity of trading markets, CBOE believes the use of European-style options should lead to greater depth and liquidity in the SPX market. CBOE states that the proposal should facilitate transactions in SPX, consistent with section 6(b)(5) of the Act.

The Commission recognizes that trading American-style options have proven to be successful and that the European-style options may limit the flexibility of options purchasers (because it is impossible to exercise the option prior to the day before its expiration). Nevertheless, the Commission believes that the European-style exercise feature may facilitate certain trading strategies. As a precondition to the listing of these types of contracts, however, CBOE must arrange for OCC to incorporate in the options disclosure documents a description of European-style options and the unique risks associated with the use of these options for hedging and various other purposes. In this connection, the Commission understands that CBOE in conjunction with OCC, expects to make the appropriate disclosures, in a suitable and timely manner.[7] Accordingly, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange and, in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

August 9, 1985.

[FR Doc. 85-19474 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22308; File No. SR-MSRB-85-14]

Self-Regulatory Organizations; Order Approving Proposed Rule Change of Municipal Securities Rulemaking Board

On May 17, 1985, the Municipal Securities Rulemaking Board ("MSRB") filed with the Commission a proposed rule change under Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"). The proposal requires municipal securities brokers and dealers to apply for the assignment of CUSIP numbers when specified actions taken by the broker or dealer cause a previously assigned CUSIP number no longer to identify a single, fully-fungible municipal securities issue. Notice of the

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[1] 15 U.S.C. 78s(b) (1982).

[2] 17 CFR 240.19b-4 (1984).

[3] Notice of the CBOE proposal was published in Securities Exchange Act Release No. 22143 (June 14, 1985), 50 FR 25640 (June 20, 1985).

[4] *See* letter from Anne Taylor, Secretary and Associate General Counsel, CBOE, to Heidi S. Coppola, Esq., Division of Market Regulation, SEC, dated June 18, 1985.

[5] The Commission notes that currently there are no European-style options trading on any of the national securities exchanges. Accordingly, prior to listing this contract, the options disclosure documents must be amended by the Options Clearing Corporation ("OCC") to include a description of European-style options and any risks attendant to their trading. *See* discussion *infra*.

[6] Investors with spread positions in American-style options, on the other hand, often find that one leg of their spread position has been exercised against them, leaving them with an out-of-position investment that may involve significantly greater exposure to risk.

[7] CBOE staff members have been informed by OCC that OCC will revise the options disclosure documents to include a description of European-style options and the attendant risks of trading this type of investment vehicle prior to October 1, 1985, the earliest anticipated commencement date. CBOE has agreed to defer the listing and trading of these options until this time. Telephone conversation between Anne Taylor, Associate General Counsel and Secretary, CBOE, and Heidi Steinberg Coppola, Attorney, SEC, July 16, 1985.

proposal was published in Securities Exchange Act Release No. 22128 (June 7, 1985), 50 FR 25140 (June 17, 1985). The Commission did not receive any comments on the proposal. As discussed below, the Commission is approving the proposed rule change.

I. Description

The rule change amends MSRB Rule G-34, which currently requires municipal securities brokers and dealers (collectively "dealers") that acquire, as principal or agent, new issues of municipal securities for distribution to apply for the assignment of CUSIP numbers, if CUSIP eligible, and affix the numbers to the securities certificates. The rule change will require dealers that take specified actions that impair the fungibility of an outstanding issue to apply for new CUSIP numbers. Dealers will be subject to the rule change if they do any of the following acts: (1) Distribute a new issue the process of which will be used to refund an outstanding issue in such a way that the outstanding issue is no longer fungible;[1] (2) purchase bond insurance on a portion of an outstanding issue or maturity; [2] or (3) sell a portion of an outstanding issue or maturity subject to a put or tender option written by a person other than issuer or issuer's agent.[3] The rule change does not require the new CUSIP numbers to be affixed to securities certificates of these outstanding issues.

The rule change provides a number of exceptions to its general requirements. First, the rule change does not apply to municipal securities issues, including securities with secondary market enhancements, that are not eligible for CUSIP numbers. Second, the rule change does not apply to parts of a municipal securities issue with secondary market enhancements that have already been issued CUSIP numbers. Finally, the MSRB states in its filing that the rule change applies only to municipal securities brokers and dealers who are responsible for secondary market enhancements or who acquire a new issue for distribution under MSRB Rule G-34 (a) and (b).

II. MSRB's Rationale

The MSRB states in its filing that certain events may occur after the underwriting and distribution of a municipal securities issue that affect the integrity of the CUSIP number originally assigned to the issue. For example, a new municipal securities issue can be used to advance-refund part of the prior issue, or all of the prior issue, to different redemption dates and prices. Dealers also can purchase insurance on, or attach put or tender options to, part of a municipal securities issue. Under these circumstances, the original CUSIP number will not distinguish one part of the original issue from another. As a result, market participants experience difficulties in trading, clearing, and settling non-fungible parts of the original issue.

The MSRB believes its rule change will reduce those difficulties by arranging for the assignment of CUSIP numbers for each distinct part of the original issue. The new CUSIP numbers should enable market participants to identify more easily trades and settlement obligations to the several distinct parts of the original issue. Accordingly, the MSRB believes that the proposal is consistent with Section 15B(b)(2)(C) of the Act in that it, among other things, "foster[s] cooperation and coordination with persons engaged in . . . clearing, settling, processing information with respect to, and facilitating transaction in municipal securities. . . ."

The MSRB received 16 comments on the proposed rule change. In light of those comments, the MSRB made a number of revisions to its proposal prior to filing that proposal with the Commission.[4] The MSRB notes in its filing, however, that it was unable to accommodate several suggestions made by commenters. For example, commenters suggested that the MSRB require issuers and customers of dealers to comply with the rule change. Other commenters suggested that secondary market enhancements that can be detached and separately traded, *e.g.* certain put or tender options, should receive new CUSIP numbers. The MSRB states in its filing that it does not believe it has the authority to incorporate those suggestions in its rule change.[5]

The MSRB states in its filing that several commenters indicated that transfer agents for municipal securities maintain their bondholder files based on CUSIP numbers. Those commenters believed that the MSRB does not have authority to require transfer agents to switch to new CUSIP numbers assigned under the rule change. Moreover, commenters noted that issuers and transfer agents may have no interest in secondary market enhancements and would be unwilling to pay the costs of changing their operations to accommodate the new CUSIP numbers. Those commenters suggested the MSRB require permanent depository immobilization of municipal securities with secondary market enhancements.[6]

The MSRB rejected this suggestion but, in response to those comments, notes that the CUSIP Board have revised its eligibility standards to require depository immobilization of certain enhanced securities. Accordingly, if an enhanced security were not immobilized and not CUSIP eligible, dealers would not be required to apply for a new CUSIP number.

As indicated above, the rule change does not require municipal securities

[1] Specifically, the rule change applies if part of the outstanding issue, previously assigned a single CUSIP number, is refunded to one or more redemption date(s) and price(s) or all of an outstanding issue is refunded to more than one redemption date and price. Under those circumstances, the dealer must apply in writing for a reassignment of a CUSIP number to each part of the outstanding issue refunded to a particular redemption date and price. In addition, the dealer must provide the CUSIP Board, or its designee, the following information (with supporting documentation) concerning the refunding: (1) The previously assigned CUSIP number(s); (2) the redemption dates and prices established by the refunding for each CUSIP number(s); and (3) for each redemption date and price, a designation of the portion of the issue to which the redemption date and price applies, *e.g.*, designation of proceeds, series, or certificate numbers.

[2] The rule change applies to any dealer who, in connection with a sale or an offering for sale of part, but not all, of an outstanding maturity of an issue of municipal securities acquires or arranges for the acquisition of a transferrable instrument applicable to such part that alters the security or source of payment of such part. In addition to insurance, the rule change covers put and tender options letters of credit or guarantee, and any other similar devices. *See* MSRB Rule G-34(b).

[3] For municipal securities with secondary market enhancements attached (*e.g.*, insurance, put or tender options, letters of credit or guarantee, or other similar devices) the rule change requires affected dealers to apply for a new CUSIP number for the unit, *i.e.*, the municipal security with the attached secondary market enhancement. The underlying municipal security would retain its original CUSIP number. MSRB Rule G-34(b) also requires the dealer to provide the CUSIP Board or its designee with the following: the original CUSIP number; the nature of the transferrable instrument acquired; the name of the party obligated for debt service under the terms of such instrument; and documentation to evidence the basis for CUSIP number assignment and nature of the instrument acquired.

[4] *See* File No. SR-MSRB-85-14.

[5] Specifically, the MSRB states that issuers and customers of dealers are not within its jurisdiction. With respect to detached and separately traded enhancements, the MSRB believes these instruments may not be municipal securities and therefore not subject to its authority. The MSRB notes, however, that dealers can nonetheless apply for CUSIP numbers for those instruments.

[6] Problems and confusion could be created if transfer agents identified securities with one CUSIP number but other market participants used several CUSIP numbers to identify specifically the enhanced securities. If, however, the enhanced securities were immobilized until maturity the transfer agent would not effect transfers of the enhanced securities and its reliance on original CUSIP numbers would not affect securities processing.

brokers and dealers to affix to securities certificates of outstanding issues new CUSIP numbers resulting from the rule change. The MSRB and commenters noted that dealers may not have physical possession of affected certificates and, therefore, compliance with such a requirement would be very difficult. Moreover, commenters noted that because transfer agents may not acknowledge the new CUSIP numbers, the new number would be lost in the transfer process.[7] Furthermore, the MSRB stated in its filing that exception processing under its rules can be utilized to confirm trades using new CUSIP numbers and good delivery can be made if the new CUSIP number on the confirmation has been assigned as an alternative to the original CUSIP number on the certificates.

III. Discussion

The Commission agrees with the MSRB that the rule change is consistent with the Act and should be approved. Specifically, the Commission believes that the rule change is consistent with section 15B(b)(2)(C) of the Act because it fosters coordination in the clearance of municipal securities transactions and removes impediments to and perfects the mechanism of a free and open market in municipal securities. The Commission also believes the rule change is consistent with Section 17A of the Act because it should facilitate the prompt and accurate clearance and settlement of transactions in municipal securities in the National Clearnace and Settlement System ("National System").

The Commission believes that the CUSIP numbering system is essential to efficient, automated securities processing in the National System. The CUSIP system enables market participants to identify complex investment products with uniform multi-digit numbers. Once a unique CUSIP number has been assigned to a security, market participants can trade, compare, settle and otherwise communicate information about the security based on its CUSIP number. If the unique character of a CUSIP number is impaired, as it is when a dealer alters the character of part of a securities issue, the efficiencies created by initial CUSIP number assignment can be lost entirely or impaired significantly.[8] Accordingly, the Commission believes the MSRB's proposal should help to assure that each distinct investment security receives its own CUSIP number, thereby enabling efficient identification of, and processing of transactions in, those securities.

Although the MSRB and commenters note that the rule change does not guarantee that all distinct municipal securities and derivative products will receive individual CUSIP numbers, the Commission believes the rule change is an important and progressive step towards that goal. Accordingly, the Commission is approving the rule change.

Conclusion

It is therefore ordered, under section 19(b)(2) of the Act, that the proposed rule change be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: August 9, 1985.

Shirley E. Hollis,

Assistant Secretary.

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[7] Upon cancellation of the old certificate and issuance of a new certificate, the transfer agent would ignore the new CUSIP number and issue the new certificate under the old CUSIP number.

[8] For example, registered clearing agencies may make such a security ineligible for automated processing in the National System.

[Release No. 22292; File No. SR-NASD-85-21]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc., Relating to NASD Index Options Program Amendments

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on August 1, 1985, the National Association of Secruties Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule changes incorporates index option rules and procedures previously proposed in File No. SR-NASD-80-10, complete the NASD's index option rules consistent with the Commission's determinations in Release No. 24-22026 (May 8, 1985) 50 FR 20310 (May 15, 1985), defer the automatic execution feature from the initial phase of NASDAQ index options trading pending further systems development, reduce the market maker firm quote obligation from three contracts to one contract, adopt a position limit of $300 million on the same side of the market consistent with position limits previously approved by the Commission for other self-regulatory organizations, and limit the scope of certain proposed rules to NASDAQ index options. The NASD has also submitted under separate cover a NASDAQ index options surveillance plan for which it has requested confidential treatment.

The terms of substance of the entire proposal are contained in the "NASDAQ Index Options Program: An Overview", which follows:

NASDAQ Index Options Program—an Overview

Introduction. The National Association of Securities Dealers, Inc. (the "NASD"), has developed a program for the quotation display of put and call options written on the NASDQ-100 and NASDAQ-Financial Indexes.

These index options eligible for NASDAQ display, have been selected in accordance with criteria established by the NASD, The Options Clearing Corporation ("OCC") and the Commission. As is the case with index options listed on the various exchanges, OCC will act as the issuer of all NASDAQ index options.

Standardized as to exercise price, expiration date, and unit of trading, continuous markets for NASDAQ index options will be maintained by qualified NASDAQ index options market makers registered, as such, with the NASD.

NASDAQ index options will be registered under the Securities Act of 1933 and in the various states by OCC. Covered by OCC's prospectus and a risk disclosure document meeting the requirements of Rule 9b-1 of the Securities Exchange Act of 1934, as amended, each NASDAQ index option will be exercisable through OCC.

In order to utilize the services and facilities of OCC, the NASD will become an OCC participant by acquisition of stock prior to the commencement of trading in NASDAQ index options.

In structuring the NASDAQ Index Options Program, the NASD determined to preserve the essential elements of a competitive dealer market and to incorporate standards comparable to those applied to exchange-traded options, including rules and regulations governing members' trading and sales practices. Included among these are a provision for the last sale price reporting of completed transactions in NASDAQ index option contracts to the Options

Price Reporting Authority ("OPRA"). In this connection, a trading system is being designed for the NASDAQ Index Options Program. The trading system will create "locked-in" trades for price reporting and clearing purposes and support market surveillance capabilities for NASDAQ index options.

Such will be accomplished through the use of new transactions, referred to as Order Confirmation Transactions ("OCTs") and Internalized Trade Transactions ("ITTs"). Using OCTs, transactions in options may take place along conventional lines, i.e., be negotiated via the telephone. Immediately thereafter, the order entry firm will enter the trade detail into his NASDAQ terminal and the message will be routed to the market maker. When an OCT entered into the trading system is accepted by the contra-party, both parties will have the advantages of the "locked-in trade" feature and a trade report will automatically be generated. The OCT mode will be utilized by the options participants to execute and/or report all trades where the market maker is not also the order entry firm. ITT will be utilized for internalized trades.

All NASDAQ index option transactions will be required to be executed and reported via this trading system. Therefore, all trades in NASDAQ index options will be affirmatively accepted by both parties through an OCT, or reported via ITT. In either event, option trades will be "locked-in" for clearing purposes. For this reason, an options trade comparison processor for NASDAQ index options will not be needed and awkward, inefficient and costly procedures associated with the reconciliation of options transactions will be eliminated.

A description of the program, including a discussion of the related regulation and public customer protections governing transactions in NASDAQ options follows.

Underlying Indexes. The indexes to be subject to NASDAQ index options are the NASDAQ-100 Index ™ (File No. SR-NASD-85-5) and NASDAQ-Financial Index ™ (File No. SR-NASD-85-10).

The NASDAQ-100 Index ™ is comprised of 100 of the largest NASDAQ/NMS nonfinancial issues. The NASDAQ-Financial Index ™ is comprised of 100 of the largest issues of NASDAQ/NMS operating financial companies.

NASDAQ Index Options And The NASDAQ System. The NASDAQ System will be technically modified to accommodate the display of NASDAQ index options. Once modified, the NASDAQ index options quotation system and the present NASDAQ securities quotation system will be substantially the same. Accordingly, the two levels of service described below will provide for similar registration, updating and retrieval techniques.

Level 2 terminals will display each NASDAQ index option and list each registered index options market maker with its most recently entered quotations, in addition to the last reported sales prices for the index option, the most recent computation for the underlying index, daily high and low, daily volume, time of last sale and inside index options quotations.

Level 3 terminals will provide registered NASDAQ index option market makers with the ability to enter or update quotations in a particular NASDAQ index option.

The symbol identification utilized to represent the idex options series will conform to present industry standards. Accordingly, an index options series will be identified by a symbol containing five characters. Of this number, three such characters will be used to identify the underlying NASDAQ index. The symbol NDQ will be utilized for NASDAQ-100 Index™ option and the symbol NDF will be utilized for NASDAQ-Financial Index™ option. Following the underlying index characters, another single character will be used to designate the particular expiration month and type of option, and the last character in the symbol will denote the strike price for each option series. Expiration and strike price codes will be as follows:

EXPIRATION MONTH CODES

	Calls	Puts
January	A	M
February	B	N
March	C	O
April	D	P
May	E	Q
June	F	R
July	G	S
August	H	T
September	I	U
October	J	V
November	K	W
December	L	X

STRIKE PRICE CODES

A	205	305	405	K	255	355	455
B	210	310	410	L	260	360	460
C	215	315	415	M	265	365	465
D	220	320	420	N	270	370	470
E	225	325	425	O	275	375	475
F	230	330	430	P	280	380	480
G	235	335	435	Q	285	385	485
H	240	340	440	R	290	390	490
I	245	345	445	S	295	395	495
J	250	350	450	T	300	400	500

By way of summary, the basic symbol format for all series of NASDAQ index options will be (1) underlying index—three characters, (2) expiration month—one character, and (3) striking price—one character. For example, a NASDAQ-100 Index" call option expiring in January with a strike price of $250 would be represented by the symbol NDQAJ.

The NASDAQ System will provide for the last-sale price reporting of completed transactions in NASDAQ index options contracts. The Association will interface with OPRA, and last sale trade price information in NASDAQ index options will be transmitted to OPRA and distributed by OPRA over the OPRA Tape. Last sale price reports for OCT transmissions will be reported at the time the OCT message is affirmatively accepted by the market maker. Unaccepted OCT will be "timed out" two minutes after entry. The order entry firm will have the responsibility for entering OCT's into the system. ITT will be reported to OPRA when entered.

The terms of NASDAQ index options will be standardized as to exercise price, expiration date and index multiplier in accordance with the By-Laws and Rules of the Association and those of OCC. The NASD will utilize an index multiplier of $100 for both the NASDAQ-100 and NASDAQ-Financial indexes.

The Corporation will establish a class of index options (that is, all index options contracts of the same type in the same underlying index) eligible for NASDAQ display. Within each class of options, there will be twelve or more series of options contracts. A series of options will include all options on a NASDAQ index having the same exercise price, and expiration date. The unit of trading for NASDAQ index options will be the stated value of the underlying index multiplied by the index multiplier. NASDAQ index options will have three consecutive monthly expirations. Strike prices of NASDAQ index options will be authorized at prices related to the most recent computation of the underlying index in the following manner:

- Strike prices shall be fixed at an index value which is an integer.
- Regardless of the value of an index, the interval between strike prices will be $5.00.
- New series of index option contracts may be added up to the fifth business day prior to expiration.
- When a new expiration for index option contract is opened for trading, two strike prices above and two strike prices below the current index value will be added.

• When the value of the index underlying a class of index options reaches a strike price, the Corporation will add one or more additional strike prices such that there are at least two strike prices above and two strike prices below the strike price which has been reached.

• In unusual market conditions, the Corporation may add additional series of index option contracts.

NASDAQ Index Options Service. The system will be utilized to enter and accept trades in NASDAQ index options. When an OCT is entered into the system and the entry is accepted by the contra-party, both parties will have the advantage a "locked-in trade" and reporting features.

Participation will be mandatory for all NASDAQ index options market makers and order entry firms. Therefore, all NASDAQ index options transactions will be locked-in for clearing, trade reporting and surveillance purposes.

The Order Confirmation Transaction will allow an order entry firm to contact a NASDAQ index options market maker via telephone and negotiate a trade and then report and lock-in the trade using an OCT. OCT may also be used to direct orders to market makers on an unsolicited basis. All OCT must be priced by the order entry firm and directed to a specified market maker. Fields will be provided in the OCT to indicate information to be reported to the OPRA Tape and the trade will be reported to OPRA upon the acceptance of the OCT by the market maker. The market maker receiving the OCT via the system will be given a time limit of two minutes in which to accept the message which will provide all the fields of trade information required to be "locked-in" for clearing purposes. If the message is accepted, the transaction becomes a "locked-in" trade to be reported to OCC at the end of the trading day. In the event a member fails to respond to an OCT message within two minutes, such message will be "timed out". However, participants will have the capability of scanning records to review rejected or timed-out OCT during the trading day and all OCT entered will be captured by the system.

An Internalized Trade Transaction ("ITT") will be utilized when the order entry firm executes its customer's order on a principal basis and will generate a trade report when entered.

The OCT will be designed with a cancellation capability which will permit the firm entering an OCT, and the firm accepting the trade, to "break" the trade by mutual agreement in the event an incorrect OCT message is inadvertently accepted by the contra-party. ITT may also be cancelled by the entering firm. Data regarding such "broken" trades will also be captured.

Order entry firms will be able to enter orders either for their firm or on behalf of another approved member firm. The system will process orders entered between the hours of 10:00 a.m. and 4:10 p.m. (Eastern Time). Market maker index options quotations displayed in the system prior to these operating hours will include a close indicator. The system will begin accepting orders after 10:00 a.m., when current index calculations are disseminated and close indicators are removed from market maker's preopening quotations.

Execution notices for accepted OCTs will be immediately forwarded to the terminal specified by the order entry firm for input. In addition, hard copy execution reports will be immediately forwarded to the order entry firm's designated printer.

Market makers will be notified of execution by the immediate forwarding of an execution notice to the market maker's specified terminal and hard copy execution reports will also be forwarded to the market maker's designated printer at that time. During the day, the market maker will have the opportunity to query the system to obtain data on individual trades.

Commitment Rules for Index Option Market Makers. Index option market makers will be subject to commitment rules which will obligate them to continuously quote all index options in which they make markets through the completion of all expiration cycles which are open for trading in such markets at the time the member's market maker registration becomes effective. Such obligation will also apply to any new index option series added in those expiration cycles during the term of the market maker's commitment. Thus, a member becoming a market maker in NASDAQ-100 Index™ options at the expiration of the October options will be required to remain in the market through the expirations of all November, December and January NASDAQ-100 Index™ options, a period of approximately three months.

Further, should the market maker elect to commence quotations in options series in a subsequent expiration cycle, the market maker's commitment to continuously quote index options will extend through the expiration of such index options. This will extend the market maker's commitment for an additional month.

Thus, in the example above, if the market maker in NASDAQ-100 Index™ options commences quotations in new February NASDQ-100 Index™ options upon the commencement of trading in these options in November, the member will be obligated to quote all index options in the February expiration cycle until the end of that expiration cycle, i.e., for a period of three months.

Any index option market maker failing to abide by these commitments will have its market maker registration revoked and will not be permitted to re-register as an index options market maker in such index options until the expiration of both the near term expiration cycle and the expiration cycle which follows. Thus, a market maker in NASDQ-100 Index™ options withdrawing quotations from the system prior to the expiration of a December index option would have its market maker registration in the index options terminated and would not be permitted to re-register as a market maker in the index options until the expiration of the January options.

The above-referenced sanctions will apply for unexcused absences from the system or voluntary terminations by index options market makers.

In addition to the above-referenced sanctions, index options market makers whose quotations are withdrawn during the 15 business days preceding the expiration of an index option series may be found in violation of Article III, section I of the Association's Rules of Fair Practice which obligates members to act in accordance with high standards of commercial honor and just equitable principles of trade.

To assure that all NASDAQ index option market makers maintain quotations which are reasonably related to the prevailing market, the Association's index options rules contain quote spread and price continuity parameters comparable to those of the options exchanges.

To further enhance the liquidity and competitiveness of the NASDAQ index option markets, the Association will not authorize new classes of index options unless there are at least five registered market makers and will not authorize new index option series in the index option class unless there are at least three market makers.

Market Surveillance and Customer Protection. The Association's NASDAQ Index Options Program will provide for the surveillance and regulation of the market for NASDAQ index options through a comprehensive monitoring program under which all transactions executed by all market makers and members in NASDAQ index options will be closely surveilled.

Other specialized rules have been developed to govern NASDAQ index

options trading by market makers, retail firms and their customers. These rules are comparable to the standards presently applied to options trading on the various exchanges. They are intended to prevent manipulative abuses in NASDAQ index options and to assist in the detection of manipulative activities. These rules include the following:

• *Position and Exercise Limits.*—The size of positions, whether long or short, and exercises in any five day period, permitted for any market maker, member or associated person or public customer will be limited to a number of contracts having an aggregate value not in excess of $300 million.

• *Liquidation of Positions.*—Aggregate positions of a market maker, member or associated person in index options which exceed the position limits referenced above will be required to be reduced by the amount of excess.

• *Limits on Uncovered Short Positions.*—The Association's rules also will permit it to impose limitations as to the total number of uncovered short positions in a given class of index options.

• *Restrictions on Options Transactions and Exercises.*—The Association's rules will permit it to impose restrictions on transactions in, or exercises of, one or more series of index options in the interests of fair and orderly markets for index options.

• *Reporting of Options Positions.*—The Association's rules will require that market makers submit reports concerning each account in which a member, associated persons or customers have established an aggregate position of 200 or more option contracts, long or short of the put class and the call class on the same side of the market covering the same underlying index.

• *Allocation Procedures for Exercise Notices.*—Association rules require members to use an approved random or first-in, first-out method of allocating exercise notices and to advise customers and the Association of their allocation method.

Market and Member Surveillance. A key feature of the NASDAQ Index Options Program will be the unified surveillance and regulation of the trading markets for both NASDAQ index options and indexes underlying securities. This simultaneous surveillance and regulation will be performed by the Association's Market Surveillance Section in a manner comparable to that in which NASDAQ equity securities are presently surveilled.

The locked-in trade features will provide an unimpeachable audit trail for index options transactions when trade data is integrated with clearing data. Thus, the Association will be able to capture and analyze all trade data for index options in addition to all quotation changes.

As a complement to its daily market surveillance activities, the Association's field inspection program of members will be expanded to give comprehensive coverage to all rules, regulations and procedures pertaining to NASDAQ index options trading.

Trading Comparison, Clearing and Settlement. The "locked-in trade" features will facilitate the comparison, clearing and settlement of NASDAQ index options transactions. Because the term of OCT executed trades will be captured on-line as trades occur, these trades may be reported to OCC as compared trades at the end of the trading day.

Exercise, Delivery and Payment. Subject to the ruels of OCC and to Association rules identical to those of the options exchanges, a NASDAQ index option contract will be exercisable by its holder on any business day on or before the expiration date of the index option contract. An exercise notice must be submitted to OCC by a clearing member acting on behalf of an exercising holder of an unexpired long index option contract. An exercise notice accepted by OCC will be assigned on a random basis to a clearing member(s) maintaining an open short position in the series of index options involved. Association rules will also require that exercise notices must be received or prepared by members by 4:10 p.m. (Eastern Time) with each form time stamped at the time it is received or prepared. Additionally, in instances where a member intends to submit an exercise notice for 25 or more contracts in the same index options series, for a market maker or firm account or for an individual customer, the member must notify the Association no later than 4:10 p.m. (Eastern Time).

Margin Requirements. NASDAQ index options will be subject to margin requirements contained in section 4(a)(iv) of Appendix A to section 30 of the Association's Rules of Fair Practice. Pursuant to these rules, the minimum margin for customers' uncovered short positions will be an amount equal to the current market value of the index option premiums, plus 10% of the closing index option contract value less the amount by which the option is out-of-the-money, with the minimum amount equal to the current market value of the index option premium plus 2% of the closing contract value.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and statutory basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in section (A), (B), and (C) below of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Commission, in Release No. 34-22026 (May 8, 1985) 50 FR 20310 (May 15, 1985) approved, in principle, as being consistent with the Securities Exchange Act of 1934, the index option elements of the NASDAQ Options Plan, previously submitted to the Commission in File No. SR-NASD-80-10 and File No. SR-NASD-85-5, subject to the NASD's completion of its index option rules and submission of an adequate surveillance plan. The proposed rule change incorporates those elements of the NASDAQ Index Options Program previously approved, in principle, by the Commission, and supplements them with additional rules deemed necessary by the Commission to complete the NASD's index option rules including a provision that there be at least five index options before trading can commence, a provision that no new series could be authorized unless there are at least three index options market makers, and a special exercise notice provision for this cash settled index option product.

Pursuant to the Commission's determinations in Release No. 34-22026, the NASD is also submitting, under separate cover a surveillance plan which will utilize trading data captured by its system and apply surveillance parameters and systems which are adequately designed to monitor potential abuses in the trading of index options. The NASD requests confidential treatment of the contents of its surveillance plan.

The proposed rule change also includes modifications to certain rule changes previously proposed contained in File No. SR-NASD-80-10 to expedite

the commencement of trading in index options prior to the commencement of trading in equity options which await Commission action on the NASD's Petition for Reconsideration. These modifications include deferral of the automatic execution feature from the initial phase of index options trading pending further systems developments, reduction of the firm quote obligation for index options transactions from three contracts to one contract, and adoption of a position limit of $300 million on the same side of the market consistent with position limits approved by the Commission for other self-regulatory organizations.

The NASD has determined to submit the proposed rule changes in a new rule filing rather than by further amendment to File No. SR-NASD-80-10 to facilitate prompt Commission consideration and approval of the NASDAQ Index Option Program. The NASD desires and has made operational preparations to permit commencement of trading of NASDAQ index option contracts in September, 1985.

The purpose of the proposed change to section 33 of Article III of the Corporation's Rules of Fair Practice is to redefine "option" to clearly include the various new options products, such as index options, and to retain sufficient flexibility to address new options products as they arise. The proposed rule change does that by defining an "option" as any put, call, straddle or other option or privilege which is a "security" as defined in section 2(1) of the Securities Act of 1933, as amended. The proposed rule change to section 33 is identical to that proposed in File No. SR-NASD-80-10.

The proposed rule changes to Appendix E to section 33 of the Corporation's Rules of Fair Practice proposed in File No. SR-NASD-80-10 have been modified to implement only those changes necessary or appropriate to establish rules, regulations and procedures for transactions in NASDAQ index options contracts. Definitions of "Group of Options" and "NASDAQ Industry Index Options" set forth in section 2(m) and 2(zz) in File No. SR-NASD-8010 have been deleted because they have no practical application to the NASDAQ Index Options Program. Section 3(a)(5) in File No. SR-NASD-80-10 which proposed criteria for determining NASDAQ equity options position limits has been deleted. Section 3(b)(1) in File No. SR-NASD-80-10 has been amended to reflect NASDAQ index option position limit of $300 million on the same side of the market consistent with Commission approval for other self-regulatory organizations trading index option contracts. Section 3(b)(2) in File No. SR-NASD-80-10 establishing position limits for industry index options has been deleted since the NASD is not proposing to trade industry index options. The proposed rule change contained in section 12 in File No. SR-NASD-80-10 has been modified in that the last sentence relating to integrated market making in equity options has not been incorporated into this rule filing which is limited to NASDAQ index options. Newly proposed section 23(a)-(d) was previously approved by the Commission as section 63 of the Corporation's Uniform Practice Code. Section 23(a) has been expanded to include NASDAQ index options in addition to exchange-listed options. Section 23(e), which has not previously been submitted to the Commission, contains exercise procedures for NASDAQ options including a 4:10 p.m. (Eastern Time) cut-off time. Section 23(e) is consistent with the rules of other self-regulatory organizations and is designed to protect investors from being exercised on the basis of post-close news reports.

The proposed rule changes to Part IV, Schedule D of the Corporation's By-Laws proposed in File No. SR-NASD-80-10 have been modified to implement only those changes necessary or appropriate to establish trading rules, regulations and procedures for transactions in NASDAQ index option contracts. The proposed rule changes have also been modified to reflect that automatic execution service will not be available during the initial phase of NASDAQ index options trading. Section 1(ss) has been added to define "Cabinet Transaction" which refers to accommodation transactions at a price of $1 for options of nominal value. Section 4(d) has been modified to reflect that market maker quotes for index options must be firm for one contract rather than for three contracts as specified in File No. SR-NASD-80-10. Section 7(e) is a new provision which has been added to clarify that all NASDAQ index option contract orders must be priced and directed to a specific market maker. A new section 9 has been added to provide that there must be at least five index option market makers before trading in an index option may be authorized and that no new option series could be authorized unless there are at least three index option market makers. Section 11(b)(1) specifies that the NASD will authorize three expiration months for NASDAQ index options. Section 12(b)(2) has been modified to include specific criteria for adding new exercise prices. All exercises will be integers with strike price intervals of $5. New index option series may be added up to the fifth day prior to expiration. Where a new expiration is opened, the NASD will authorize two in-the-money and two out-of-the money options series. When the value of the underlying index reaches an authorized strike price, one or more additional strike prices will be added. In unusual market conditions, the NASD may add additional series of NASDAQ index options up to three strike prices above and below the current index price.

The proposed rule changes are consistent with the Act. Section 15A of the Securities Exchange Act of 1934 provides, pursuant to subsection (b)(2), that an association of brokers and dealers shall not be registered as a national securities association unless the Commission determines that its Rules provide it with the capacity to carry out the purposes of the Act, to enforce compliance with the Act by its members and persons associated with its members, and the rules and regulations thereunder, and to protect investors and the public interest. Further, the Commission must determine pursuant to subsection (b)(6) that the Rules of the Corporation are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and in general to protect investors and the public interest. Finally, the Rules of the Corporation are required by subsection (b)(7) to provide that its members and persons associated with its members shall be appropriately disciplined for violation of any provision of the Act or the rules and regulations thereunder, or the Rules of the Corporation and under subsection (h)(1), by adjudication and the subsequent imposition of appropriate sanctions. The provisions of Article III, section 33 prohibit a member or a person associated with a member from effecting transactions in options if such were inconsistent with the rules, regulations and procedures adopted by the Board of Governors. Under the authority granted pursuant to section 33, the Board has developed a regulatory program of rules, regulations and procedures contained in Appendix E, which meet or exceed existing options plans and Securities and exchange Commission requirements.

The proposed rule changes set forth in Section 33, Appendix E and Part IV, Schedule D of the Corporation's By-Laws are consistent with the provisions of Section 15A(b)(2), 15A(b)(6) and 15A(b)(7) of the Act in providing a

system of regulation for trading of NASDAQ index options.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Corporation does not anticipate that the proposed rule changes will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. Rather, by introducing index option trading to the NASDAQ market, the Corporation believes that it is enhancing competition in a manner entirely consistent with the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received with respect to the proposed rule changes contained in this filing. However, numerous comments regarding certain of the proposed rule change were received in response to the Securities and Exchange Commission's Release No. 34–20853, dated April 12, 1984 to which the Corporation has responded. A Summary of Comments received was prepared by the Commission staff may be found in File No. SR–NASD–80–10.

III. Date of Effectiveness of Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (1) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (2) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

In its filing with the Commission, the NASD requests that the Commission approve the proposed rule change prior to September 16, 1985, based upon a finding of good cause for accelerating approval pursuant to section 19(b)(2) of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 5, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

August 6, 1985.

[FR Doc. 85–19476 Filed 8–14–85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 22301; File No. SR–NSAD–85–22]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to NASD Certificate of Incorporation

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(b)(1), notice is hereby given that on July 31, 1985, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends the third paragraph of the NASD Certificate of Incorporation by removing the phrase "in any part of the United States of America" from the section of the Certificate that enables the NASD to transact business useful for the purposes of the NASD.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The NASD believes that as a self-regulatory organization it must be capable of responding to fundamental changes in the structure of the securities marketplace. The proposed rule change is necessary to enable the NASD to fulfill its responsibilities in a securities marketplace that is increasingly international in character.

These changes are consistent with section 15A(b)(6) of the Securities Exchange Act, which requires that NASD rules facilitate securities transactions, prevent fraudulent and manipulative acts, and protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Association believes that the proposed rule changes do not impose any burden on competition not necessary or appropriate in furtherance of purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments on the proposed rule change were neither solicited nor received.

III. Dates of Effectiveness of the Proposed Rule Change in Timing of Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reason for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 522 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by September 5, 1985.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: August 8, 1985.

John Wheeler,

Secretary.

[FR Doc. 85-19477 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14669 (File No. 812-6099)]

Trident Acceptance Corp.; Application

August 9, 1985.

Notice is hereby given that Trident Acceptance Corporation ("Applicant"), 4700 Six Forks Road, Raleigh, North Carolina 27609, filed an application on April 24, 1985, and amendments thereto on April 30, June 27, and August 6, 1985, for an order, pursuant to section 6(c) of the Investment Company Act of 1940 ("Act"), exempting it from all provisions of the Act on the terms and in the circumstances summarized below. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein and to the Act for the text of all applicable provisions thereof.

Applicant is a wholly-owned subsidiary of Trident Financial Corporation, a North Carolina corporation which provides advisory and financial services to thrift institutions and other entities engaged in real estate mortgage activities. Applicant states that it will issue series of bonds ("Bonds") in "multiple participant bond financings," through which it will provide to smaller thrift institutions, home builders, commercial banks and mortgage bankers access to the capital markets and will provide to similar larger entities an opportunity to reduce their reinvestment risk and their interest rate exposure (the "Mortgage Lenders"). It is further stated that each series of Bonds will be issued pursuant to an indenture ("Indenture") between the Applicant and an independent trustee ("Trustee"), and each series of Bonds will receive one of the two highest ratings from one or more nationally recognized rating agencies that are unaffiliated with Applicant.

Applicant may also issue series of bonds ("Other Bonds") collateralized by mortgages and/or mortgage-backed securities that it has acquired through open-market purchases or privately-negotiated transactions, a sufficient portion of which will represent "interests in real estate" so that if Applicant were to issue only series of such Other Bonds it claims it would be excepted from the Act's definition of an investment company pursuant to section 3(c)(5)(C). Applicant states that it would like to be certain that, in undertaking multiple participant bond financings, it will not be considered an investment company for the purposes of the Act, and thus Applicant is requesting relief pursuant to section 6(c) of the Act only for transactions related to the issuance of Bonds.

Each series of Bonds will be separately secured primarily by mortgage collateral which may include (i) promissory notes ("Notes") issued by the Mortgage Lenders or limited purpose subsidiaries of such Mortgage Lenders ("Finance Subsidiaries") and purchased by the Applicant, which Notes are secured by Mortgage Certificates and/or Pledged Loans (each as defined below), (ii) conventional mortgage loans, mortgage loans insured by the Federal Housing Administration ("FHA Loans") and mortgage loans guaranteed by the Veterans Administration ("VA Loans") ("Pledged Loans") and (iii) "fully-modified pass-through" mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"), mortgage participation certificates guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"), mortgage pass-through securities guaranteed by the Federal National Mortgage Association ("FNMA Certificates"), and mortgage pass-through certificates, mortgage collateralized obligations or other interests in mortgages issued by any other person or entity ("Other Mortgage Certificates," and, collectively with GNMA Certificates, FHLMC Certificates and FNMA Certificates, "Mortgage Certificates"). Mortgage Collateral includes Mortgage Certificates and Pledged Loans. Substantially all the Mortgage Collateral securing each series of Bonds will be provided by Mortgage Lenders and/or Finance Subsidiaries and will be either (i) mortgage loans originated by the related Mortgage Lender (or a predecessor of such Mortgage Lender), (ii) Mortgage Certificates as to which the Mortgage Lender and/or Finance Subsidiary will have represented that, except for de minimus amounts, the mortgage loans underlying such Mortgage Certificates were originated by such Mortgage Lender or its predecessor) or (iii) GNMA Certificates, FHLMC Certificates or FNMA Certificates acquired by a Mortgage Lender or Finance Subsidiary upon settlement of a repurchase agreement or similar financing transaction initiated by using a Mortgage Certificate of the type described in (ii) above.

In addition to the Mortgage Collateral, the collateral for the Bonds may include a debt service reserve fund, a buy-down reserve fund, other reserve funds, insurance policies, surety bonds, and proceeds accounts ("Permitted Collateral"). A debt service reserve fund would consist of cash, a letter of credit, or eligible investments in an amount which, together with reinvestment earnings thereon, would be sufficient to cover any potential cash flow shortfall relating to any Pledged Loans consisting of, or Mortgage Certificates backed by, graduated payment mortgage loans. A buydown reserve fund would consist of cash, a letter of credit, or eligible investments in an amount which, together with reinvestment earnings thereon, would be sufficient to cover any potential cash flow shortfall relating to any Pledged Loans subject to payment subsidy, or "buydown", plans. Other reserve funds would provide additional security for the related series of Bonds and might be funded with various assets, including the excess cash flow relating to the particular series of Bonds. The amount held in such reserve funds for any series of Bonds is expected to be insubstantial. Proceeds accounts for each series of Bonds will be established by the Trustee to receive all monthly principal and interest

distributions on the Mortgage Collateral securing such series.

According to the application, the Mortgage Lenders and the Finance Subsidiaires may sell or pledge the Mortgage Collateral to the Applicant in exchange for all or a part of the net proceeds of the sale of the related series of Bonds. Substantially all of the net proceeds of the sale of any series of Bonds will be used to purchase Notes issued by the Mortgage Lender and/or its Finance Subsidiary (such Lender or Finance Subsidiary, collectively, the "Participants"), or to directly purchase Mortgage Collateral. Each Note issued by a Participant will be secured primarily by the grant by such Participant to Applicant of a security interest in certain Mortgage Collateral and in certain other collateral. The Participants will pay the Notes issued by them by making, or causing to be made, payments to the Trustee in such amounts as are necessary, together with reinvestment income thereon at assumed rates acceptable to the nationally recognized rating agency or agencies that initially rate the Bonds ("Reinvestment Income"), to pay the principal of and interest on the related series of Bonds as the same shall become due. Applicant states that each Mortgage Lender will be expected to use some or all of the net proceeds of the sale of any such Mortgage Collateral or Notes to repay indebtedness to lenders or others incurred in connection with the funding or acquisition of mortgage loans on family residences financed by it or in its general business, primarily in the origination of other real estate related loans, and each Finance Subsidiary will be expected to distribute the net proceeds of the sale of any such Mortgage Collateral or Notes to its parent Mortgage Lender, so that its parent Mortgage Lender may use such proceeds for the aformentioned purposes.

Each pool of Mortgage Collateral securing a series of Bonds will be fixed when the Bonds are issued, subject to a limited right of substitution. Participants will only be allowed to substitute GNMA Certificates for GNMA Certificates, to substitute GNMA Certificates, FHLMC Certificates, and/or FNMA Certificates for FHLMC Certificates, FNMA Certificates or Other Mortgage Certificates, and to substitute Pledged Loans for Pledged Loans, provided in the case of Pledged Loans that the substitute Pledged Loan is of higher or equal quality (that is, such substitute Pledged Loan is insured up to at least the same level by a mortgage insurer the claims-paying ability of which is rated at least as high as that of the insurer of the Pledged Loans being replaced by the rating agency or agencies rating the Bonds, or if the Pledged Loan being replaced is not so insured, the substitute Pledged Loan has a loan-to-value ratio no higher than the Pledged Loan being replaced). In the event that Pledged Loans originated more than one year prior to substitution are substituted, each such substituted Pledged Loan will be reviewed for continuing underwriting qualification. The substitute collateral will be required to have scheduled cash flows at least equal to those of the Mortgage Collateral it replaces. After giving affect to any such substitution, the scheduled cash flows on the Mortgage Collateral and related Permitted Collateral, together with the Reinvestment Income thereon at assumed rates acceptable to rating agencies that rate the Bonds, will be sufficient to make payments on the Bonds in accordance with their terms and to retire each class of Bonds not later than its stated maturity. It will be a further condition of any such substitution that the outstanding ratings of the Bonds not be affected by such substitution.

The Applicant does not anticipate that substitution of Mortgage Collateral will occur frequently. In practice, substitution is likely to occur, if at all, only where (i) a Participant desires to remove a particular mortgage loan from the Mortgage Collateral in order to have greater discretion in dealing with a particular homeowner, (ii) as a corrective measure in the event that any representation or warranty with respect to such Mortgage Collateral is found to be incorrect, or any related documentation is found to be defective, in any material respect, or (iii) to allow the Participants to satisfy their commitments when, for various administrative reasons, it takes more time than anticipated to effect the assignment to the Trustee of a security interest in certain of the Mortgage Certificates. Applicant expects that such substitution would occur within three months after the closing of the sale of the Bonds, but in any event prior to the first payment date for the Bonds.

Applicant states that it may from time to time engage in financings in which principal payments on the Bonds are made through redemptions, which may include redemptions at the option of bondholders. Any such redemptions will permitted only to the extent that payments received on the Mortgage Collateral (and related amounts withdrawn from certain reserve funds and other Permitted Collateral) are available to pay the outstanding principal plus accrued interest on the Bonds so redeemed. Redemptions of Bonds of any series at the option of Bondholders will not be permitted from the portion of any redemption fund attributable to scheduled payments of principal and interest received on the Mortgage Collateral for such series. Any such redemption fund is expected at all times to be small in relation to the amount of Mortgage Collateral; funds are expected to be held in such redemption fund only for short periods of time; and the amount received upon a redemption will be equal to the outstanding principal amount of Bonds redeemed plus accured interest and will not be based upon a proportionate amount of the Applicant's net assets.

The Mortgage Collateral pledged to secure each series of the Bonds will be pledged and assigned to the Trustee, held by the Trustee or independent custodian banks acting as agent for the Trustee and registered, or an assignment thereof recorded, in the name of the Trustee, its nominee or such a custodian, each of which will be independent of the Applicant. The Notes and all other Permitted Collateral, other than buydown funds, will be held by the Trustee or such a custodian, or in an account in the name of the Trustee or such a custodian with an independent depository institution. At the time a series of Bonds is issued, the collateral value of the Mortgage Collateral for such series (together with amounts deposited in reserve funds, if any, and accounts and funds further securing such series) will be at least equal to the principal amount of the Bonds. The collateral value of collateral represents the principal amount of Bonds, the principal of and interest on which can be paid from the cash flows on such collateral and related Reinvestment Income.

The Applicant states that it will provide computer data concerning any Pledged Loans and mortgage loans underlying any Other Mortgage Certificates securing a series of Bonds to the rating agency or agencies rating the series of Bonds for their review with respect to relevant credit considerations and that independent accountants or other independent third parties will verify the accuracy of the data by examining the original loan files, using statistical sampling or other generally accepted methods. The Applicant states that such verification will include review of the mortgage note, the mortgage or deed of trust, the appropriate insurance policies, the appraisal report, the loan application,

and other documentation relevant for the purpose. Based upon their review, the rating agencies must confirm the collateral values assigned to the loans. The Applicant believes that the foregoing procedures, conducted by independent third parties, will be sufficient to determine the quality and value of such Mortgage Collateral.

Applicant represents that it is a limited purpose finance company whose only significant assets will be Mortgage Collateral, and Notes secured by Mortgage Collateral, pledged as collateral for each series of Bonds. It submits that neither the proposed operations of Applicant nor the proposed offering and sale of the Bonds resemble those of a typical investment company. The structure of the offering is based on a pay-through concept, which matches the amount of funds needed to pay Bondholders with the cash flow from the Mortgage Collateral securing such Bonds. Applicant also submits that it is to be formed for the primary purpose of facilitating the financing of mortgage loans to expand the availability of residential mortgages, a critical national need.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than September 3, 1985, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 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.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 85-19469 Filed 8-14-85; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

National Environmental Policy Act (NEPA) Implementing Procedures

[CGD 85-058]

AGENCY: Coast Guard, DOT.

ACTION: Notice.

SUMMARY: This notice announces the availability of copies of the newly revised Commandant Instruction M16475.1B, National Environmental Policy Act (NEPA) Implementing Procedures. The Instruction establishes Coast Guard procedures for implementing the National Environmental Policy Act of 1969 (NEPA) in compliance with regulations of the Council on Environmental Quality, Executive Order No. 12114 on Environmental Effects Abroad of Major Federal Actions, and the environmental analysis requirements of other laws affecting USCG programs. These changes affect USCG internal procedures only.

FOR COPIES AND/OR FURTHER INFORMATION CONTACT: LTJG Wood-Thomas, Environmental Compliance and Review Branch, Office of Marine Environment and Systems, United States Coast Guard at (202) 426-3300. Mail requests should be addressed to: Commandant (G-WP-3), U.S. Coast Guard, 2100 Second Street SW, Washington, DC 30593.

Dated: August 8, 1985.

J.H. Parent,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 85-19443 Filed 8-14-85; 8:45 am]

BILLING CODE 4910-14-M

Maritime Administration

[Docket S-771]

Application for a Waiver to Permit Participation in a Space-Charter Agreement With a Foreign-flag Carrier; Lykes Bros. Steamship Co., Inc.

Lykes Bros. Steamship Co., Inc. (Lykes), by application dated July 25, 1985, requests a waiver of the provisions of section 804(a) of the Merchant Marine Act, 1936, as amended (Act), if a waiver is necessary, for Lykes' participation in a space charter agreement with Trans Freight Lines, Inc. (TFL), a wholly owned subsidiary of an Australian company.

The TFL/Lykes Space Charter Agreement, for purposes of identification referred to as Agreement 217-010792, would permit Lykes to charter space on TFL's vessels for the carriage of cargo and equipment in the trade between United States Gulf ports and inland points via such ports, and ports and inland points in Northern Europe (LeHavre-Hamburg range) and the United Kingdom. The term "equipment" includes containers and chassis.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request within the meaning of section 804 of the Act and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Comments must be received no later than 5:00 P.M. on August 29, 1985. This notice is published as a matter of discretion and publication should in no way be considered a favorable decision on the application, as filed or as may be amended. The Maritime Administrator will consider any comments submitted and take such action with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential Subsidies.)

By Order of the Maritime Administrator.

Dated: August 9, 1985.

Murray A. Bloom,

Assistant Secretary.

[FR Doc. 85-19411 Filed 8-14-85; 8:45 am]

BILLING CODE 4910-81-M

Research and Special Programs Administration

High Pressure Composite Hoop Wrapped Cylinders 4500 P.S.I.G. Marked Service Pressure; Cylinders—85-4

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

ACTION: DOT-E 7235, Exemption related notice.

SUMMARY: The purpose of this notice is to require all cylinders manufactured under DOT-E 7235 that are marked DOT-E 7235 4500 and not equipped with neckrings, be removed from service before October 1, 1985. This action is being taken because MTB believes continued use of these cylinders without neckrings may pose a safety problem.

Notes.—Cylinders addressed in this notice are other than those specifically identified in FR Notices August 11, 1983, (48 FR 36559) and July 17, 1985, (50 FR 29038) as being subject to unconditional recall.

FOR FURTHER INFORMATION CONTACT: Arthur Mallen, Office of Hazardous Materials Regulation, Materials Transportation Bureau, U.S. Department

of Transportation, Washington, D.C. 20590, (202) 755–4906.

SUPPLEMENTARY INFORMATION: While the basic cause of the failure of cylinders manufactured under exemption DOT–E 7235 has not as yet been determined, metallurgical analysis indicates that the fractures are intergranular and result from sustained load crack propagation.

On February 27, 1984, the Materials Transportation Bureau (MTB) published a notice (49 FR 7182) specifying a reduction in filling pressure from 4500 psi to 4000 psi for all cylinders manufactured under exemption DOT–E 7235 and marked DOT–E 7234–4500. This action was based on failure analysis and testing performed by the manufacturer, Luxfer USA Limited (Luxfer), which demonstrated that reducing the maximum filling pressure from 4500 psi to 4000 psi would substantially decrease the likelihood of a catastrophic failure.

On November 1, 1984, MTB published a notice (49 FR 44047) specifying that exemption DOT–E 7235 had been amended to authorize filling to 4500 psi of acceptable cylinders marked DOT–E 7235–4500 and equipped with a steel neckring installed under the supervision of Luxfer. This action was based on results of a series of hydrostatic and hydro-pneumatic burst tests performed by Luxfer on preflawed cylinders with and without neckrings. Luxfer's test results showed that all test cylinders with neckrings failed by leakage only while a considerable number of test cylinders without neckrings failed by rupturing.

Since the type of failure experienced in these cylinders is considered "time dependent", MTB believes that prolonged usage of cylinders without neckrings may present a safety problem even when the filling pressure is limited to 4000 psi. Accordingly, MTB has amended DOT–E 7235 to require that any cylinder manufactured under exemption DOT–E 7235, which is marked DOT–E 7235–4500 and is not equipped with a neckring be removed from service, prior to October 1, 1985.

Issued in Washington, D.C. on August 9, 1985 under authority delegated in 49 CFR Part 106, Appendix A.

Thomas J. Charlton,

Acting Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 85–19487 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–60–M

Technical Hazardous-Liquid Pipeline Safety Standards Committee; Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a meeting of the Technical Hazardous-Liquid Pipeline Safety Standards Committee on September 18, 1985, at 9:00 a.m., in Room 3442, Nassif Building, 400 Seventh Street, SW., Washington, DC, 20590.

The purpose for the meeting is to develop a report on the technical feasibility, reasonableness, and practicability of three proposed amendments of the Hazardous Liquids Pipeline Safety Standards (49 CFR Part 195).

Part I—Proposed Amendments of 49 CFR Part 195

1. Welding procedures for gas and hazardous liquid pipelines (§195.214 and 195.227): Identical performance standards (excepting sections referenced) to be proposed for welding procedure qualification under Parts 192 and 195.

2. Updating steel line pipe specifications (§195.3): The American Petroleum Institute (API) has replaced API Specifications 5L, 5LS, and 4LX with specification API 5L. Proposed rule will update Parts 192 and 195 to include API Specification 5L, the 1985 edition.

3. Definition of rural gathering lines (§195.1(b)(4)): The exception of rural gathering lines from Part 195 requirements would be clarified by proposed new definitions.

Part II—Terminal Storage Facilities

The Committee will receive and discuss a preliminary report on terminal storage facilities.

Part III—Overpressure Protection

The Committee will be briefed on and discuss a recently initiated project to clarify application of §195.406(b) and to extend overpressure protection to unregulated facilities.

Attendance is open to the public, but limited to the space available. With approval of the chair of the Committee, members of the public may present oral statements on any items scheduled for discussion. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The chair may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: August 12, 1985.

Richard L. Bean,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85–19501 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–60–M

Technical Pipeline Safety Standards Committee/Technical Hazardous Liquid Pipeline Safety Standards Committee; Joint Public Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1), notice is hereby given of a joint meeting of the Technical Pipeline Safety Standards Committee on September 17, 1985, at 9:00 a.m. in Room 3442 Nassif Building, 400 Seventh Street, S.W., Washington, DC 20590.

The purpose of the meeting is to obtain the joint Committee's review of and comments on a number of reports (including user fees, State grant-in-aid allocation formula, federal/state pipeline safety roles) being prepared for submission to Congress.

Attendance is open to the public, but limited to the space available. With approval of the Executive Director of the Committees, members of the public may present oral statements on the subject. Due to the limited time available, each person who wants to make an oral statement is requested to notify Betty Clark, Room 8409, Nassif Building, 400 Seventh Street, SW., Washington, DC 20590, telephone 202–426–1640, of the topics to be addressed and the time requested to address each topic. The presiding officer may deny any request to present an oral statement and may limit the time of any oral presentation. Members of the public may present written statements to the Committee before or after any session of the meeting.

Dated: August 12, 1985.

Richard L. Beam,

Associate Director for Pipeline Safety Regulation, Materials Transportation Bureau.

[FR Doc. 85–19502 Filed 8–14–85; 8:45 am]

BILLING CODE 4910–60–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 24-85]

Treasury Notes, Series C-1995

Washington, August 8, 1985.

The Secretary announced on August 7, 1985 (50 FR 32508; August 12, 1985), that the interest rate on the notes designated Series C-1995, described in Department Circular—Public Debt Series—No. 24-85 dated August 1, 1985, will be 10-½ percent. Interest on the notes will be payable at the rate of 10-½percent annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-19447 Filed 8-14-85; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 23-85]

Treasury Notes, Series T-1988

Washington, August 7, 1985.

The Secretary announced on August 6, 1985 (50 FR 32507; August 12, 1985), that the interest rate on the notes designated Series T-1988, described in Department Circular—Public Debt Series—No. 23-85 dated August 1, 1985, will be 9½ percent. Interest on the notes will be payable at the rate of 9½ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-19448 Filed 8-14-85; 8:45 am]

BILLING CODE 4810-40-M

[Supplement to Department Circular—Public Debt Series—No. 25-85]

Treasury Bonds of 2015

Washington, August 9, 1985.

The Secretary announced on August 8, 1985 (50 FR 32511; August 12, 1985), that the interest rate on the Bonds of 2015, described in Department Circular—Public Debt Series—No. 25-85 dated August 1, 1985, will be 10⅝ percent. Interest on the notes will be payable at the rate of 10⅝ percent per annum.

Gerald Murphy,

Acting Fiscal Assistant Secretary.

[FR Doc. 85-19446 Filed 8-14-85; 8:45 am]

BILLING CODE 4810-40-M

Sunshine Act Meetings

Federal Register
Vol. 50, No. 158
Thursday, August 15, 1985

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

CONTENTS

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FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 5:15 p.m. on Thursday, August 8, 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 Security Bank & Trust Company, Midwest City, Oklahoma, which was closed by the Bank Commissioner for the State of Oklahoma on Thursday, August 8, 1985; (2) accept the bid for the transaction submitted by Security Bank of Midwest City, Midwest City, Oklahoma, a newly-chartered State nonmember bank subsidiary of Comban Shares, Inc., Oklahoma City, Oklahoma; (3) approve the applications of Security Bank of Midwest City, Midwest City, Oklahoma, for Federal deposit insurance, for consent to purchase certain assets of and assume the liability to pay deposits made in Security Bank & Trust Company, Midwest City, Oklahoma, and for consent to establish the sole branch of Security Bank & Trust Company as a branch of Security Bank of Midwest City; and (4) provide such financial assistance, pursuant to section 13(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1823(c)(2)), as was necessary to facilitate the purchase and assumption transaction;

(B) Consider recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings involving certain insured banks or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof;

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552(c)(6), (c)(8), (c)(9)(A)(ii));

(C)(1) Accept the bid of Peoples Bank, National Association, Houston, Texas, a newly-chartered National bank subsidiary of Bay Bancshares, Inc., La Porte, Texas, for the purchase of certain assets of and assumption of the liability to pay deposits made in Riverside National Bank of Houston, Texas, which was closed by the Deputy Comptroller of the Currency, Office of the Comptroller of the Currency, on Thursday, August 1, 1985, and (2) 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.

(D) Consider a request for financial assistance pursuant to section 13(c) of the Federal Deposit Insurance Act.

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. 552(c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 9, 1985.

Federal Deposit Insurance Corporation.

Noyle L. Robinson,

Executive Secretary.

[FR Doc. 85-19535 Filed 8-13-85; 11:24 am]

BILLING CODE 6714-01-M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:55 p.m. on Friday, August 9, 1985, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to: (1) Receive bids for the purchase of certain assets of and the assumption of the liability to pay deposits made in State Bank of Farmersville, Farmersville, Illinois, which was closed by the Commissioner of Banks and Trust Companies for the State of Illinois on Friday, August 9, 1985; (2) accept the bid for the transaction submitted by Litchfield Bank and Trust Company, Litchfield, Illinois, an insured State nonmember bank; (3) approve the application of Litchfield Bank and Trust Company, Litchfield, Illinois, for consent to purchase certain assets of and assume the liability to pay deposits made in State Bank of Farmersville, Farmersville, Illinois, and for consent to establish the sole office of State Bank of Farmersville as a facility of Litchfield Bank and Trust Company; 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.

In calling the meeting, the Board determined, on motion of Director Irvine H. Sprague (Appointive), seconded by Mr. Michael A. Mancusi, acting in the place and stead of Director of 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)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: August 12, 1985.

Federal Deposit Insurance Corporation.

Hoyle J. Robinson,

Executive Secretary.

[FR Doc. 85-19536 Filed 8-13-85; 11:25 am]

BILLING CODE 6714-01-M

3

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

ACTION. Addition of item to meeting agenda.

DATE OF MEETING: August 7-8, 1985.

PLACE: Council offices, Suite T100, 850 SW. Broadway, Portland, Oregon.

SUMMARY: The Government in the Sunshine Act, 5 U.S.C. 552b, requires **Federal Register** notice whenever an agency adds an item to its meeting agenda after the meeting has been

publicly announced. At its August 7–8, 1985 meeting in Portland, Oregon, the Northwest Power Planning Council voted unanimously (with Council member Donald Godard absent) to add to its agenda "Consideration of Extending the Public Comment Period for the Model Conservation Standards Rulemaking". The Council also found that Council business required the addition and that no earlier announcement of the addition was possible because the issue was raised by public comments soon before the meeting.

CONTACT PERSON FOR MORE INFORMATION: Ms. Bess Atkins, (503) 222–5161, 1–800–222–3355 (toll-free in Idaho, Montana and Washington) or 1–800–452–2324 (toll-free in Oregon).

Edward Sheets,

Executive Director.

[FR Doc. 85–19556 Filed 8–13–85; 11:49 am]

BILLING CODE 6000–00–M

federal register

Thursday
August 15, 1985

Part II

Environmental Protection Agency

40 CFR Part 2

Public Information Regulations; Collection of Fees; Interim Final Rule

Public Information and Confidentiality Regulations; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL-2832-3(b)]

Public Information Regulations; Collection of Fees

AGENCY: Environmental Protection Agency.

ACTION: Interim final rule.

SUMMARY: This interim rule modifies the Environmental Protection Agency's regulations on the collection of fees under the Freedom of Information Act. On March 17, 1983, the Agency published a final rule on collection of fees, the potential impact of which raised some public concern. In response to public comment and in settlement of litigation on the matter, the Agency is publishing this interim final rule which reinstates the procedures in effect prior to March 17, 1983.

EFFECTIVE DATE: August 15, 1985.

ADDRESS: Contracts and Information Law Branch (LE-132G), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Jane S. Roemer, Office of General Counsel, Telephone 202/382-5460.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency's (EPA's) procedures for handling requests for information under the Freedom of Information Act (FOIA) appear in 40 CFR Part 2, Subpart A. In another **Federal Register** notice (scheduled to be published the same date as this notice) EPA is proposing certain changes in those procedures and in the procedures for handling of confidential business information at 40 CFR Part 2, Subpart B. The instant notice addresses two subsections of 40 CFR Part 2, Subpart A, §§ 2.120(c) and 2.120(e). Rather than making proposed changes, this notice establishes interim final changes in those subsections.

Subsections (c) and (e) of § 2.120 relate to the collection of fees under the FOIA. On March 17, 1983 (48 FR 11270), EPA published in the **Federal Register** a final rule concerning the collection of fees for FOIA requests. That rule change EPA's fee collection policy to require full payment of estimated search and copying fees before any records are searched for, copied, or released.

After publication of the rule, EPA received comments from the public raising concerns about the potential impact the regulation might have on requestors obtaining information under the FOIA.

In response to the public comments and in settlement of litigation challenging the new procedures, EPA agreed to amend the March 17 final rule and revert to its prior procedures. An interim final rule was prepared, approved and implemented by the Agency. The approved rule was misplaced, however, and never published in the **Federal Register**. The Agency is correcting this error by issuing an interim rule to formally establish the interim final rule which reflects our current practices. These interim procedures are identical to EPA's fee collection procedures (40 CFR Part 2) which were in existence prior to the March 17, 1983 rule. They were published after notice and opportunity for comments on September 1, 1976 and September 8, 1978 (41 FR 36902 and 43 FR 40000).

The Agency is considering what its future policy should be with respect to procedures for the payment of fees. The Agency believes it needs a procedure to require payment before responsive documents are released to the requestor, especially in cases where large costs are involved. Such a procedure would reduce the costs to the government of collecting unpaid fees and would avoid defaults by individuals who make requests for large volumes of records. Comments are invited on this issue.

Other changes to § 2.120 are made in proposed form and appear in the related **Federal Register** notice mentioned herein.

This regulation will not have a significant economic impact on a substantial number of small entities. These changes to EPA's procedures will not impose additional costs for small entities. Therefore, a Regulatory Flexibility Analysis is not required.

Dated: July 17, 1985.

Lee M. Thomas,

Administrator.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

For the reasons set forth above EPA is amending 40 CFR Part 2 as follows:

PART 2—[AMENDED]

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

Authority: 5 U.S.C. 301, 552, 553; secs. 114, 208, 301, and 307 of the Clean Air Act, as amended, 42 U.S.C. 7414, 7542, 7601, 7607; secs. 308, 501, and 509(a) of the Clean Water Act, as amended, 33 U.S.C. 1318, 1361, 1369(a); sec. 13 of the Noise Control Act of 1972, 42 U.S.C. 4912; secs. 1445 and 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j-4, 300j-9; secs. 2002 and 3007 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6927; sec. 14 of the Toxic Substances Control Act, 15 U.S.C. 2613; secs. 10, 12, and 25 of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136h, 136j, 136v; sec. 408(f) of the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 345(f); and secs. 104(f) and 108 of the Marine Protection, Research, and Sanctuaries Act of 1972, 33 U.S.C. 1414(f), 1418.

2. Section 2.120 is amended by revising paragraphs (c) and (e) to read as follows:

§ 2.120 Fees; payment; waiver.

* * * * *

(c) *Prepayment or assurance of payment.* If an EPA office determines or estimates that the unpaid fees attributable to one or more requests by the same requestor exceed or will exceed $25.00, that office need not search for, duplicate or disclose records in response to any request by the requestor until the requestor pays, or makes acceptable arrangement to pay, the total amount of fees due (or estimated to become due) under this section. In such a case, the EPA office shall promptly inform the requestor (by telephone, if practicable) of the need to make payment or arrangement to pay. See also § 2.112(d).

* * * * *

(e) The EPA Freedom of Information Officer shall maintain a record of all fees charged requestors for searching for and reproducing requested records under this section. If after the end of 60 calendar days from the date on which request for payment was made the requestor has not submitted payment to the EPA Freedom of Information Officer, the Freedom of Information Officer shall place the requestor's name on a delinquent list. If a requestor whose name appears on the delinquent list makes a request under this part, the EPA Freedom of Information Officer shall inform the requestor that EPA will not process the request until the requestor submits payment of the overdue fee from the earlier request. Any request made by an individual who specifies an affiliation with or representation of a corporation, association, law firm or other organization shall be deemed to be a request by the corporation, association, law firm, or other organization. If an organization placed on the delinquent list can show that the

person who made the request for which payment was overdue did not make the request on behalf of the organization, the organization will be removed from the delinquent list but the name of the individual shall remain on the list. A requestor shall not be placed on the delinquent list if a request for a reduction or for a waiver is pending under paragraph (d) of this section.

[FR Doc. 85-19439 Filed 8-14-85; 8:45 am]
BILLING CODE 6560-50-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 2

[FRL-2832-3(a)]

Public Information and Confidentiality Regulations

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: This proposed rule would modify the Environmental Protection Agency procedures for handling requests for information under the Freedom of Information Act and for protecting confidential business information. It adds new sections for handling business information obtained under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Motor Vehicle Information and Cost Savings Act. This proposal also updates the special confidentiality rules to relfect amendments to the Clean Air Act and the Solid Waste Disposal Act.

DATE: Comments must be submitted on or before September 16,1985.

ADDRESS: Comments should be addressed to the Office of General Counsel, Contracts and Information Law Branch (LE–132G), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460. Comments will be available for public inspection in room M3600 at this address from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Jane S. Roemer, Office of General Counsel, Contracts and Information Law Branch (LE–132G), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460, Telephone: 202/382–5460.

SUPPLEMENTARY INFORMATION:

Background

The Environmental Protection Agency's (EPA's) procedures for handling requests for information under the Freedom of Information Act (FOIA) and for the treatment of information submitted to EPA and claimed confidential appear in 40 CFR Part 2. These procedures are divided into two subparts. Subpart A of 40 CFR Part 2 contains the Agency's basic regulations concerning responses to requests for Agency records under the FOIA. Subpart B sets forth the Agency's policy and procedures for handling business information obtained either by EPA, its contractors, or subcontractors which may be entitled to confidential treatment.

Since EPA last amended these regulations, it has become clear that certain provisions in both subparts require modification. This **Federal Register** notices proposes changes in the following sections of each subpart.

Subpart A

§ 2.100 Definitions.
§ 2.106 Where requests for agency records shall be filed.
§ 2.107 Misdirected written requests.
§ 2.111 Action by office responsible for responding to request.
§ 2.113 Initial denials of requests.
§ 2.114 Appeals from initial denials; manner of making.
§ 2.115 Appeals determination; by whom made.
§ 2.120 Fees; payment; waiver.

Subpart B

§ 2.202 Applicability of subpart; priority where provisions conflict; records containing more than one kind of information.
§ 2.204 Initial action by EPA office.
§ 2.205 Final confidentiality determination by EPA legal office.
§ 2.209 Disclosure in special circumstances.
§ 2.211 Safeguarding of business information penalty for wrongful disclosure.
§ 2.301 Special rules governing certain information obtained under the Clean Air Act.
§ 2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act, as amended.
§ 2.310 Special rules to implement the Comprehensive Environmental Response, Compensation and Liability Act of 1980.
§ 2.311 Special rules to implement the Motor Vehicle Information and Cost Savings Act.

The following is a brief summary by Subpart of each of the above changes:

Changes in Subpart A

Section 2.100, which defines what records in EPA's possession are "EPA records" for purposes of responding to the FOIA, would be revised to make clear that "EPA records" may include records of other Federal government agencies.

Section 2.106 would be updated to reflect changes in addresses of some of the EPA regional offices to which requests may be sent.

Section 2.107 would be revised to clarify when the 10 working days allowed for issuance of an initial determination begins in the case of misdirected requests for records. The 10-day period would only begin when the Freedom of Information Officer receives the written request for information.

Section 2.111 would be modified to add a provision that the date of the Agency's receipt of a request will ordinarily be the date for determining which records are responsive to a request. The section would also be changed to provide that EPA offices would either consult with other agencies when EPA finds in its files records belonging to another agency or transfer requests for such records to the other agency, so informing the requester, provided that the other agency is subject to the FOIA.

Section 2.113(f) and 2.114(a) would be amended to make clear that only initial denials of existing, located records may be appealed to the Agency.

Sections 2.115(b) and 2.120(d) would be modified to reflect an organizational change by substituting the Assistant Administrator for External Affairs for the EPA Office of Public Awareness. This proposal would allow the Assistant Administrator for External Affairs to delegate authority under §§ 2.115(b) and 2.120(d) to the Deputy Assistant Administrator for External Affairs. In addition, proposed § 2.115(b) would exempt from the review by the Assistant Administrator for External Affairs matters on appeal from initial determinations by the Office of Inspector General. The exemption would preserve the independent operation of the Office of Inspector General and would avoid the possible disclosure of identities of confidential sources or the possible premature disclosure of sensitive audit or investigative information.

Section 2.120(a) would be modified to increase search fees for processing FOIA requests and to raise the total fee for which no charge will be made.

Section 2.120(b) would be amended to require that payment of FOIA-related fees be made within 30 days of date of billing. The establishment of this due date would allow EPA improved recordkeeping and collection follow-up. Placement of the requestor's name on a delinquent list would still occur after 60 days of nonpayment, in accordance with § 1.120(e).

Section 2.120(d) would be amended to state that fees "shall," rather than "may," be reduced if the public interest would be served thereby. This change would make the regulation language consistent with the related language in the FOIA itself at 5 U.S.C. 552(a)(4)(A).

Changes in Subpart B Confidentiality Procedures

As stated above, Subpart B of 40 CFR Part 2 sets forth EPA's policy and procedures for protecting confidential business information. Sections 2.201 through 2.215 of this Subpart describe the Agency's general procedures for the confidentiality of business information. These sections include procedures for asserting and, when necessary, substantiating confidentiality claims for business information submitted by persons to EPA, its contractors or subcontractors. They also contain the procedures EPA uses to determine whether business information is entitled to confidential treatment and the steps it must follow to notify businesses of these determinations.

In addition to the general procedures governing confidentiality of business information, EPA's Subpart B regulations contain special rules (sections 2.301 through 2.311, as proposed) for handling data gathered under specific statutes administered by EPA.

EPA is proposing certain changes to the general and special rules of Subpart B. It is revising some of the special rules to reflect amendments to existing legislation and to create new special rules for implementing new legislation and to create new special rules for implementing new legislation. It is revising the general rules on disclosure to Congress.

Changes to the General Rules

Section 2.202 would be amended to reflect the addition of 2.310 and 2.311 to the special rules.

Section 2.204(d)(1)(iii) would be modified so that information concerning preliminary determinations of entitlement to confidential treatment would be forwarded by the appropriate EPA office to the EPA legal office after the time has elapsed for receipt of comments from the business, rather than upon sending the notice of opportunity to comment. This change is consistent with the proposed change that comments from businesses be sent to the designated EPA office rather than to the EPA legal office.

Section 2.204(e)(1) would be modified to indicate that businesses will be directed to send their comments on confidentiality claims to the appropriate EPA office, rather than to an EPA legal office, unless the General Counsel instructs otherwise.

Section 2.204(f) would be amended to add the business's comments on entitlement of its information to confidential treatment to those materials which must be forwarded to the EPA legal office taking action under § 2.204.

Sections 2.204(e)(2) and 2.25(b)(1), (b)(4), and (d)(1) would be amended to reflect a change in the way the time period for opportunity for businesses to comment on their business confidentiality claims is calculated. The date received shall be determined by the date of postmark or the date of hand delivery to the specified EPA office, rather than by date of receipt. EPA believes this change will provide a more objective and documentable means of calculating the comment period while at the same time removing the possibility that a submitter will be penalized by delays within mail channels.

Section 2.209(b): EPA is proposing to delete the current requirement that affected businesses receive 10 days' notice prior to disclosure of confidential business information to Congress or the Comptroller General. EPA believes this courtesy of advance notice may in some instances unduly delay the transmission of information needed by the Congress or the Comptroller General. The proposed rule would provide for notice of the disclosure to the affected business, but such notice would not need to be in advance of disclosure. EPA has also considered eliminating this notice requirement entirely and solicits comment on this alternative.

Section 2.211(d) would be modified to include references to new special confidentiality regulations and to add a requirement that EPA contractors and subcontractors properly safeguard business information and follow security measures imposed by EPA.

Changes to the Special Rules

EPA is updating the special rules to reflect amendments to existing statutes and new statutes. The following sections of the special rules are amended (sections 2.301 and 2.305) or added (sections 2.310 and 2.311):

Section 2.301—Clean Air Act
Section 2.305—Solid Waste Disposal Act and Amendments
Section 2.310—Comprehensive Environmental Response Compensation and Liability Act (CERCLA)
Section 2.311—Motor Vehicle Information and Cost Savings Act (MVICSA)

Special Rules for CERCLA

Proposed section 2.310 would set out special rules for business information submitted to EPA under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980. These special rules are necessary because section 104 of CERCLA establishes special provisions for the treatment and disclosure of information obtained under CERCLA. These special provisions require that the basic rules in Supart B be modified by special rules. The changes to the basic rules which are reflected in proposed § 2.310 are as follows:

(1) The special rules apply to any information submitted to EPA under section 104(e)(1) of the Act or which could have been obtained by EPA under section 104(e)(1).

(2) Since all information submitted under section 104(e)(1) is required by statute, none of that information is voluntarily submitted information as described in § 2.201(i) of 40 CFR.

(3) Information that is confidential would be disclosed when relevant to a proceeding under CERCLA pursuant to the rules set out in § 2.301(g).

(4) Information that may not be disclosed to the public would be provided to authorized representatives of EPA. The term "representatives" would include contractors and State and local government agencies. EPA would provide this information in accordance with the procedures set out in § 2.301(h).

(5) Except for these modifications, all the general rules of Subpart B would apply to this information without change.

Special Rules for MVICSA

Proposed section 2.311 would set out special rules for business information submitted to EPA under section 505 of the Motor Vehicle Information and Cost Savings Act. These special rules are necessary because section 505 of MVICSA establishes special procedures for information obtained under the Act. These special provisions require changes in the basic rules concerning the confidentiality of information. Those changes are reflected in proposed § 2.311 as follows:

(1) The special rules would apply to any information submitted under section 505 of the Act or which could have been required to be submitted under section 505.

(2) Since all information submitted under section 505 is required to be submitted by statute, none of the information is voluntarily submitted information as described in section 2.201(i).

(3) Information that is confidential would be disclosed when relevant to a proceeding under MVICSA pursuant to the rules set out in section 2.301(g).

(4) Except for those modifications, all the general rules of Subpart B would apply to this information without change.

Proposed Amendments to Special Rules for the Clean Air Act

There are three proposed technical amendments to 40 CFR 2.301(b) which are necessary to update the existing regulations to conform to the 1977 amendments to the Clean Air Act. In addition, § 2.301(g) is amended to clarify the types of proceedings to which subsections (g)(2), (g)(3), and (g)(4) apply. This provision is adopted for certain other special regulations, as indicated in those regulations.

Proposed Amendments to Special Rules for the Solid Waste Disposal Act, as Amended

Section 2.305 is revised to reflect the amendment of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, in 1980 and 1984. The section is also amended to redefine the term "proceeding" to more accurately reflect the types of proceedings that occur under the Act.

This regulation will not have a significant economic impact on a substantial number of small entities. These changes to EPA's procedures will not impose additional costs for small entities. Therefore, a Regulatory Flexibility Analysis is not required.

List of Subjects in 40 CFR Part 2

Administrative practice and procedure, Freedom of information, Confidential business information.

Dated: July 17, 1985.

Lee M. Thomas,

Administrator.

Therefore EPA proposes to amend 40 CFR Part 2 as follows:

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

Authority: 5 U.S.C 301, 522, 553; secs. 114, 208, 208, 301, and 307 of the Clean Air Act, as amended, 42 U.S.C. 7414, 7525, 7542, 7601, 7607; secs. 308, 501 and 509(a) of the Clean Water Act as amended, 33 U.S.C. 1318, 1361, 1369(a); sec. 13 of the Noise Control Act of 1972, 42 U.S.C. 4912; secs. 1445 and 1450 of the Safe Drinking Water Act, 42 U.S.C. 300j–4, 300j–9; secs. 2002, 3007, and 9005 of the Solid Waste Disposal Act, as amended, 42 U.S.C. 6912, 6927, 6995; secs. 6(c), 11, and 14 of Toxic Substances Control Act, 15 U.S.C. 2607(c), 2610 and 2613; secs. 10, 12, and 25 of Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. 136h, 136j, 136v; sec. 408(f) of the Federal Food, Drug and Cosmetic Act, as amended, 21 U.S.C. 346(f); secs. 104(f) and 108 of the Marine Protection Research and Sanctuaries Act of 1972, 33 U.S.C. 1414(f), 1418; sec. 104(e)(1) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9603; sec. 505 of the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 2005.

2. The Table of Sections for Part 2 is amended by revising the title for § 2.305 and adding titles for §§ 2.310 and 2.311 to read as follows:

PART 2—PUBLIC INFORMATION

Sec.

2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act, as amended.

* * * * *

2.310 Special rules governing certain information obtained under the Comprehensive Environmental Response, Compensation and Liability Act of 1980.

2.311 Special rules governing certain information obtained under the Motor Vehicle Information and Cost Savings Act.

3. Section 2.100 is amended by revising paragraph (b) to read as follows:

§ 2.100 Definitions.

* * * * *

(b) "EPA record" or, simply "record" means any document, writing, photograph, sound or magnetic recording, drawing, or other similar thing by which information has been preserved, from which the information can be retrieved and copied, and which is, was, or is alleged to be possessed by EPA. It may include copies of the records of other Federal agencies (See § 2.111(d)). The term includes informal writings (such as drafts and the like), and also includes information preserved in a form which must be translated or deciphered by machine in order to be intelligible to humans. The term includes documents and the like which were created or acquired by EPA, its predecessors, its officers, and employees by use of Government funds or in the course of transacting official business. However, the term does not include materials which are legally owned by an EPA officer or employee in his or her purely personal capacity or personal notes of an individual not made available to other persons in the agency and not filed with agency records. Nor does the term include materials published by non-Federal organizations which are readily available to the public, such as books, journals, and periodicals available through reference libraries, even if such materials are in EPA's possession.

* * * * *

4. Section 2.106 is amended by revising paragraphs (b)(3), (b)(4), (b)(6), (b)(7), (b)(8), and (b)(9) to read as follows:

§ 2.106 Where requests for agency records shall be filed.

* * * * *

(b) * * *

(3) Region III (Delaware, Maryland, Pennsylvania, Virginia, West Virginia, District of Columbia): U.S. Environmental Protection Agency, Freedom of Information Officer, 841 Chestnut Street, Philadelphia, PA 19107.

(4) Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee): U.S. Environmental Protection Agency, Freedom of Information Officer, 345 Courtland Street, NE., Atlanta, GA 30365.

* * * * *

(6) Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, Texas): U.S. Environmental Protection Agency, Freedom of Information Officer, (6M–MC), 1201 Elm Street, Dallas, TX 75270.

(7) Region VII (Iowa, Kansas, Missouri, Nebraska): U.S. Environmental Protection Agency, Freedom of Information Officer, 726 Minnesota Avenue, Kansas City, KS 66101.

(8) Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming): U.S. Environmental Protection Agency, Freedom of Information Officer, One Denver Place, 999 18th Street, Suite 1300 Denver, CO 80202–2413.

(9) Region IX (Arizona, California, Hawaii, Nevada, American Samoa, Guam, Trust Territory of Pacific Islands, Wake Island): U.S. Environmental Protection Agency, Freedom of Information Officer, 215 Fremont Street, San Francisco, CA 94105.

* * * * *

5. Section 2.107 is amended by revising paragraph (a) to read as follows:

§ 2.107 Misdirected written requests; oral requests.

(a) EPA cannot assure that a timely or satisfactory response under this subpart will be given to written requests that are addressed to EPA offices, officers, or employees other than the Freedom of Information Officers listed in § 2.106. Any EPA officer or employee who receives a written request for inspection or disclosure of EPA records shall promptly forward a copy of the request to the appropriate Freedom of Information Officer, by the fastest practicable means, and shall, if appropriate, commence action under § 2.111. For purposes of § 2.112, the time allowed with respect to initial determination shall be computed from the day on which the appropriate

Freedom of Information Officer receives the request.

* * * * *

6. Section 2.111 is amended by adding new paragraphs (c) and (d) to read as follows:

§ 2.111 Action by office responsible for responding to request.

* * * * *

(c) In determining which records are responsive to a request, the EPA office responding shall ordinarily include those records within the Agency's possession as of the date of the Agency's receipt of the request.

(d) When a request for EPA records encompasses records of another Federal agency, the EPA office shall either: (1) respond to the request after consulting with the originating agency when appropriate or (2) transfer responsibility for responding to the request to the originating agency provided that the other agency is subject to the FOIA. Whenever the EPA officer refers a request to another agency, it shall notify the requestor of the referral.

7. Section 2.113 is amended by revising paragraph (f) to read as follows:

§ 2.113 Initial denials of requests.

* * * * *

(f) Each initial determination which denies, in whole or in part, a request for one or more existing, located EPA records shall state that the requestor may appeal the initial denial by sending a written appeal to the address shown in § 2.106(a) within 30 days of receipt of the determination. An Initial determination which does not produce a record because it is not known to exist (subsection (a) of this section) or because it is not in EPA's possession (subsection (b) of this section) is not a denial and may not be appealed to the Agency.

* * * * *

8. Section 2.114 is amended by revising paragraph (a) to read as follows:

§ 2.114 Appeals from initial denials; manner of making.

(a) Any person whose request for one or more existing, located EPA records has been denied in whole or in part by an initial determination may appeal that denial by addressing a written appeal to the address shown in § 2.106(a).

* * * * *

9. Section 2.115 is amended by revising paragraph (b) and adding a new paragraph (d) to read as follows:

§ 2.115 Appeal determinations; by whom made.

* * * * *

(b) Whenever the General Counsel has determined under paragraph (a)(3) of this section that a record is exempt from mandatory disclosure but legally may be disclosed and the record has not been disclosed by EPA, the matter shall be referred to the Assistant Administrator for External Affairs. If the Assistant Administrator determines that the public interest would not be served by disclosure, a determination denying the appeal shall be issued by the General Counsel. If the Assistant Administrator determines that the public interest would be served by disclosure, the record shall be disclosed unless the Administrator (upon a review of the matter request by the approriate Assistant Administrator, Associate Administrator, Regional Administrator, or the Director of a Headquarters Staff Office) determines that the public interest would not be served by disclosure, in which case the General Counsel shall issue a determination denying the appeal. This review by the Assistant Administrator for External Affairs shall not apply to appeals from initial determinations by the Office of Inspector General to deny requests.

* * * * *

(d) The Assistant Administrator for External Affairs may delegate the authority under paragraph (b) of this section to the Deputy Assistant Administrator for External Affairs.

10. Section 2.120 is amended by revising paragraphs (a), (b), and (d) to read as follows:

§ 2.120 Fees; payment; waiver.

(a) *Fee schedule.* Fees will be charged requestors for searching for and reproducing requested records in accordance with the following schedule:

(1) Record search time (EPA employees):

(i) Personnel (GS–8 and below). For each ½ hour, or portion thereof, spent searching for a requested record, $3.50.

(ii) Personnel (GS–9 and above). For each ½ hour, or portion thereof, spent searching for a requested record, $7.00.

(iii) Computer programming time (EPA employees), $8.50 per half hour.

(iv) Reproduction of documents (paper copy of paper original), $0.20 per page.

(2) Other costs of searching for or duplicating records (including such items as computer system time; contractor computer programming time, contractor search time; contractor reproduction costs; reproduction of photographs, microfilms, or magnetic tape; computer printouts, and transportation of records), will be the actual direct cost to EPA.

(3) No charge shall be made—

(i) For examination and evaluation of records which have been located and which are known to be among those requested;

(ii) For the cost of preparing or reviewing letters of response to a request or appeal;

(iii) If the total fee in connection with a request is less than $25.00, or if the costs of collecting the fee would otherwise exceed the amount of the fee;

(iv) For responding to a request for one copy of the official personnel record of the requestor;

(v) For furnishing records requested by either House of Congress, or by a duly authorized committee or subcommittee of Congress, unless the records are requested for the benefit of an individual Member of Congress or for a constituent;

(vi) For furnishing records requested by and for the official use of other Federal agencies; or

(vii) For furnishing records needed by an EPA contractor or grantee to perform the work required by the EPA contract or grant.

(b) *Method of payment.* All fee payments shall be in the form of a check or money order payable to the "U.S. Environmental Protection Agency" and shall be sent [accomplished by a reference to the pertinent Request Identification Number(s)] to the appropriate Headquarters or Regional Financial Management Officer. Payment shall be due within thirty (30) calender days of date of billing.

* * * * *

(d) *Reduction or waiver of fee.* The fee chargeable under this section shall be reduced or waived by EPA if the Agency determines that a waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public. Reduction or waiver of fees shall be considered (but need not necessarily be granted) in connection with each request from a representative of the press or other communications medium, or from a public interest group. A request for reduction or waiver of fees shall be addressed to the appropriate Freedom of Information Officer or the EPA office which is responding to the request for records. The latter office shall initially determine whether the fee shall be reduced or waived, and shall so inform the requestor. This initial determination may be appealed by letter addressed to the appropriate Freedom of Information Officer. The Assistant Administrator for External Affairs or, if delegated the authority, the Deputy

Assistant Administrator for External Affairs, shall decide such appeals.

* * * * *

11. Section 2.202 is amended by revising paragraphs (b) and (c) to read as follows:

§ 2.202 Applicability of subpart; priority where provisions conflict; records containing more than one kind of information.

* * * * *

(b) Various statutes (other than 5 U.S.C. 552) under which EPA operates contain special provisions concerning the entitlement to confidential treatment of information gathered under such statutes. Sections 2.301 through 2.311 prescribe rules for treatment of certain categories of business information obtained under the various statutory provisions. Paragraph (b) of each of those sections should be consulted to determine whether any of those sections applies to the particular information in question.

(c) The basic rules of §§ 2.201 through 2.215 govern except to the extent that they are modified or supplanted by the special rules of §§ 2.301 through 2.311. In the event of a conflict between the provisions of the basic rules and those of a special rule which is applicable to the particular information in question, the provision of the special rule shall govern.

* * * * *

12. Section 2.204 is amended by revising paragraphs (d)(1)(iii), (e)(1), and (e)(2), redesignating and revising paragraphs (f) (8) and (9) as (f) (9) and (10), and adding (f)(8) to read as follows:

§ 2.204 Initial action by EPA office.

* * * * *

(d) * * *

(1) * * *

(iii) Refer the matter to the appropriate EPA legal office, furnishing the information required by paragraph (f) of this section after the time has elapsed for receipt of comments from the affected business.

* * * * *

(e) * * *

(1) Whenever required by paragraph (d)(1) of this section, the EPA office shall promptly furnish each business a written notice stating that EPA is determining under this subpart whether the information is entitled to confidential treatment, and affording the business an opportunity to comment. The notice shall be furnished by certified mail (return receipt requested), by personal delivery, or by other means which allows verification of the fact and date of receipt. The notice shall state the address of the office to which the business's comments shall be addressed (the appropriate EPA office, unless the General Counsel has directed otherwise), the time allowed for comments, and the method for requesting a time extension under § 2.205(b)(2). The notice shall further state that EPA will construe a business's failure to furnish timely comments as a waiver of the business's claim.

(2) If action under this section is occasioned by a request for the information under 5 U.S.C. 552, the period for comments shall be 15 working days after the date of the business's receipt of the written notice. In other cases, the EPA office shall establish a reasonable period for comments (not less than 15 working days after the business's receipt of the written notice). The time period for comments shall be considered met if the business's comments are postmarked or hand delivered to the office designated in the notice by the date specified. In all cases, the notice shall call the business's attention to the provisions of § 2.205(b).

* * * * *

(f) * * *

(8) A copy of the business's comments on whether the information is entitled to confidential treatment;

(9) The office's comments concerning the appropriate substantive criteria under this subpart, and information the office possesses concerning the information's entitlement to confidential treatment; and

(10) Copies of other correspondence or memoranda which pertain to the matter.

13. Section 2.205 is amended by revising paragraphs (b)(1), (b)(4), and (d)(1) to read as follows:

§ 2.205 Final confidentiality determination by EPA legal office.

* * * * *

(b) * * *

(1) Each business which has been furnished the notice and opportunity to comment prescribed by § 2.204(d)(1) and § 2.204(e) shall furnish its comments to the office specified in the notice in time to be postmarked or hand delivered to that office not later than the date specified in the notice (or the date established in lieu thereof under this section).

* * * * *

(4) If a business's comments have not been received by the specified EPA office by the time the period for comments has elapsed, that office shall promptly inquire whether the business has complied with paragraph (b)(1) or (b)(2) of this section. If the business has complied with paragraph (b)(1) but the comments have been lost in transmission, duplicate comments shall be requested. The EPA office shall verify compliance with paragraph (b)(2) of this section and ascertain the new due date for comment by contacting the appropriate EPA legal office.

* * * * *

(d) * * *

(1) If the EPA legal office finds that a business has failed to furnish comments under paragraph (b) of this section by the specified due date, it shall determine that the business has waived its claim. If, after application of the preceding sentence, no claim applies to the information, the office shall determine that the information is not entitled to confidential treatment under this subpart and, subject to § 2.210, is available to the public.

* * * * *

14. Section 2.209 is amended by revising paragraph (b) to read as follows:

§ 2.209 Disclosure in special circumstances.

* * * * *

(b) Disclosure to Congress or the Comptroller General. Upon receipt of a written request by the Speaker of the House, President of the Senate, chairman of a committee or subcommittee, or the Comptroller General, as appropriate , EPA will disclose business information to either House of Congress, to a committee or subcommittee of Congress, or to the Comptroller General, unless a statute forbids such disclosure. If the request is for information claimed as condfidential or determined to be confidential, the EPA office processing the request shall provide notice to each affected business of the type of information disclosed and to whom it is disclosed. Notice prior to disclosure is left to the discretion of the office holding the information. Such notice may be given by notice published in the **Federal Register** or by letter sent by certified mail return receipt requested or telegram. At the time EPA discloses the business information, EPA will inform the requesting body of any unresolved business confidentiality claim known to cover the information and of any determination under this subpart that the information is entitled to confidential treatment.

* * * * *

15. Section 2.211 is amended by revising paragraph (d) to read as follows:

§ 2.211 Safeguarding of business information; penalty for wrongful disclosure.

* * * * *

(d) Each contractor or subcontractor with EPA, and each employee of such contractor or subcontractor, who is furnished business information by EPA under § 2.301(h), 2.302(h), 2.304(h), 2.305(h), 2.306(j), 2.307(h), 2.308(i) or 2.310(i) shall use or disclose that information only as permitted by the contract or subcontract under which the information was furnished. Contractors or subcontractors shall take steps to properly safeguard business information including following any security procedures for handling and safeguarding business information which are contained in any manuals, procedures, regulations or guidelines provided by EPA. Any violation of this paragraph shall constitute grounds for suspension or debarment of the contractor or subcontractor in question. A willful violation of this paragraph may result in criminal prosecution.

16. Section 2.301 is amended by revising paragraphs (b)(1) (i)(C) and (ii), redesignating and revising (b)(4) and (b)(5) as (b)(5) and (b)(6), respectively, adding a new paragraph (b)(4), and revising (g)(2), the first sentence of (g)(3), and the first sentence of (g)(4) to read as follows:

§ 2.301 Special rules governing certain information obtained under the Clean Air Act.

* * * * *

(b) * * *

(1) * * *

(i) * * *

(C) of carrying out any provision of the Act (except a provision of Part II of the Act with respect to a manufacturer of new motor vehicles or new motor vehicle engines);

(ii) Provided or obtained under section 208 of the Act, 42 U.S.C. 7542, for the purpose of enabling the Administrator to determine whether a manufacturer has acted or is acting in compliance with the Act and regulations under the Act, or provided or obtained under section 206(c) of the Act, 42 U.S.C. 7525(c); or

* * * * *

(4) Information will be considered to have been provided or obtained under section 206(c) of the Act if it was provided in response to a request by EPA made for any of the purposes stated in section 206(c) regardless of whether section 206(c) was cited as authority for any request for the information, whether an action was brought under section 204 of the Act, 42 U.S.C. 7523, or whether the information was provided directly to EPA or through some third person.

(5) Information will be considered to have been provided or obtained under section 307(a) of the Act if it was provided in response to a subpoena issued under section 307(a), or if its production could have been requested by subpoena under section 307(a), regardless of whether section 307(a) was cited as the authority for any request for the information, whether a subpoena was issued by EPA, whether a court issued an order under section 307(a), or whether the information was provided directly to EPA or through some third person.

(6) This section specifically does not apply to information obtained under section 111(j) or 211(b) of the Act, 42 U.S.C. 7411(j), 7545(b).

* * * * *

(g) * * *

(2) In connection with any proceeding other than a proceeding involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, information to which this section applies may be made available to the public under this paragraph (g)(2). No information shall be made available to the public under this paragraph (g)(2) until any affected business has been informed that EPA is considering making the information available to the public under this paragraph (g)(2) in connection with an identified proceeding, and has afforded the business a reasonable period for comments (such notice and opportunity to comment may be afforded in connection with the notice prescribed by § 2.204(d)(1) and § 2.204(e)). Information may be made available to the public under this paragraph (g)(2) only if, after consideration of any timely comments submitted by the business, the General Counsel determines that the information is relevant to the subject of the proceeding and the EPA office conducting the proceeding determines that the public interest would be served by making the information available to the public. Any affected business shall be given at least 5 days notice by the General Counsel prior to making the information available to the public.

(3) In connection with any proceeding involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, information to which this section applies may be made available to the public, or to one or more parties of record to the proceeding, under this paragraph (g)(3). * * *

(4) In connection with any proceeding involving a decision by a presiding officer after an evidentiary or adjudicatory hearing, information to which this section applies may be made available to one or more parties of record to the proceeding, under this paragraph (g)(4). * * *

* * * * *

17. Section 2.305 is amended by revising the section heading and paragraphs (a), (b), (g)(1), and (h)(1) and adding (h)(4) as follows:

§ 2.305 Special rules governing certain information obtained under the Solid Waste Disposal Act, as amended.

(a) *Definitions.* For purposes of this section:

(1) "Act" means the Solid Waste Disposal Act, as amended, including amendments made by the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. 6901 *et seq.*

(2) "Person" has the meaning given it in section 1004(15) of the Act, 42 U.S.C. 6903(15).

(3) "Hazardous waste" has the meaning given it in section 1005(5) of the Act, 42 U.S.C. 6903(5).

(4) "Proceeding" means any rulemaking, adjudication, or licensing conducted by EPA under the Act or under regulations which implement the Act including the issuance of administrative orders and the approval or disapproval of plans (e.g. closure plans) submitted by persons subject to regulation under the Act, but not including determinations under this subpart.

(b) *Applicability.* This section applies to information provided to or obtained by EPA under section 3001(b)(3)(B), 3007, or 9005 of the Act, 42 U.S.C. 6921(b)(3)(B), 6927, or 6995. Information will be considered to have been provided or obtained under section 3001(b)(3)(B), 3007 or 9005 of the Act if it was provided in response to a request from EPA made for any of the purposes stated in the Act or if its submission could have been required under the Act regardless of whether a specific section was cited as the authority for any request for the information or whether the information was provided directly to EPA or through some third person.

* * * * *

(g) *Disclosure of information relevant in a proceeding.* (1) Under sections 3007(b) and 9005(b) of the Act (42 U.S.C. 6927(b) and 6995(b)), any information to which this section applies may be disclosed by EPA because of the relevance of the information in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made

only in accordance with this paragraph (g).

(h) *Disclosure to authorized representatives.* (1) Under sections 3001(b)(3)(B), 3007(b), and 9005(b) of the Act (42 U.S.C. 6921(b)(3)(B), 6927(b), and 6995(b)), EPA possesses authority to disclose to any authorized representative of the United States any information to which this section applies, notwithstanding the fact that the information might otherwise be entitled to confidential treatment under this subpart. Such authority may be exercised only in accordance with paragraph (h)(2) or (h)(3) of this section.

* * * * *

(4) At the time any information is furnished to a contractor or subcontractor under this paragraph (h), the EPA office furnishing the information to the contractor or subcontractor shall notify the contractor or subcontractor that the information may be entitled to confidential treatment and that any knowing and willful disclosure of the information may subject the contractor or subcontractor and its employees to penalties in section 3001(b)(3)(B), 3007(b)(2), or 9005(b)(1) of the Act (42 U.S.C. 6921(b)(3)(B), 6927(b), or 6995(b)).

18. By adding § 2.310 to read as follows:

§ 2.310 Special rules governing certain information obtained under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980.

(a) *Definitions.* For purposes of this section:

(1) "Act" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. 9601 et seq.

(2) "Person" has the meaning given it in section 101(21) of the Act, 42 U.S.C. 9601(21).

(3) "Facility" has the meaning given it in section 101(9) of the Act, 42 U.S.C. 9601(9).

(4) "Hazardous substance" has the meaning given it in section 101(14) of the Act, 42 U.S.C. 9601(14).

(5) "Release" has the meaning given it in section 101(18) of the Act, 42 U.S.C. 9601(18).

(6) "Proceeding" means any rulemaking or adjudication conducted by EPA under the Act or under regulations which implement the Act (including the issuance of administrative orders under section 106 of the Act), or any action taken by EPA in response to the release or threat of release of a hazardous substance, but not including determinations under this subpart.

(b) *Applicability.* This section applies only to information provided to or obtained by EPA under section 104(e)(1) of the Act, 42 U.S.C. 9604(e)(1), by or from any person who stores, treats, or disposes of hazardous wastes; or where necessary to ascertain facts not available at the facility where such hazardous substances are located, who generates, transports, or otherwise handles or has handled hazardous substances. Information will be considered to have been provided or obtained under section 104(e)(1) of the Act if it was provided in response to a request from EPA or a representative of EPA made for any of the purposes stated in section 104(e)(1), or if its submission could have been required under section 104(e)(1), regardless of whether section 104(e)(1) was cited as authority for any request for the information or whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207 and 2.209 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

(e) *Substantive criteria for use in confidentiality determinations.* Section 2.208 applies without change to information to which this section applies; however, no information to which this section applies is voluntarily submitted information.

(f) [Reserved]

(g)(1) Under section 104(e)(2)(A) of the Act (42 U.S.C. 9604(e)(2)(A)) any information to which this section applies may be disclosed by EPA because of the relevance of the information in a proceeding under the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Disclosure of information to which this section applies because of its relevance in a proceeding shall be made only in accordance with this paragraph (g).

(2–4) The provisions of paragraphs 2.301(g)(2), (g)(3), and (g)(4) are to be used as paragraphs (g)(2), (g)(3), and (g)(4), respectively, of this section.

(h) *Disclosure to authorized representatives.* (1) Under section 104(e)(1) of the Act (42 U.S.C. 9604(e)(1)), EPA possesses authority to disclose to any authorized representative of the United States any information to which this section applies, notwithstanding the fact that the information might otherwise be entitled to confidential treatment under this subpart. Such authority may be exercised only in accordance with paragraph (h)(2) or (h)(3) of this section.

(2–3) The provisions of paragraphs 2.301(h)(2) and (h)(3) are to be used as paragraphs(h)(2) and (h)(3), respectively, of this section.

19. By adding § 2.311 to read as follows:

§ 2.311 Special rules governing certain information obtained under the Motor Vehicle Information and Cost Savings Act.

(a) *Definitions.* For the purposes of this section:

(1) "Act" means the Motor Vehicle Information and Cost Savings Act, as amended, 15 U.S.C. 1901 et seq.

(2) "Average fuel economy" has the meaning given it in section 501(4) of the Act, 15 U.S.C. 2001(4).

(3) "Fuel economy" has the meaning given it in section 501(6) of the Act, 15 U.S.C. 2001(6).

(4) "Fuel economy data" means any measurement or calculation of fuel economy for any model type and average fuel economy of a manufacturer under section 503(d) of the Act, 15 U.S.C. 2003(d).

(5) "Manufacturer" has the meaning given it in section 501(9) of the Act, 15 U.S.C. 2001(9).

(6) "Model type" has the meaning given it in section 501(11) of the Act, 15 U.S.C. 2001(11).

(b) *Applicability.* This section applies only to information provided to or obtained by EPA under Title V, Part A of the Act, 15 U.S.C. 2001 through 2012. Information will be considered to have been provided or obtained under Title V, Part A of the Act if it was provided in response to a request from EPA made for any purpose stated in Title V, Part A, or if its submission could have been required under Title V Part A, regardless of whether Title V Part A was cited as the authority for any request for information or whether the information was provided directly to EPA or through some third person.

(c) *Basic rules which apply without change.* Sections 2.201 through 2.207 and 2.209 through 2.215 apply without change to information to which this section applies.

(d) [Reserved]

(e) *Substantive criteria for use in confidentiality determinations.* Section 2.208 applies without change to information to which this section applies, except that information that is fuel economy data is not eligible for confidential treatment. No information to which this section applied is voluntarily submitted information.

(f) [Reserved]

(g) *Disclosure of information relevant to a proceeding.* (1) Under section 505(d)(1) of the Act, any information to which this section applies may be released by EPA because of the relevance of the information to a proceeding under Title V, Part A of the Act, notwithstanding the fact that the information otherwise might be entitled to confidential treatment under this subpart. Release of information to which this section applies because of its relevance to a proceeding shall be made only in accordance with this paragraph (g).

(2–4) The provisions of paragraphs 2.301(g)(2), (g)(3), and (g)(4) are to be used as paragraphs (g)(2), (g)(3), (g)(4), respectively, of this section.

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Part III

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 761

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Areas Unsuitable for Surface Coal Mining; Areas Designated by Act of Congress; Proposed Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 761

Surface Coal Mining and Reclamation Operations; Permanent Regulatory Program; Areas Unsuitable for Surface Coal Mining; Areas Designated by Act of Congress

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

ACTION: Proposed rule.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is proposing to revise its rule specifying how close surface coal mining operations can occur to rivers that are under study pursuant to the Wild and Scenic Rivers Act (WSRA). In a December 17, 1984, brief filed by the Secretary of the Interior in response to a legal challenge of the existing rule, the Secretary recognized that a conflict exists between the guidelines for study rivers established under the WSRA and the challenged rules. The WSRA guidelines designate a boundary for protection of study river areas as *at least* one-quarter mile from each bank of a study river. OSM's rules specified that the boundary be *no more than* one-quarter mile from each bank of the river. This proposed rule would prohibit mining along study rivers or study river corridors as established in any guidelines pursuant to the Wild and Scenic Rivers Act rather than specifying any maximum distance requirement. If a study river or study river corridor is not designated a Wild and Scenic River (or corridor) and loses its study status, the protection of section 522(e) of the Surface Mining Act would no longer apply.

DATES: Written comments must be received before 5:00 p.m. eastern daylight time on or before October 24, 1985.

Public hearings. Upon request, OSM will hold public hearings on the proposed rule in Washington, D.C.; Denver, Colorado; and Knoxville, Tennessee, at 9:30 a.m. local time on October 17, 1985. Upon request, OSM also will hold public hearings in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington at times and on dates to be announced prior to the hearings. OSM will accept requests for public hearings until 5:00 p.m. eastern daylight time on October 3, 1985.

ADDRESSES: Written comments. Hand-deliver to the Office of Surface Mining, Administrative Record, Room 5124B, 1100 L Street, NW., Washington, D.C.; or mail to the Office of Surface Mining, Administrative Record, Room 5124B–L, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240

Public hearings. Department of the Interior Auditorium, 18th and C Streets, NW., Washington, D.C.; Brooks Towers, 2d Floor Conference Room, 1020 15th Street, Denver, Colorado; and the Hyatt House, 500 Hill Avenue, SE., Knoxville, Tennessee. The addresses for any hearings scheduled in the States of Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, and Washington will be announced prior to the hearings.

Requests for public hearings. Submit in writing to the person and address specified under **"FOR FURTHER INFORMATION CONTACT"** by the time specified under **"DATES."**

FOR FURTHER INFORMATION CONTACT: Stann Chase, Office of Surface Mining, U.S. Department of the Interior, 1951 Constitution Avenue, NW., Washington, D.C. 20240; telephone: 202–343–5587 (commercial or FTS).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written Comments

Written comments submitted on the proposed rule should be specific, should be confined to issues pertinent to the proposed rule, and should explain the reason for any recommended change. Where practicable, commenters should submit five copies of their comments (see **"ADDRESSES"**). Comments received after the close of the comment period (see **"DATES"**) will not necessarily be considered or included in the Administrative Record for the final rule.

Public Hearings.

OSM will hold public hearings on the proposed rule on request only.

The times, dates, and addresses scheduled for the hearings at three locations are specified previously in this notice (see **"DATES"** and **"ADDRESSES"**). The times, dates, and addresses for the hearings at the remaining locations have not yet been scheduled but will be announced in the **Federal Register** at least 7 days prior to any hearings which are held at these locations.

Any person interested in participating in a hearing at a particular location should notify Stann Chase (see **"FOR FURTHER INFORMATION CONTACT"**) either orally or in writing of the desired hearing location by 5:00 p.m. eastern daylight time on September 26, 1985. If no one has contacted Mr. Chase to express an interest in participating in a hearing at a given location by that date, the hearing will not be held. If only one person expresses an interest, a public meeting rather than a hearing may be held and the results included in the Administrative Record.

If a hearing is held, it will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at a hearing give the transcriber a written copy of their testimony. To assist OSM in preparing appropriate questions to clarify issues, OSM also requests that persons who plan to testify submit to OSM at the address previously specified for the submission of written comments (see **"ADDRESSES"**) an advance copy of their testimony.

II. Background

The Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (SMCRA, Pub. L. 95–87) sets forth the general regulatory requirements governing surface coal mining operations and the surface impact of underground coal mining. OSM has by regulation (30 CFR Chapter VII) implemented or clarified many of the general requirements of the Act and established performance standards to be achieved by different operations. As part of that process, on September 14, 1983 (48 FR 41312), the Secretary of the Interior promulgated final rules amending certain portions of its permanent regulatory program.

In part, the rules affected were those in 30 CFR Part 761, which implemented section 522(e) of SMCRA by setting forth the prohibitions and limitations of mining in areas designated by Congress as unsuitable for all or certain types of surface coal mining operations. More specifically, the rules affected mining along study rivers in the Wild and Scenic Rivers System designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)). Existing 30 CFR 761.11(a) prohibits mining within a maximum of one-quarter mile from each bank of a study river. However, the rule was found to be in conflict with the guidelines established under the Wild and Scenic Rivers Act, which designate a boundary for protection of study river areas as at least one-quarter mile from

each bank of a study river. Therefore, the guidelines established pursuant to the Wild and Scenic Rivers Act can allow a wider corridor of protection along study rivers than the rule promulgated under SMCRA.

The 1983 regulatory revision to the permanent surface mining regulations, 30 U.S.C. 1201 *et seq.*, was challenged in Round III of *In re: Permanent Surface Mining Litigation II*, Civil Action No. 79–1144 (D.D.C.). As a result of the Round III challenge, the Secretary has reviewed the rule pertaining to study rivers and concluded that this rule is inconsistent with the guidelines established pursuant to the Wild and Scenic Rivers Act. Consequently, this proposed rule would establish under the Surface Mining Control and Reclamation Act the same boundary for study river areas as is established under the Wild and Scenic Rivers Act.

III. Discussion of Proposed Rule

Secton 761.11: Areas Where Mining is Prohibited or Limited

Section 761.11(a): Wild and Scenic Rivers

On June 10, 1982 (47 FR 25278), OSM published a notice of proposed rulemaking to amend 30 CFR Chapter VII, Subchapter F. Included in the proposed rules was a revision to 30 CFR 761.11(a), which enumerated certain national systems within whose boundaries surface coal mining operations could not be conducted, subject to valid existing rights considerations. Among those systems was the Wild and Scenic Rivers System. The rule implemented section 522(e)(1) of the Act, which states that "[N]o surface coal mining operations . . . shall be permitted . . . on any lands within the boundaries of units of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act and National Recreation Areas designated by Act of Congress."

The OSM rule proposed on June 10, 1982 (47 FR 25278), was based on guidelines proposed by the National Park Service (NPS) on January 18, 1981, to establish the boundary for study river areas in the Wild and Scenic Rivers System (46 FR 9148). The objective of OSM's rule was to establish those areas in which mining would be prohibited along study rivers. Consequently, OSM adopted the standard of the NPS that a study corridor was "a corridor extending not more than one-quarter mile from each bank for the length of the segment being studied." This was in keeping with the NPS proposed phrase that a study area is "normally defined as an area extending the length of the study segment and extending in width one-quarter mile from each bank of the river." However, the final NPS guidelines were published with revised wording in which the phrase "normally defined as" had been replaced with the phrase "as a minimum," resulting in the present conflict (47 FR 39456, Sept. 7, 1982). OSM now proposes to revise § 761.11(a) so that the permanent rule will be consistent with the guidelines established pursuant to the Wild and Scenic Rivers Act. Additionally, the specific boundary of the study river corridor is not stated in the proposed rule. This will prevent future conflicts in the event that the boundary is changed at a later date under the Wild and Scenic Rivers Act.

Effect in Federal Program States

The proposed rules would apply through cross-referencing to the following Federal Program States: Georgia, Idaho, Massachusetts, Michigan, North Carolina, Oregon, Rhode Island, South Dakota, Tennessee, and Washington. The Federal programs for these States appear at 30 CFR Parts 910, 912, 921, 922, 933, 937, 939, 941, 942, and 947, respectively. Comments are specifically solicited as to whether unique conditions exist in any of these States relating to this proposal which should be reflected either as changes to the national rules or as State-specific amendments to any or all of the Federal programs.

IV. Procedural Matters

Federal Paperwork Reduction Act

No information collection requirements are contained in 30 CFR 761.11(a) which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

Executive Order 12291

The Department of the Interior (DOI) has examined the proposed rule according to the criteria of Executive Order 12291 (February 17, 1981) and has determined that it is not major and does not require a regulatory impact analysis.

Regulatory Flexibility Act

The DOI has also determined, pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, that the proposed rule would not have a significant economic impact on a substantial number of small entities.

National Environmental Policy Act

OSM has prepared an environmental assessment (EA) of any impacts that this proposed rulemaking might have on the human environment. This EA is on file in the OSM Administrative Record at the address listed in the **"ADDRESSES"** section of this preamble. An EA on the final rule will be completed and a final conclusion reached on the significance of any resulting impacts before issuance of the final rule.

List of Subjects in 30 CFR Part 761

Coal mining, Surface mining, Underground mining, Wild and scenic rivers, Wildlife refuges.

Accordingly, it is proposed to amend 30 CFR Part 761 as follows:

Dated: July 25, 1985.

J. Steven Griles,

Deputy Assistant Secretary for Land and Minerals Management.

PART 761—AREAS DESIGNATED BY ACT OF CONGRESS

1. The authority citation for Part 761 is revised to read as follows:

Authority: Pub. L. 95–87 (30 U.S.C. 1201 *et seq.*), unless otherwise noted.

2. Section 761.11 is amended by revising paragraph (a) to read as follows:

§ 761.11 Areas where mining is prohibited or limited.

* * * * *

(a) On any lands within the boundaries of the National Park System, the National Wildlife Refuge System, the National System of Trails, the National Wilderness Preservation System, the Wild and Scenic Rivers System, including study rivers designated under section 5(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1276(a)) or study rivers or study river corridors as established in any guidelines pursuant to that Act, and National Recreation Areas designated by Act of Congress.

* * * * *

[FR Doc. 85–19403 Filed 8–14–85; 8:45 am]

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Federal Register

Thursday
August 15, 1985

Part IV

Department of Transportation

Coast Guard

33 CFR Part 137

Deepwater Port Liability Fund; Final Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 137

[CGD 79-158]

Deepwater Port Liability Fund

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: The Coast Guard is finalizing, with clarifying modifications and procedural changes, the interim final Deepwater Port Liability Fund Regulations published in the **Federal Register** issue of June 24, 1982. The regulations implement provisions of the Deepwater Port Act of 1974 as amended by the Deepwater Port Act Amendments of 1984. Although effective upon publication, the June 1982 rules were considerably narrowed in scope from the proposed rules. The general public was, therefore, given additional time to comment. Comments, additional internal agency review, and statutory amendment resulted in several revisions to the interim rule.

EFFECTIVE DATE: This final rule is effective August 15, 1985.

FOR FURTHER INFORMATION CONTACT: Frank A. Martin, Jr., Chief, Funds Management Branch, Financial Responsibility Division, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, DC 20593, (202) 472-5052.

SUPPLEMENTARY INFORMATION: By notice published in the **Federal Register** on June 24, 1982 (47 FR 27478) the Coast Guard added a new Part 137 to Title 33, Code of Federal Regulations. This new part established procedures for payment of fees to the Deepwater Port Liability Fund (Fund), settlement of claims, vessel owner/operator financial responsibility, and notification of spills under the Deepwater Port Act of 1974.

Although made effective upon publication (June 24, 1982), Part 137 was promulgated as an interim rule because it had been considerably narrowed in scope from the proposed rule. Furthermore, the Coast Guard desired to evaluate the workability and effectiveness of several of the financial responsibility demonstration provisions of Part 137 before completing this rulemaking. Therefore, the general public was given an additional 60 day period, until August 23, 1982, to also comment on interim Part 137.

Comments on the interim rule were received from Getty Oil Company; Water Quality Insurance Syndicate (WQIS); the American Waterways Operators, Inc. (AWO); American Institute of Merchant Shipping (AIMS); Patton, Boggs and Blow, counsel for the LOOP deepwater port; and Texaco, Inc. In addition, the Fund Administrator received from the Steamship Mutual Underwriting Association (Bermuda) Limited financial responsibility documentation, under § 137.303(a), on behalf of the Texaco fleet of vessels likely to call at the LOOP deepwater port. Analysis of this information was helpful in evaluating the effectiveness of the interim rules and related determinations on the appropriate level of Coast Guard oversight needed.

Unresolved Issue

The Getty Oil Company expressed concern that the final rules are being promulgated without resolution of the issue of *harmful quantity* of oil which constitutes a *discharge* in the context of U.S. deepwater port activities. Such action, according to Getty, is misleading to the public.

While the lack of a definition of "harmful quantity" may cause some short term enforcement problems, e.g., regarding the assessment of civil penalties in the event of a spill, or the enforcement of criminal sanctions for failure to give notice of a spill, we are of the view that these problems are outweighed by the merits of promulgating the rules. First, there is already one U.S. deepwater port in operation and the Fund has been established.

Secondly, the Administrator of the Environmental Protection Agency (EPA), who is required under 33 U.S.C. 1517(m)(3) to issue regulations concerning the discharge of quantities of oil determined harmful, has established an active regulatory project to do so. EPA published a Notice of Proposed Rulemaking on this issue on March 11, 1985 (50 FR 9776-83), and is evaluating the comments received. The EPA currently expects to publish the final rule in August 1986. In the interim, this final rule is necessary to simplify the procedure for providing pollution liability insurance coverage of vessels presently calling at the LOOP deepwater port, and for otherwise administering the Deepwater Port Liability Fund program.

Compliance Costs

The Getty Oil Co. also expressed concern that the Coast Guard's cost analysis failed to fully consider private sector costs, particularly the taking of $100 million in barrel fees that would ultimately constitute the Fund.

Based on our experience under the interim rules, we are increasing the estimated compliance costs of the regulations. Additional compliance costs include costs associated with the preparation and submission of information to the Fund Administrator and deepwater port licensees, which establishes that the owners or operators of vessels calling at a deepwater port to unload cargo oil can meet their pollution liability. These administrative costs will fall primarily to the involved vessel owner, operator, or insurer, and, under the procedures currently in effect, are estimated to total approximately $25,000 per year.

The actual costs likely to be incurred by a deepwater port licensee in invoicing, collection, and accounting operations associated with the barrel fees on oil unloaded at its facility are not compliance costs of these regulations. It is the statute rather than the regulations which requires licensees to collect the barrel fees. The regulations merely prescribe the manner and times for delivery of those fee collections to the Fund. Likewise, the $100 million in barrel fees (discussed below) that might have ultimately been taken out of the private sector (from the owners of the oil at the time of unloading at a deepwater port), was a statutory requirement, not a compliance cost of these regulations.

Payment of Fees

The Getty Oil Co. also commented on the seemingly arbitrary rate of 2¢ per barrel paid on each barrel of oil loaded or unloaded at a deepwater port and the apparent unfairness to those initial shippers using a deepwater port who contribute to the Fund, as opposed to those users after the Fund has reached its statutory ceiling and the barrel fee collections have been suspended. While this may be a valid concern, it is not a consequence of the regulations. Again, it is the statute which both sets the 2¢ barrel fee and mandates that collections shall cease when the amount of money in the Fund reaches the specified ceiling.

Since publication of the interim rule and the Getty Oil Co. comment discussed above, the Deepwater Port Act Amendments of 1984 (Pub. L. 98-419) were enacted. These amendments, as of September 25, 1984, reduce the $100 million Fund ceiling figure to a lower ceiling of $4 million. The amendments also authorize suspension of the 2¢ per barrel fee collections by licensees while the balance of the Fund remains above $4 million.

As the balance of the Fund was approximately $7.4 million when the amendments took effect, fee collections were suspended on September 26, 1984. Because interest income from investments more than offset

administrative costs, it is not likely fee collections will be resumed in the foreseeable future. This presumes, of course, there are no catastrophic deepwater port oil spills which reduce the Fund balance below $4 million.

Getty Oil Co. also commented that the terms prescribed for payment of fees due the Fund (§ 137.207) are contrary to normal business transactions and are restrictive to a licensee's and vessel operator's cash flow positions. In contrast, we have experienced no difficulties under the interim rule and the LOOP deepwater port licensee has not requested any change.

LOOP has chosen the electronic transfer of funds for depositing fees with the Fund and this method is increasingly being used in commercial transactions. This method is retained in the rule.

The requirement that a check be certified has been eliminated. Depositing the funds in the proper account is the responsibility of the Coast Guard and need not be addressed in the regulations.

It is the owner of the oil at the time of unloading who is responsible for payment of the fees to the licensee. Payment by the licensee to the Fund is correlated with the monthly throughput report required by § 150.707. The regulations do not address either the form or timing of the financial transactions between the licensee and the owner of the oil, who is frequently not the vessel operator. Therefore, timing of the payment to the Fund has not been changed.

In order to conform the fee suspension requirement in § 137.211(a) to the Deepwater Port Act Amendments of 1984, that section has been revised to reflect the new fee collection suspension threshold figure of $4 million. Under 5 U.S.C. 553(b)(3)(B), it has been determined that additional notice and public procedure before making this change is unnecessary and contrary to the public interest because the statute controls the change in this instance.

Authority

Getty also commented that it was of the view the authority citation found at the end of the Table of Contents for Part 137 did not sufficiently authorize the Fund audit requirements contained in § 137.215. We agree and are revising that citation by adding a reference to section 13(a) of the Act (33 U.S.C. 1512(a)),* which more directly authorizes imposition of the requirements in § 137.215.

The last recommendation by Getty was to add a paragraph to § 137.509 to clarify limitations on liability. The statute is sufficiently clear in this regard and the limitations need not be repeated in the regulations.

Vessel Financial Responsibility Applicability

The WQIS, AWO, AIMS, and counsel for the LOOP deepwater port all raised the issue of whether the vessel financial responsibility requirements under the statute and regulations are intended to apply to the owners and operators of vessels which provide bunker fuel, supply, or other services at deepwater ports. The contention here is that the statute was meant to deal with the transfer of oil cargo between tankers and the deepwater port facility, i.e., the financial responsibility provisions should be applied only to those tankers which use the port for its basic purpose. This interpretation appears reasonable, but only within the narrow context of section 18(1) of the Act.

The statutory provision establishing the financial responsibility requirement, 33 U.S.C. 1517(1), applies to ". . . any owner or operator of a vessel using any deepwater port, ..." The modifying phase *using any deepwater port* seems controlling in this instance. When this language is matched against the statutory definition of "deepwater port" it is apparent that bunkering, supply, or other types of service craft that may use the port are *not* the kind of vessels Congress intended to include within the scope of the financial responsibility requirements since these types of vessels are not using the port for the ". . . loading or unloading and further handling of oil for transportation to any State. . . ." Rather, a bunkering vessel might use a deepwater port to supply fuel to a tanker for that tanker's own use, not for transportation to any State.

Accordingly, to remove uncertainty in the final rule as to which vessel owners or operators are required to comply with the financial responsibility provisions, we are revising the definition of vessel to mean a tanker which is moored at a deepwater port or which is within a deepwater port's safety zone for loading or unloading oil as cargo, exclusive of bunkers. Since this definition relates only to a vessel's status concerning documentation of financial responsibility, we have moved the definition to a new paragraph (b) in § 137.301, Subpart D, Vessel Financial Responsibility.

In all other contexts, where the term "vessel" appears in the final rule outside of Subpart D, that term has the same meaning as defined in the Act. This change in no way affects questions of vessel owner/operator liability or other responsibilities under section 18 of the Act.

Period of Validity of Financial Responsibility Documentation

Texaco, Inc. requested confirmation and clarification that "once a vessel has been certified as to financial responsibility, that this certification remains valid until the vessel has a change of ownership." This is partly but not entirely true. Obviously, if the underlyng insurance or bond terminates, the related certification terminates as well.

For the benefit of other readers, we point out that the required Certificate of Financial Responsibility (Water Pollution) issued under section 311(p)(1) of the Federal Water Pollution Control Act (see 33 CFR Part 130) is not the "certification" referred to by Texaco. While tankers serving LOOP are required to have such a Certificate, the only vessel certification designed specifically for deepwater port pollution liability is certification provided by an insurer or surety pursuant to the option in § 137.303(a)(2) of this final rule.

Another possible circumstance, besides change in ownership, which affects the continued validity of financial responsibility certification is a determination by the Fund Administrator that a particular guarantor is no longer acceptable because of factors affecting ability to pay a claim. A new paragraph (e) is added to § 137.303 in the final rule to require notice of such circumstances to the Fund Administrator and the involved deepwater port licensee.

The references to self-insurance as a method of establishing financial responsibility, in §§ 137.303(a), 137.305(a), and 137.305(a)(3), have been deleted from the final rule. This method was deleted because it is not being used by vessel owners or operators, is not required by the Act and is not the type of financial responsibility favored by the Fund Administrator or the Coast Guard's Financial Responsibility Division.

Financial Responsibility Documentation

The remainder of this preamble discussion addresses issues related primarily to the clarification and simplification of the vessel financial responsibility provisions in the interim rule, at §§ 137.303 and 137.305. This discussion and modification of the interim rule results from review of the

* Hereinafter, "Act" refers to the Deepwater Port Act of 1974 as amended by the Deepwater Port Act Amendments of 1984.

additional comments, our experience with the interim rule, the intervening transfer of Federal Maritime Commission (FMC) vessel financial responsibility functions to the Coast Guard in September 1983 (See 48 FR 46178–215, October 11, 1983) and review with LOOP vessel scheduling personnel and International Protection and Indemnity (P&I) Club underwritings providing the vessel insurance coverage.

Section 137.303 of the interim rule gives an insurer or surety providing evidence of financial responsibility the option to do so by means of "certification" or an appropriate endorsement to Form FMC–225 or FMC–322. Further review of this provision leads us to conclude additional explanation and minor modification is warranted.

First, we are deleting the reference to Insurance Forms FMC–225 and FMC–322. Those forms were used in connection with pollution liability under section 311 of the Federal Water Pollution Control Act (FWPCA). Since the transfer of functions from the FMC to the Coast Guard, Insurance Form CG–5358–9 has been used to demonstrate financial responsibility on behalf of vessel owners or operators for purposes of the FWPCA. Because the FWPCA also applies at deepwater ports, Form CG–5358–9 is now the appropriate form upon which to base the endorsement (or rider) option for demonstrating the additional insurance coverage required to meet Deepwater Port Act pollution liability. Section 137.303(b)(1) is therefore revised accordingly.

Second, our experience to date has enabled us to clarify interim § 137.303(b)(1) concerning our intent with respect to the clause "as approved by the Fund Administrator". P&I Club representatives have interpreted this clause to mean that the Fund Administrator must explicitly approve, in advance of submission, the specific form underwriters wish to establish as their standard endorsement or rider form. This is not necessarily what was intended, but that approach will be adopted in this final rule. We are doing so because only P&I Clubs have participated in this program to date, and because a standard, preapproved endorsement is their (and LOOP's) preferred method of evidencing financial responsibility on behalf of vessel operators. The standard endorsement approach also reduces paperwork and eliminates uncertainty as to acceptability of an endorsement. The danger of delays to vessels also is eliminated. (Of course, for any guarantors who do not wish to use a preapproved standard method, the certification method [§ 137.303(a)(2)] remains available.)

The Fund Administrator has approved a standard endorsement to new Insurance Form CG–5358–9 which insurers currently have on file with the Coast Guard for purposes of compliance with section 311(p)(1) of the FWPCA. The language of that endorsement is available upon request and is already being utilized by P&I Clubs to reduce paperwork.

Section 137.303(b)(2) of the final rule is amended in this document by revising the endorsement submission requirements. Endorsements are no longer submitted to the FMC, due to the transfer of that agency's vessel certification function to the Coast Guard. The original now is submitted to the Fund Administrator with a copy going to the involved deepwater port licensee.

Under the deepwater port license conditions and these regulations, verification of vessel financial responsibility coverage is a shared responsibility of the Fund Administrator and deepwater port licensees. The Fund Administrator provides general direction and oversight, yet relies on a deepwater port licensee to take a responsible role in checking evidence of financial responsibility before a vessel is permitted to enter the safety zone of a deepwater port. This is why, in both the endorsement method and certification method, the involved deepwater port licensee receives a copy of the evidence of financial responsibility. For the sake of consistency, this final rule also amends § 137.303(a)(2) concerning submission of documentation for the certification method of establishing financial responsibility, by revising the language of that provision to parallel that used in paragraph (b)(2) of the section concerning endorsements. The original of the certification is now provided to the Fund Administrator with a copy submitted to the involved deepwater port licensee.

To simplify and present a more readable section on certification contents, we have rewritten § 137.305. Except as discussed below, the information required under the interim rule has not been substantively changed. The rewrite is based, in part, on the language LOOP has been using in information packets providing guidance to its cargo agents concerning financial responsibility requirements, and which the Steamship Mutual Underwriting Association (Bermuda) Ltd. has used in its 1982 certification of the Texaco fleet. (Steamship Mutual has since changed its coverage method to the standard endorsement).

Under the certification method of the interim rules [§ 137.305(a)(3)], an insurer or surety was required to designate a U.S. agent for service of process. However, neither the statute nor the regulations establish a direct cause of action against persons providing evidence of financial responsibility. The statute places strict, joint and several liability for pollution on vessel owners and operators, not their guarantors. Accordingly, we have deleted the requirement to name an agent for service of process for purposes of § 137.305.

Notice of Discharge

The notification requirements in § 137.403 of the interim rule are revised in two respects. First, we have deleted the specific officials, listed in paragraph (a), to whom notice of a spill is given, and added a cross-reference to the part in this chapter concerning notification procedures prescribed under section 311 of the FWPCA. Second, we have deleted paragraph (b) of § 137.403, which contained information requirements regarding a deepwater port-related discharge. These changes conform the notification procedures for discharges occurring in connection with U.S. deepwater port activities to the procedures already widely used for FWPCA purposes. The latter change will also reduce mandatory information collection requirements.

Administrative Matters

Since the interim rule was published, the Coast Guard has completed an internal Headquarters reorganization affecting the name, location, and mail routing symbol of the organizational element within its Office of Marine Environment and Systems which manages the daily activities of the Fund program. Accordingly, editorial changes updating this information appear in the final rule at §§ 137.101, 137.103, and 137.505.

Further, the term "Fund Administrator", defined at § 137.5 in the interim rule, is revised to reflect the fact that that individual is the Chief, Office of Marine Environment and Systems, in the Coast Guard organizational structure. Future rulemaking will conform the regulations in Parts 135 and 136, governing the Offshore Oil Pollution Compensation Fund, to these organizational changes.

For administrative and industry convenience, we are republishing entire Part 137 in this document.

Regulatory Evaluation—Paperwork Reduction Act

The regulatory evaluation information published with the interim rule has not substantively changed. Under current regulatory policies and procedures the final rule, as republished here, remains "non-major" and "non-significant". The information collection requirements are, in fact, reduced further by eliminating the requirements to name an agent for service of process and to give detailed information with the notice of discharge for deepwater port spill incidents. Moreover, routine paperwork and correspondence will be reduced for insurers and LOOP by our adoption of a standard endorsement.

The reduction of information collection requirements from the interim rule, and those which remain in this final rule (§§ 137.303, 137.305, and 137.503(a)), have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35) and have been assigned OMB control number 2115–0545.

Regulatory Flexibility Act

Since the economic impact of this final rule is expected to be minimal, in accordance with paragraph 605(d) of the Regulatory Flexibility Act (94 Stat. 1164), the agency certifies that it will not have a significant economic impact on a substantial number of small entities.

Effective Date

Since the changes constitute organizational modifications, procedural simplifications, and paperwork reductions, it has been determined there is good cause, under 5 U.S.C. 553(d)(3), to make this final rule effective upon publication.

List of Subjects in 33 CFR Part 137

Deepwater ports, Oil pollution fund, Vessel financial responsibility, Claims procedures, Harbors, Insurance, Reporting and recordkeeping requirements.

In consideration of the foregoing, Chapter I of Title 33, Code of Federal Regulations, is amended by revising Part 137 to read as follows:

PART 137—DEEPWATER PORT LIABILITY FUND

Subpart A—General

Sec.

Subpart B—Fund Organization, Administration, and Management

Subpart C—Fund Revenues, Accounting, and Audit

Subpart D—Vessel Financial Responsbility

Subpart E—Notification

Subpart F—Claims Procedures

Authority: 33 U.S.C. 1509(a), 1512(a), 1517(j)(1); 49 CFR 1.46.

Subpart A—General

§ 137.1 Purpose.

This part contains the policies, procedures, and administrative practices regarding the management and operation of the Deepwater Port Liability Fund and related requirements.

§ 137.3 Applicability.

This part applies to each person who—

(a) Has been granted a license by the Secretary of Transportation to construct, operate, and maintain a deepwater port facility offshore of the United States;

(b) Owns or operates any vessel subject to section 18 of the Act;

(c) Provides financial responsibility for any vessel using a deepwater port; and

(d) Sustains cleanup costs or damages as a consequence of oil pollution from United States deepwater port activities.

§ 137.5 Definitions.

As used in this part—

"Act" means the Deepwater Port Act of 1974 as amended (33 U.S.C. 1501);

"Barrel" means 42 U.S. gallons at atmospheric pressure and 60 degrees Fahrenheit;

"Fund" means the Deepwater Port Liability Fund established by section 18(f)(1) of the Act;

"Fund Administrator" means the Chief, Office of Marine Environment and Systems at U.S. Coast Guard Headquarters; and

"Fund Claims Adjuster" means a person authorized to receive, review, adjust, and pay claims on behalf of the Fund.

Subpart B—Fund Organization, Administration, and Management

§ 137.101 General.

Management of the Fund program daily activities is conducted by the Funds Management Branch staff, Financial Responsibility Division, located within the Office of Marine Environment and Systems at U.S. Coast Guard Headquarters.

§ 137.103 Fund address.

The address to which correspondence relating to the Fund program should be directed is: Funds Management Branch, Commandant (G–WFR–1) U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

§ 137.105 Fund Administrator's authority, delegation.

The Fund Administrator is delegated authority to perform those functions of the Commandant, U.S. Coast Guard, under section 18 of the Act, that are necessary to administer the Funds.

§ 137.107 Fund Administrator's powers, duties and obligations.

(a) The Fund Administrator conducts the activities of the Fund, including but not limited to the following:

(1) Development, promulgation, and revision of program policies and regulations incidental to Fund administration.

(2) Receipt and verification of Fund revenues comprised of barrel fees, penalties and interest income earned on Fund investments of those revenues.

(3) Verification and payment of costs and expenses reasonably necessary to Fund administration and the settlement of claims against the Fund.

(4) Investment, as provided in section 18(f)(3) of the Act, of all Fund revenues not needed for administration and the satisfaction of claims.

(5) Recovery of any monies to which the Fund is entitled as subrogee under circumstances set forth in section 18(h)(3) and (4) of the Act.

(6) Determinations of the character and nature of Fund obligations and expenditures, and the manner in which those obligations and expenditures are incurred, allowed, and paid.

Subpart C—Fund Revenues, Accounting, and Audit

§ 137.201 Purpose.

This subpart contains the requirements concerning the calculation and delivery to the Fund, by deepwater port licensees, of the barrel fee revenues collected from the owners of oil loaded or unloaded at a deepwater port and the accounting for and audit of the Fund revenues.

§ 137.203 Applicability.

This subpart applies to each deepwater port licensee.

§ 137.205 Computation of barrel fees due the Fund.

Each deepwater port licensee shall compute the barrel fees due the Fund, at the rate of 2¢ per barrel, on the basis of the monthly oil throughput report required by § 150.707 of this chapter.

§ 137.207 Payment of fees.

(a) Each licensee shall pay the barrel fees due the Fund, on oil loaded or unloaded at the port during the preceding month, by one of the methods listed in paragraph (b) of this section.

(b) Barrel fees due the Fund must be paid by—

(1) Electronic transfer of funds as arranged with the Fund Administrator;

(2) A check or bank draft made payable to the U.S. Coast Guard; or

(3) Money order drawn to the order of the U.S. Coast Guard.

(c) The payment must be transmitted in time to be received by the Fund Administrator at the address listed in § 137.103 by the fifteenth of each month, or the closest following business day.

(d) Each payment to the Fund must be for the exact amount of oil loaded or unloaded at the port during the preceding month unless the licensee is concurrently reporting a variance under § 137.213(b) of this subpart.

§ 137.209 Adjustments.

(a) The Fund Administrator reveiws each payment to the Fund and notifies each licensee if any apparent discrepancies are found.

(b) In general, each licensee may make adjustments to correct mathematical errors resulting in either overpayment or underpayment of the fees due the Fund.

(c) The manner and time by which adjustments for overpayment or underpayment are made are determined by the Fund Administrator and normally will occur with the following month's payment to the Fund.

§ 137.211 Suspension of fee collections.

(a) When the Fund Administrator determines the unobligated Fund balance less unliquidated debts to the United States Treasury exceeds $4 million, collection of the 2¢ barrel fee by any licensee is suspended.

(b) The Fund Administrator notifies each licensee by the twentieth of the month if the collection of fees is to be suspended.

(c) After any suspension of barrel fee collections by the Fund Administrator, each licensee shall resume collection of fees and resume payments to the Fund as prescribed in § 137.207, when directed by the Fund Administrator.

(d) Any suspension of barrel fee collections under this section does not relieve a deepwater port licensee of the oil throughput reporting requirements in § 150.707 of this chapter.

§ 137.213 Oil excluded from fee collection.

(a) A deepwater port licensee shall not collect barrel fees on any bunker or fuel oil for use by a vessel, or any oil which was transported through the Trans-Alaska Pipeline system (TAPS).

(b) When making the barrel fee payments due the Fund, each licensee shall explain in writing, in the oil throughput report, at the time of each payment, the reasons for any variance in the number of barrels of oil reported and payment submitted that is attributed to any bunker or fuel oil or the TAPS oil referred to in paragraph (a) of this section.

§ 137.215 Audit.

(a) The Fund Administrator audits barrel fee payments to the Fund. Each deepwater port licensee shall permit the Fund Administrator (or his representative) access to all financial records, reports, and files maintained by the licensee relevant to the computation, charging, collecting, and payment of barrel fees to the Fund, including the oil throughput log required by § 150.757 of this chapter.

(b) To facilitate Fund audits, each licensee shall keep the financial data identified in paragraph (a) of this section in a manner which makes it readily accessible for audit.

(c) The time period a licensee shall retain the financial records necessary to conduct Fund audits, and the specific type of records to be retained, shall be agreed upon by each licensee and the Fund Administrator. The period of retention will generally be for three years or until any Fund audits are approved by the Fund Administrator, whichever occurs first.

Subpart D—Vessel Financial Responsibility

§ 137.301 Purpose.

(a) This subpart contains requirements concerning the demonstration of financial responsibility by a vessel owner or operator, in an amount sufficient to meet the liabilities imposed on an owner and operator by section 18 of the Act.

(b) For the purpose of this subpart, "vessel" means any tanker which is moored at a deepwater port or which is within the designated safety zone of a deepwater port for the purpose of loading or unloading oil as cargo, exclusive of bunkers.

§ 137.303 Financial responsibility documentation.

(a) In addition to obtaining a Certificate and Financial Responsibility pursuant to 33 CFR Part 130 and complying with the requirements of any other applicable laws and regulations, the owner or operator of any vessel shall—

(1) Have insurance or surety bond coverage in the amount of $150 per gross ton of the vessel or $20,000,000, whichever is less, to meet the additional liability imposed by section 18 of the Act; and

(2) Provide to the Fund Administrator an original certification executed by the insurer or surety, with a copy to the involved deepwater port licensee. That certification shall contain the information set forth in § 137.305(a).

(b) The owner or operator of a vessel need not comply with paragraph (a)(2) of this section if—

(1) The insurer providing the insurance necessary to meet the liability imposed by section 18 of the Act, has executed an endorsement, approved by the Fund Administrator, to an existing Form CG–5358–9 (33 CFR Part 130), thereby demonstrating acceptable evidence of financial responsibility; and

(2) The insurer has submitted the original endorsement to the Fund Administrator, with a copy to the involved deepwater port licensee.

(c) A certification or endorsement, signed by a person who the Fund Administrator determines is not acceptable for purposes of providing evidence of financial responsibility, shall not be considered acceptable evidence of financial responsibility.

(d) Whenever there is any change to the financial responsibility documentation under this subpart,

including cancellation or non-renewal of insurance or surety coverage, the vessel owner, operator or underwriter shall immediately provide written notice of the changes to the Fund Administrator and the involved deepwater port licensee.

§ 137.305 Certification contents.

(a) The certification referred to in § 137.303(a)(2) must be in English and must be signed and dated by the person, or authorized representative of the person, providing the insurance or surety coverage. The certification must include the following:

(1) Name and address of the insurer or surety providing coverage for purposes of compliance with the section 18 of the Act and the regulations in this subpart.

(2) Name of vessel, and name of owner or operator covered, jointly and severally, against cleanup costs and damage liability under section 18 of the Act.

(3) Type of financial responsibility coverage provided, i.e., insurance or surety.

(4) Amount of financial responsibility coverage provided, i.e., $150 per gross ton of the vessel or $20,000,000, whichever is less.

(5) A statement that the coverage provided is not conditioned or dependent in any way upon any agreement or understanding between the underwriter and the owner or operator, and that only the defenses provided under section 18 of the Act are applicable.

(6) The effective date of the coverage provided.

(7) A statement that the coverage applies to the named vessel or vessels in respect of discharge incidents which give rise to claims under section 18 of the Act and which occur on or after the effective date and before the expiration date of the coverage.

(b) No provision contained in the certification referred to in paragraph (a) of this section may nullify, modify or limit the effect or intent of the seven statements listed in that paragraph. Any provision which may be construed as so nullifying, modifying, or limiting is void to the extent of such nullification, modification, or limitation.

(c) The definitions contained in the Act, § 137.5 and § 137.301(b) of this subpart apply to the language of the certification provided in accordance with paragraph (a) of this section.

Subpart E—Notification

§ 137.401 Purpose.

This subpart contains the requirements concerning the notice of a discharge of oil from a vessel or from a deepwater port.

§ 137.403 Notification.

The immediate notification of a discharge of oil required by 33 U.S.C. 1517(b) must be made by telephone, radiotelecommunication, or a similar rapid means of communication, as specified in Subpart B of Part 153 of this chapter.

Subpart F—Claims Procedures

§ 137.501 Purpose.

This subpart contains the procedures for the filing and payment of claims against the Fund for cleanup costs and damages resulting from a discharge of oil from deepwater port activities.

§ 137.503 General.

(a) Except where modified or supplemented by the provisions of this subpart, or excepted in paragraph (c) of this section, the requirements in Part 136 of this chapter, Offshore Oil Pollution Compensation Fund Claims Procedures, apply to the settlement and adjudication of claims against the Fund.

(b) For the purpose of this subpart, the terms "economic loss," "offshore facility," and "vessel," as used in Part 136 of this chapter, mean "damages or cleanup costs," "deepwater port," and "vessel" respectively as defined in the Act.

(c) The following sections of Part 136 of this chapter do not apply to the filing, processing, and payment of claims authorized under section 18 of the Act:

(1) Subpart A—§§ 136.1 through 136.7;

(2) Sections 136.101, 136.105, 136.109, 136.115 (a)(4) and 136.129(c);

(3) Sections 136.207(a), 136.213, 136.231 through 136.235; and

(4) Subpart D—§§ 136.301 through 136.309.

§ 137.505 Information.

Any person who desires to file a claim under section 18 of the Act may obtain information and specific guidance from the Fund staff by writing to Funds Management Branch, Commandant (G-WFR-1), U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC 20593.

§ 137.507 Filing claims.

(a) A claim may not be filed against the Fund without filing a claim against the deepwater port licensee or the owner or operator of the vessel which is the source of the discharge.

(b) A claim may be filed with the Fund simultaneously with filing a claim against the deepwater port licensee or the owner or operator of a vessel which is the source of the discharge; however, the Fund does not act on the claim until it appears, to the satisfaction of the Fund Administrator, that a settlement of the claim against the source of the discharge will not be timely reached.

(c) A claim against the Fund may be filed not more than three years after the date of the discharge giving rise to the claim.

(d) A claim against the Fund is considered filed on the date the claim is actually received by a Fund Claims Adjuster or the Fund Administrator.

§ 137.509 Claims allowed.

(a) Claims resulting from a discharge of oil may be filed for cleanup costs and damages, including but not limited to damages—

(a) Suffered by any person;

(2) Involving real or personal property;

(3) Involving natural resources of the marine environment; and

(4) Involving the coastal environment of any nation.

(b) The damages in paragraph (a) of this section may be claimed without regard to ownership of any affected lands, structures, fish, wildlife, or biotic or natural resources.

(c) For all claims, a claimant must establish that the source of the oil pollution was a deepwater port, a vessel within a safety zone, or a vessel which has received oil from another vessel at a deepwater port.

(d) A claim for loss of profits or impairment of earning capacity due to injury to, or destruction of, real or personal property or natural resources may be presented by any person deriving income from activities which utilize, or are related to the utilization of, the property or natural resource.

§ 137.511 Trans-Alaska Pipeline oil pollution.

Damages from a discharge of Trans-Alaska Pipeline oil from a deepwater port are compensated in accordance with section 18 of the Act and the requirements of this part.

Note.—Claims involving Trans-Alaska Pipeline oil discharged from a vessel are filed under the provisions of 43 CFR Part 29.

§ 137.513 Review of claims against the Fund.

(a) Administrative review of any determination by a Fund Claims Adjuster concerning the denial of a claim against the Fund is conducted by the Fund Administrator in accordance with section 18 of the Act and the regulations in this part.

(b) A claimant must initiate administrative review of a claim against the Fund within 30 days of the denial of

a claim, by submitting a written request for review, together with any supporting data, to the Fund Administrator.

(c) The Fund Administrator's decision after administrative review of the denial of a claim is final agency action.

(d) Judicial review of any final determination on claims against the Fund is in accordance with section 18(j)(3) of the Act.

Dated: July 22, 1985.

J.H. Parent,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 85-19430 Filed 8-14-85; 8:45 am]

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Part V

National Aeronautics and Space Administration

48 CFR Part 1801 et al.

NASA FAR Supplement; Miscellaneous Changes; Final Rule

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1802, 1804–1808, 1814–1817, 1819, 1822, 1832, 1833, 1836, 1839, 1842, 1844, 1845, 1848, 1851–1853.

[NASA FAR Supplement Directive 85–4]

Miscellaneous Changes to NASA FAR Supplement

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

ACTION: Final rule.

SUMMARY: This document amends the NASA Federal Acquisition Regulation Supplement (NFS) to reflect a large number of miscellaneous changes which have been previously issued as interim rules, publicized as proposed rules or which deal solely with NASA internal or administrative matters.

EFFECTIVE DATE: August 15, 1985.

FOR FURTHER INFORMATION CONTACT: W.A. Greene, Procurement Policy Division (Code HP), Office of Procurement, NASA Headquarters, Washington, DC 20546, Telephone: (202) 453–2119.

SUPPLEMENTARY INFORMATION: (1) An interim rule on unpriced options was published at 50 FR 20417 (May 16, 1985) with a comment period ending June 17, 1985. None of the received comments contained specific recommendations for substantive changes; however, minor changes have been made for clarification purposes. (2) Proposed rule making on contract financing was published at 50 FR 23159 (May 31, 1985) with a comment period ending July 1, 1985. No comments were received from potentially affected private sector entities. (3) Proposed rule making was published at 50 FR 25434 (June 19, 1985), which made available to the public a copy of miscellaneous revisions for review and possible comment for a period ending July 19, 1985. No comments were received. (4) In addition to the above material, this rule includes a number of changes to NASA's internal procedures, administrative changes and corrections, i.e., matters which affect only NASA's operatins and do not affect or place requirements on the public.

Impact

For item 4, above, the Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. For items 2 and 4, above, NASA certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

List of Subjects in 48 CFR Parts 1801, 1802, 1804–1808, 1814–1817, 1819, 1822, 1832, 1833, 1836, 1839, 1842, 1844, 1845, 1848, 1851–1853.

Government procurement.

Dated: July 23, 1985.

L.E. Hopkins,

Deputy Assistant Administrator for Procurement.

1. The authority citation for 48 CFR Parts 1801, 1802, 1804–1808, 1814–1817, 1819, 1822, 1832, 1833, 1836, 1839, 1842, 1844, 1845, 1848, 1851–1853 continues to read as follows:

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

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

Subpart 1801.1—Purpose, Authority, Issuance

2. Sections 1801.105, 1801.105–1, and 1801.105–2 are revised to read as follows:

1801.105 OMB approval under the Paperwork Reduction Act.

1801.105–1 NASA FAR Supplement requirements.

The following OMB control numbers apply:

NASA FAR supplement segment	OMB control No.
18–12	2700–0056
18–23	2700–0051
18–27	2700–0052
18–32	2700–0055
18–43	2700–0054
NF 533	2700–0003
NF 667	2700–0004
NF 1018	2700–0017
All requirements	2700–0043

1801.105–2 Solicitations and contracts.

Various requirements in an RFP/IFB or contract, generally in the statement of work, are not tied to specific pararaphs cleared in 1801.105–1, but yet require information collection or recordkeeping. OMB control number 2700–0042 applies to these requirements. The OMB control number will be displayed in the upper right hand corner of each solicitation/contract. Overprinting is authorized by 1853.104.

Subpart 1801.4—Deviations From the FAR and NASA FAR Supplement

1801.470 [Amended]

3. Section 1801.470 is amended by changing "which requires the citation of an authority to negotiate." to read "that is competed or that must be authorized under FAR 6.302."

PART 1802—DEFINITIONS OF WORDS AND TERMS

Subpart 1802.1—Definitions

1802.100 [Redesignated as 1802.101]

4. Section 1802.100 is redesignated as 1802.101; newly redesignated 1802.101 is amended by revising the definition of "Head of contracting activity" and by replacing "Subpart 2.1" with "Subpart 2.101" in the definitions for "Procurement" and "Procurement Officer".

1802.101 Definitions.

* * * * *

"Head of the contracting activity" in NASA this term includes the Director (or other Head) of a NASA field installation; and the Assistant Administrator for Procurement for NASA Headquarters.

* * * * *

PART 1804—ADMINISTRATIVE MATTERS

Subpart 1804.1—Contract Execution

5. Section 1804.103 is revised to read as follows:

1804.103 Contract clause.

The contracting officer shall include the clause at FAR 52.204–1, Approval of Contract, in contracts and supplemental agreements, and solicitations leading to such contracts, that are subject to Master Buy Plan procedures (see 1807.71) and either (a) have been selected for Headquarters approval, in which case the Assistant Administrator for Procurement shall be designated in the Schedule as the approving official, or (b) are required to be approved by the Procurement Officer, who shall therefore be designated in the Schedule as the approving official.

Subpart 1804.6—Contract Reporting

§ 1804.671 [Amended]

6. The heading of section 1804.671 is amended by changing "(NASA Form 507)" to read "(NASA Form 507 and NASA Form 507A)."; the text is amended by changing "NASA Form 507" to read "NASA Form 507 and NASA

Form 507A" and by changing "Department of Labor" to read "Department of Commerce".

7. In section 1804.671–1, the introductory paragraph is amended by changing "require an NF 507 are" to read "require NF 507 Forms are"; and paragraph (c) is added to read as set forth below:

§ 1804.671–1 Applicability and coverage.

* * * * *

(c) NASA Form 507A (CICA data) will *not* be required in the FACS system on the following types of procurement actions:

(1) Grant Awards (PPC's ST and WT)

(2) Cooperative Agreements and Space Act Agreements (PPC's SW, SX, WW and WX)

(3) Intragovernmental Awards (PPC 98)

(4) B(a) Awards (PPC PS)

(5) Small Purchases (PPC's BC, DC, KC, NC, RC, SC, TC, WC, XC and YC)

§ 1804.671–2 [Amended]

8. Section 1804.671–2 is amended by changing "NASA Form 507" to read "NASA Form 507 and NASA Form 507A".

9. Section 1804.671–4 is amended as follows:

a. Heading is revised.

b. In introductory paragraph, change "Form 507" to "Forms 507 and 507A".

c. Paragraph (d) is revised.

d. Paragraph (f), Code 02, "Headquarters Support Division" is changed to read "Headquarters Logistics Section".

e. Paragraphs (i) through (pp) are redesignated (j) through (qq), respectively, and new paragraph (i) is added.

f. In newly redesignated paragraph (o), "enter D in the first position." is changed to read "enter an estimated date.".

g. Newly redesignated paragraphs (p) and (q) are revised.

h. Newly redesignated paragraph (s)(1) is amended by adding "13 Firm Fixed Price Level-of-Effort Term (see FAR 16.207)." to the end of the list of 2-digit codes.

i. Newly redesignated paragraph (v) is revised.

j. Newly redesignated paragraph (x) is amended by revising paragraphs (x) (2) through (5).

k. Newly redesignated paragraphs (dd), (ee), (gg), and (hh) are revised.

l. Newly redesignated paragraph (nn) is revised.

m. Paragraph (rr) through (uu) are added.

§ 1804.671–4 Preparation of Individual Procurement Action Reports (NASA Form 507 and NASA Form 507A).

* * * * *

(d) *Item 3—Modification number* (4 positions). Enter the applicable supplementary procurement contractual identification code and serial number assigned to the modification action; *e.g.*, S001, M002, C003, etc. Applicable codes are as follows:

Identification Codes

A for *Amendments*
C for *Change Orders*
D for *Delivery Orders*
K for *Call Orders*
L for *Letter Contracts*
M for *Modification*
O for *Task Orders*
S for *Supplemental Agreement*

* * * * *

(i) *Item 7A—CICA applicability* (1 position).

(1) *Code 1 Pre-CICA* is entered if the contract action is a new contract resulting from a solicitation issued prior to April 1, 1985, irrespective of the award date. All within scope modifications to these contracts and new work modification awards resulting from a solicitation issued prior to April 1, 1985 are to be reported by this code. When this code is used, do not complete NF–507A.

(2) *Code 2 Post-CICA* is entered if the contract action is a new contract or a new work modification award resulting from a solicitation issued on or after April 1, 1985. When this code is used, NF 507 and NF–507A must be completed. This item will be left blank for grants, cooperative agreements, space act agreements, and intragovernmental awards.

* * * * *

(p) *Item 15—Procurement placement code* (2 positions). Enter a 2-position alpha code which identifies Pre-CICA and Post-CICA procurements, the type of solicitation process used, and the extent of competition on the procurement. See 180 4.671–7 for PPC matrices. *Pre-CICA Code* is entered if the contract action is a new contract resulting from a solicitation issued prior to April 1, 1985, irrespective of the award date. Refer to PPC matrix for Procurement Placement Code. *Post-CICA Code* is entered if the contract action is a new contract or a new work modification award resulting from a solicitation issued on or after April 1, 1985. For Post-CICA new work modifications on a Pre-CICA initial contract award use a new Post-CICA Procurement Placement Code. For Post-CICA new work modifications on a Post-CICA initial contract award, also use a new Post-CICA Procurement Placement Code even if the Code selection is the same as was used on the initial contract award. Procurement Placement Codes *are required* on all Post-CICA new work modifications. The FACS reporting system will be able to provide information on "noncompetitive procurements using competitive procedures," as required by Public Law 98–369, by selection procurements that are coded 1 in Item 43 (Number of Offers Received) and code 1, 2, 3, or 4 in Item 46 (Method of Solicitation). These procurements must have one of the following competitive Procurement Placement Codes: AX, AE, AF, BX, BE, BF, FX, FE, FF, GF, KX, KE, QX, RS, RE, UX, TX, TE, XX, XE, and XD.

(q) *Item 16—Kind of Action.* Enter a 2-numeric code which identifies in general terms the kind of procurement and the action taken to initiate the procurement or modification thereto. Following is a list of codes to be used:

New Contracts/Grants/Orders

01 *New letter contract*—Enter this code when a new letter contract has been executed.

02 *Definitive contract superseding letter contract*—Self explanatory.

03 *Definitive contract*—Enter this code for new procurements when the first binding document contains all the terms and conditions of the agreement.

04 *Order under NASA contract*—Enter this code when reporting orders against a NASA indefinite delivery type contract.

05 *Intragovernmental*—Enter this code for orders issued to other Federal agencies.

06 *Grants*—Enter this code for new grants.

21 *Cooperative agreement and space act agreement*—Enter this code for new cooperative agreements and Space Act Agreements.

22 *Order under another Agency's contract*—Enter this code when reporting contract actions against another agency's contract. Do *not* include 8(a) awards placed with the Small Business Administration.

23 *Order under Mandatory GSA–FSS*—Enter this code when reporting contract actions under mandatory GSA Federal Supply Schedule contracts (see FAR 8.404).

24 *Order under Optional (Nonmandatory) GSA–FSS*—Enter this code when reporting contract actions under nonmandatory GSA Federal Supply Schedule contracts (see FAR 8.404–2).

Modifications to Existing Contacts

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

08 *Supplemental agreement*—Use this code for reporting bilateral, definitized

modifications except those covered in code 10.

09 *Change order*—Enter this code for reporting change orders issued pursuant to the "Changes" clause of the contract.

10 *S/A Definitizing change order*—Enter this code when definitizing change orders.

11 *Administrative*—Enter this code when reporting unilateral modifications and administrative type changes such as incremental funding modifications and novation agreements.

12 *Termination for default*—Enter this code when reporting a termination for default.

13 *Termination for convenience*—Enter this code when reporting a termination for convenience.

* * * * *

(v) *Item 21—Extent of competition* (1 position).

Advertised/Sealed Bid Competition

(1) *Two-step*—Enter this code for procurements which resulted from acceptance of a bid made by a supplier in response to formal advertisement for bids or as a result of sealed bidding following request for an evaluation of technical proposals (see FAR 14.503). Use an Advertised or Sealed Bid procurement placement code when reporting this type of procurement award.

(2) *Other*—Enter this code for procurements which resulted from acceptance of a bid made by a supplier in response to formal advertisement for bids or as a result of sealed bidding. (See FAR 14.101). Use an advertised or Sealed Bid procurement placement code when reporting this type of procurement award.

Competitive

(3) *Source evaluation board*—Enter this code when offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially, where the awards were made on the basis of price, design, or technical competition and where Source Evaluation Board procedures were used to evaluate the proposals (see FAR 15.506–2). This code will also be used where Architect-Engineer Selection Board procedures were used (see FAR 36.603–2). Use a competitive procurement placement code when reporting this type of procurement award.

(4) *No source evaluation board*—Enter this code when offers are solicited from more than one responsible offeror capable of satisfying the Government's requirements wholly or partially, where the awards were made on the basis of price, design, or technical competition, and where Source Evaluation Board procedures were not used to evaluate the proposals. Use a competitive procurement placement code when reporting this type of procurement award.

Noncompetitive

(5) *Follow-on after competition*—For Post-CICA awards, enter this code when the procurement is for the continued development or production of a major system or highly specialized equipment, including major components thereof, deemed to be available only from the original source when it is likely that award to any other source would result in (1) substantial duplication of cost to the Government that is not expected to be recovered through competition or (2) unacceptable delays in fulfilling NASA's requirements (FAR 6.302–1(b)(2)). For Pre-CICA awards, this code should be used when the procurement is for similar reasons stated in FAR 6.302–1(b)(2) and cited above.

(6) *Other noncompetitive negotiated*—Enter this code when only one offer was solicited and only one offer was received capable of satisfying the Government's requirements wholly or partially and where the work involved is not a follow-on procurement reportable under Code 5 above. Use a noncompetitive procurement placement code when reporting this type of procurement award.

(7) *Unsolicited proposal*—Enter this code to identify procurement awards resulting from a written offer to perform work which does not result from a formal or informal request for proposals issued by NASA (see FAR 15.501). Use a noncompetitive procurement placement code when reporting this type of procurement award.

All Post-CICA new work modifications will be coded with applicable "Extent of Competition" code listed above.

* * * * *

(x) *Item 23—Type of service or product* (4 positions). * * *

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

R&D code	*Type of R&D procurement*
AR1[1]	Aeronautics & Space Technology
AR2[1]	Space Science and Applications
AR3[1]	Space Transportation Systems
AR4[1]	Tracking and Data Acquisition
AR6[1]	Space Station R&D
AR7[1]	Commercial Programs R&D
AR9[1]	Other Space R&D

[1] See paragraph (x)(3) below.

(3) If the procurement involves other than space research and development, see 1804.671–8(b) for a suitable code. For the fourth digit of the code use "0" or one of the following "stages of R&D":

Code and Meaning

1—Research
2—Exploratory Development
3—Advanced Development
4—Engineering Development
5—Operational Systems Development
6—Management and Support
7—Commercialization

Definitions of Stages of R&D

1. *Research*—includes all effort of scientific and experimentation directed toward increasing knowledge and understanding in those fields of the physical, engineering, environmental, and life sciences related to long-term national security needs. It provides fundamental knowledge required for the solution of social, economic, political, physical, or military problems. It forms a part of the base for subsequent exploratory and advanced developments in the various technologies, and new or improved functional capabilities in areas such as communications, construction, detection, tracking, surveillance, energy conversion, materials and structures, transportation, personal support, and social services.

2. *Exploratory development*—includes all effort directed toward the solution of specific problems, short of major development projects. This type of effort may vary from fairly fundamental applied research to quite sophisticated bread-board hardware, study, programming, and planning efforts. It would thus include studies, investigations, and minor development effort. The dominant characteristic of this category of effort is that it be pointed toward specific problem areas with a view toward developing and evaluating the feasibility and practicability of proposed solutions and determining their parameters.

3. *Advanced development*—includes all effort directed toward projects which have moved into the development of hardware for test. The prime result of this type of effort is proof of design concept rather than the development of hardware for-service use. Projects in this category have a potential application.

4. *Engineering development*—includes those projects in full-scale engineering development for Government use but which have not yet received approval for production or had production funds included in the budget submission for the current or subsequent fiscal year. This area is characterized by major line item projects and program control will be exercised by review of individual projects.

5. *Operational system development*—includes those projects still in full-scale engineering development but which have received approval for production, or production funds have been included in the budget submission for the current or subsequent fiscal year. Program control will be exercised by review of the individual projects.

6. *Management and support*—includes all effort directed toward support of installations or operations required for general research and development use. Included would be construction of a general nature unrelated to specific programs, maintenance support of laboratories, operation and maintenance of test ranges, and maintenance of test aircraft equipment, or ships. Costs of laboratory personnel, either in-house or contract-operated, would be assigned to appropriate projects or as a line item in the Research, Exploratory Development or Advanced Development Program areas, as appropriate.

7. *Commercialization*—is the process of transferring a new or improved technology from engineering development into the competitive market place. This process is generally accomplished by the private sector on its own but the Federal Government may take an active role as a stimulator when there are strong national benefits, such as reduced dependence on oil imports or improved environmental performance. Appropriate Federal action may include some combination of information dissemination, regulation, commercial demonstration, and/

or financial incentives, depending on the particular case.

(4) *Other services.* Enter one of the service codes listed in 1804.671–8 which identifies the principal type of services or construction procured under the contract. (Do *not* use these codes for R&D services and procurement of supplies and equipment.) For reporting procurements that are determined to be for "consulting services" consistent with the definition of consulting services in FAR 37.201 and that have been approved by NASA Headquarters in accordance with NASA FAR Supplement 1837.205–70, use the following FPDS codes which have been defined as Consulting-Related Advisory and Assistance Services by the President's Cabinet Council on Management and Administration: R402, R403, R406–R409, R414, R497, R498, all R500 series, R702–R704, R708, R799, U001, U002, U004, U006, U009 and R&D codes A–6.

(5) *Supply and equipment contracts.* For contracts for off-the-shelf supplies and equipment, enter one of the codes listed in 1804.671–8 to identify the principal item of supply or equipment procured under the contract.

* * * * *

(dd) *Item 29—New technology clause* (1 position). Enter Y (yes) or N (no) to indicate whether a "Patent Rights" or "New Technology" clause is included in the contract. (See 1827.373). For purchases under Federal Supply Schedule contracts, enter N (no).

(ee) *Item 30—Subcontracting program plan* (1 position). Enter Y (yes) or N (no) to indicate whether the contract contains a subcontract plan requiring the contractor to furnish the information prescribed on Standard Forms 294 and 295 (see 1804.674 and FAR 19.702). Enter W (Waiver) when there are no subcontracting opportunities; for contracts performed entirely outside the U.S.; and for GSA Federal Supply Schedule contracts containing plans. Code Y will be used for corporate plans with individual contract goals.

* * * * *

(gg) *Item 32–SBIR Award* (1 position). Enter Code N (no) if the contract action is not in support of the Small Business Innovation Research Program (Pub. L. 97–219). Enter Code 1 if the contract action is related to a Phase I contract in support of the Small Business Innovation Research Program. Enter Code 2 if the contract action is related to a Phase II contract in support of the Small Business Innovation Research Program.

(hh) *Item 33—[Reserved.]*

* * * * *

(nn) *Item 39—Trade data.* Enter *one* numeric (0–9) to indicate the number of firms that offered foreign end products. Entry required regardless of whether Buy American Act is invoked or not. If none enter *0*. If 9 or more enter *9*.

(1) *Percent difference* (2 positions)—If the evaluation factor under Buy American Act is used and results in an award to a firm offering a domestic product, enter the percent difference between the award price and the low firm offering a foreign end product, computed before application of the Buy American Act differential, i.e., the difference divided by the price of the low firm offering a foreign end product. Enter percentage as a whole number. If the evaluation factor under Buy American is not used, enter *00*.

(2) *Country of manufacturer* (2 positions)—If the product is manufactured, mined or grown in the U.S.A. (the 50 states and the District of Columbia), or the service is performed by a U.S. contractor, enter "US". If the product is manufactured, mined or grown in a foreign country or U.S. outlying area, enter the code from NBS–FIPS PUB 104 of that country/area. In the case of a service—if the service is performed by a foreign contractor (including U.S. outlying area contractor)—enter the code from NBS–FIPS PUB 104 of that country/area.

* * * * *

(rr) *Item 43—Number of offers received—not used for 8(a) awards.*

(1) *Code 1* is to be used when only one offer is solicited and only one offer is received. When this applies, Item 21 must be coded 5, 6, or 7; Item 44 must be coded L; Item 45 must be completed; and Item 46 must be coded 5.

(2) *Code 1* is to be used when more than one offer is solicited and only one offer is received. When this applies, Item 21 must be coded 1, 2, 3, or 4; Item 44 must be completed; Item 45 must be blank; and Item 46 must be coded 1, 2, 3, or 4.

(3) *Code 2* is to be used when more than one offer is received. When this applies, Item 21 must be coded 1, 2, 3, or 4; Item 44 must be completed; Item 45 must be blank; and Item 46 must be coded 1, 2, 3, or 4.

(ss) *Item 44—Competitive solicitation procedures.* This item pertains to the requirements of FAR Part 6, Subparts 6.1 (Full and Open Competition), 6.2 (Full and Open Competition After Exclusion of Sources), and 6.3 (Other Than Full and Open Competition), with the exception of the statutory authorities for other than full and open competition (Subpart 6.3) which are reported in Item 45. Codes A through L designate the competition alternates described in FAR Part 6. Codes N and P designate actions which do not require application of these requirements. Modifications within the scope of a contract, and delivery order contract actions under requirements, or definite quantity contracts shall be reported the same as the initial contract. Delivery order contract actions under indefinite quantity contracts shall be reported the same as the initial contract when the following conditions, in FAR 6.001(f), are met: "Orders placed under indefinite-quantity contracts that were entered into pursuant to this Part when—The contract was awarded under Subpart 6.1 (Full and Open Competition) or Subpart 6.2 (Full and Open Competition After Exclusion of Sources) and all responsible sources were realistically permitted to compete for the requirements contained in the order; or The contract was awarded under Subpart 6.3 (Other than Full and Open Competition) and the required justification and approval adequately covers the requirements contained in the order."

(1) *Code A—Normal Full and Open Competition* is entered when the action resulted from an award pursuant to FAR 6.102(a), Sealed bids (see 6.401(a)); or 6.102 (b), Competitive proposals (see 6.401(b)); or 6.102(c), Combination of competitive procedures. When this code is used, Items 21 and 46 must be coded competitive. This code will be used for Single Award Schedule contracts (i) Mandatory, unless information in the schedule indicates otherwise; (ii) Optional, if you competitively solicit the procurement and the GSA FSS contract is selected). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L).

(2) *Code B—Architect-Engineer* is entered if the action resulted from selection of sources for architect engineer contracts in accordance with P.L. 92–582 and procedures in FAR Subpart 36.6 (see FAR 6.102(d)(1)). The selection of a potential A&E contractor is made by an A&E Evaluation Board conducted in accordance with 41 U.S.C. 541 et. seq. This selection process is considered a competitive procedure and for reporting purposes shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 4.

(3) *Code C—Basic Research Proposal* is entered if the action resulted from competitive selection of basic research proposals as a result of (i) a broad

agency announcement that is general in nature identifying areas of research interest, including criteria for selecting proposals, and soliciting the participation of all offerors capable of satisfying the Government's needs; and (ii) a peer or scientific review (see FAR 6.102(d)(2)). When this code is used, Item 46 must be coded 4.

(4) *Code D—Multiple Award Schedule* is entered if the action is an order issued against a multiple award schedule using the procedures in FAR (see FAR 6.102(d)(3)). When this code is used, Item 46 must be coded 4. This code will be used for Multiple Award Schedule contracts (Mandatory or Optional). This code may be used for ADP procurements except for those procurements where the solicitation utilized specific make or model specifications (see Item 44, Code L). The use of Multiple Award Schedule program is considered to be a competitive procedure because competitive procedures were used by GSA to make the basic multiple award schedule contract awards under 41 U.S.C. 259(b)(3)(A). For reporting purposes, an order issued against a multiple award schedule shall be reported as a competitive award. When this code is used, Item 43 must be coded 2; Item 45 must be blank; Item 46 must be coded 4; and Item 21 must be coded 4.

(5) *Code E—Alternate Source—Reduced Cost* is entered if the action was taken pursuant to FAR 6.202(a)(1), which states that agencies may exclude a particular source from a contract in action is order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would increase or maintain competition and likely result in reduced overall costs for the acquisition, or for any anticipated acquisition, of such supplies or services. When this code is used, Item 46 must be coded 1, 2, or 3.

(6) *Code F—Alternate Source—Mobilization* is entered if the action was taken pursuant to FAR 6.202(a)(2), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being acquired if the agency head determines that to do so would be in the interest of national defense in having a facility (or a producer, manufacturer, or other supplier) available for furnishing the supplies or services in case of a national emergency or industrial mobilization. When this code is used, Item 46 must be coded 1, 2, or 3.

(7) *Code G—Alternate Source—Engineering/R&D Capability* is entered if the action was taken pursuant to FAR 6.202(a)(3), which states that agencies may exclude a particular source from a contract action in order to establish or maintain an alternative source or sources for the supplies or services being required if the agency head determines that to do so would be in the interest of national defense in establishing or maintaining an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center. When this code is used, Item 46 must be coded 1, 2, or 3.

(8) *Code H—Small Business Set-Aside* is entered if the action resulted from use of procedures for small business set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. This code includes contract actions under the Small Business Innovation Research Program established under P.L. 97–219. When this code is used, Item 46 must be coded 1, 2, or 3 and Item 21 must be coded 4. SBIR awards must be coded 2 in Item 46.

(9) *Code J—Labor Surplus Area Set-Aside* is entered if the action resulted from use of procedures for labor surplus area set-asides pursuant to FAR 6.203 which states that contracting officers may set aside solicitations to allow only such business concerns to compete. When this code is used, Item 46 must be coded 1, 2, or 3.

(10) *Code K—Combined LSA/Small Business Set-Aside* is entered if the action resulted from use of procedures for combined LSA/Small Business Set-Asides pursuant to FAR 6.203. When this code is used, Item 46 must be coded 1, 2, or 3.

(11) *Code L—Other than Full and Open Competition* is entered if the action resulted from use of other than full and open competition pursuant to 10 U.S.C. 2304(c). The certain conditions or exceptions that permit contracting without providing full and open competition are prescribed in FAR 6.302. This code will be used for Optional Single Award Schedules when the procurement was *not* competitively solicited and the GAS FSS contract was selected. This code will also be used for all ADP procurements where the solicitation utilized specific make and model specifications. When this code is used, Item 43 must be coded 1; Item 45 must be coded; Item 46 must be coded 5; and Item 21 must be coded 5, 6, or 7.

(12) *Code N—8(a) Program* is entered when the procurement action is made under Authority Section 8(a) of the Small Business Act, which authorizes the Small Business Administration to enter into all types of contracts with other agencies and let subcontracts, for performing these contracts, to eligible minority firms (see FAR Subpart 19.8). When this code is used, Items 43, 45, and 46 must be blank. Contracts awarded under the 8(a) Program are *not* addressed in FAR Part 6.

(13) *Code P—Otherwise Authorized by Statute* is entered when using contracting procedures that are expressly authorized by statute and *not* addressed in FAR Part 6. When this code is used, Items 43, 45 and 46 must be blank. This code should not be used for statutes addressed in FAR 6.302–5 as these statutes require Code N and Item 45 must be coded M.

(tt) *Item 45—Authority for Other than Full and Open Competition.* If Item 7A is coded 2 and Item 44 is coded L, then this item must be completed. The categories listed below apply only to the solicitation process and not the extent of competition used in the award of the contract.

(1) *Code A—Unique source* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(1) when the agency's minimum needs can only be satisfied by unique supplies or services available from only one source or only one supplier with unique capabilities (see FAR 6.302–1(b)(1)).

(2) *Code B—Follow-on contract* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(1) when it is likely that the award of follow-on contracts must be to the original source because award to any other source would result in (i) substantial duplication of cost to the Government that is not expected to be recovered through competition or (ii) unacceptable delays in fulfilling the agency's requirements (see FAR 6.302–1(b)(2)).

(3) *Code C—Unsolicited research proposal* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(1) as the result of acceptance of an unsolicited research proposal that demonstrates a unique and innovative concept, the substance of which (i) is not otherwise available to the Government and (ii) does not resemble the substance of a pending competitive acquisition (see FAR 6.302–1(b)(3)). When this code is used, Item 43 must be code 1.

(4) *Code D—Patent/Data rights* is entered when the contract action was awarded under 10 U.S.C. 2404(c)(1) because the existence of limited rights in

data, patent rights, copyrights, or secret processes; the control of basic raw material; or similar circumstances, make the supplies and services available from only one source (see FAR 6.302-1(b)(4)).

(5) *Code E—Utilities* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(1) when acquiring electric power or energy, gas (natural or manufactured), water, or other utility services and circumstances, dictate that only one supplier can furnish the service or when the contemplated contract is for construction of a part of a utility system and the utility company itself is the only source available to work on the system (see FAR 6.302-1(b)(5)).

(6) *Code F—Standardization* is entered when the contract action was awarded under 10 U.S.C. 2404(c)(1) because the agency head has determined under the agency's standardization program that only specified makes and models of technical equipment and parts will satisfy the agency's needs for additional units or replacement items and only one source is available (see FAR 6.302-1(b)(6)).

(7) *Code G—Only one source—other* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(1) to a single source and codes A through F above do not apply (see FAR 6.302-1(b)).

(8) *Code H—Urgency* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(2) because (i) an unusual and compelling urgency precludes full and open competition, and (ii) delay in award of a contract would result in serious injury, financial or other, to the Government (see FAR 6.302-2(b)).

(9) *Code J—Mobilization* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to maintain a facility, producer, manufacturer, or other supplier available for furnishing supplies or services in case of a national emergency or to achieve industrial mobilization (see FAR 6.302-3(b)(1)).

(10) *Code K—Essential R&D capability* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(3) to a particular source or sources in order to establish or maintain an essential engineering, research, or development capability to be provided by an educational or other nonprofit institution or a federally funded research and development center (see FAR 6.302-3(b)(2)).

(11) *Code L—International agreement* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(4) because full and open competition is precluded by (i) the terms of an international agreement or treaty between the U.S. and a foreign government or international organization or (ii) the written directions of a foreign government reimbursing the agency for the cost of the acquisition of the supplies or services (see FAR 6.302-4).

(12) *Code M—Authorized by statute* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(5) because a statute expressly authorizes or requires that the acquisition be made through another agency or from a specified source (see FAR 6.302-5(a)(2)(i)).

(13) *Code N—Authorized resale* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(5) for a brand-name commercial item for resale through commissaries or other similar facilities (see FAR 6.302-5(a)(2)(ii)).

(14) *Code P—National security* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(6) because disclosure of the Government's needs would compromise the national security (see FAR 6.302-6).

(15) *Code Q—Public interest* is entered when the contract action was awarded under 10 U.S.C. 2304(c)(7) because the agency head has determined that full and open competition is not in the public interest in the particular acquisition concerned.

(uu) *Item 46—Method of solicitation.*

(1) *Code 1—Sealed bid* is entered when Sealed Bidding method of contracting was used (see FAR Part 14). Use this code when more than one offer is *solicited.*

(2) *Code 2—Competitive proposal* is entered when the FAR Part 15 Contracting by Negotiation procedures were used for a competitive solicitation. (For Item 44 contract actions coded B Architect-Engineer; C Basic Research Proposal; and D Multiple Award Schedule, use code 4 below). Use this code when more than one offer is *solicited.*

(3) *Code 3—Combination/Competitive procedure* is entered when any combination of competitive procedures (e.g., two-step sealed bidding) was used. Use this code when more than one offer is *solicited.*

(4) *Code 4—Other competitive* is entered when any competitive procedure (e.g., competitive solicitation for quotation) other than the competitive procedures listed in codes 1, 2, and 3 above. (See FAR 15.400 and FAR 13.107 for procedures). Also use this code for contract actions coded B Architect-Engineer; C Basic Research Proposal; and D Multiple Award Schedule in Item 44. Use this code when more than one offer is *solicited.*

(5) *Code 5—Noncompetitive* is entered when codes 1 through 4 above do not apply. This code is to be used for contracts awarded without providing for full and open competition. Use this code when only one offer is *solicited.* This code will be used for all-ADP procurements where the solicitation utilized specific make and model specifications.

Note.—NASA Form 507A (Items 43 through 46) is *not* required to be completed for the following types of procurement actions:

a. Small Purchases (applicable PPC's are BC, DC, KC, NC, RC, SC, TC, WC, XC and YC)

b. Grant Awards (applicable PPC's are ST and WT)

c. Cooperative Agreements and Space Act Agreements (applicable PPC's are SW, SX, WW and WX)

d. Intragovernmental Awards (applicable PPC is 98)

10. Section 1804.671-5 is revised to read as follows:

1804.671-5 Limited preparation of NASA Form 507 and NASA Form 507A.

(a) *New intragovernmental basic procurement.* The following items will be completed on NF-507 (all other items will be blank):

1—Type of Record (N)
2—Contract/Other Number
4—Accounting Installation Number
5—Procuring Installation Number
7—CIC Number
8—Contractor Name
9—Contractor Division (when applicable)
10—Contractor Address
11—Place of Performance—City
12—Place of Performance—State and Zip
13—Contract Date
14—Completion Date
15—Procurement Placement Code (98)
16—Kind of Action (05)
23—Type of Service or Product
34—Contract Physically Complete (when applicable)
40—Total Price or Estimated Cost
42—Description of Contract

(b) *New grants, cooperative agreements and space act agreements.* The following items will be completed on NF-507 (all other items will be blank):

1—Type of Record (N)
2—Grant/Cooperative Agreement/Space Act Agreement Number
4—Accounting Installation Number
5—Procuring Installation Number
7—CIC Number
8—Contractor Name
9—Contractor Division (when applicable)
10—Contractor Address
11—Place of Performance—City
12—Place of Performance—State and Zip
13—Contract Date
14—Completion Date
15—Procurement Placement Code (ST, WT, SX, WX, SW, or WW)
16—Kind of Action (06 or 21)
17—Type of Contractor (05-12)

19—Labor Surplus Area (N or 1)
21—Extent of Competition (6 or 7)
23—Type of Service or Product
34—Contract Physically Complete (when applicable)
40—Total Price or Estimated Cost
42—Description of Grant, Cooperation Agreement or Space Act agreement

(c) *Pre-CICA new basic orders under mandatory and optional (nonmandatory) GSA Federal supply schedule contracts.* The following items will be completed on NF-507 (all other items will be blank):

1—Type of Record (N)
2—Contract/P.O. Number
4—Accounting Installation Number
5—Procuring Installation Number
6—Other Agency Order Number
7—CIC
7A—CIC Applicability (1)
8—Contractor Name
9—Contractor Division (when applicable)
10—Contractor Address
11—Place of Performance—City
12—Place of Performance—State and Zip
13—Contract Date
14—Completion Date
15—Procurement Placement Code (AY, BY, FY, or KY)
16—Kind of Action (23 or 24)
17—Type of Contractor (03–04)
19—Labor Surplus Area (N or 1)
21—Extent of Competition
23—Type of Service or Product
24—Proposed Procurement Synopsized (Optional FSS Orders should be coded 1; Mandatory FSS Orders should be coded 2)
34—Contract Physically Complete (when applicable)
36—Woman-Owned Business (Y, N, or 1)
40—Total Price or Estimated Cost
42—Description of Procurement

(d) *Post-CICA new basic orders under mandatory and optional (nonmandatory) GSA Federal supply schedule contracts.* The following items will be completed (all other items will be blank):

1—Type of Record (N)
2—Contract/P.O. Number
4—Accounting Installation Number
5—Procuring Installation Number
6—Other Agency Order Number
7—CIC
7A—CIC Applicability (2)
8—Contractor Name
9—Contractor Division (when applicable)
10—Contractor Address
11—Place of Performance—City
12—Place of Performance—State and Zip
13—Contract Date
14—Completion Date
15—Procurement Placement Code (AY, BY, FY, or KY)
16—Kind of Action (23 or 24)
17—Type of Contractor (03 or 04)
19—Labor Surplus Area (N or 1)
21—Extent of Competition
23—Type of Service or Product
24—Proposed Procurement Synopsized (Optional FSS Orders should be coded 1; Mandatory FSS Orders should be coded 2)
34—Contract Physically Complete (when applicable)
36—Woman-Owned Business (Y, N, or 1)
40—Total Price or Estimated Cost
42—Description of Procurement
43—Number of Offers Received (1 or 2)
44—Competitive Solicitation Procedures (Mandatory must be coded A or D; optional must be coded A, D, or L)
45—Authority for Other than Full and Open Competition (must be coded when Item 44 is coded L)
46—Method of Solicitation

(e) *Post-CICA new basic orders under another agency's contract.* The following items will be completed (all other items will be blank):

1—Type of Record (N)
2—Contract/P.O. Number
4—Accounting Installation Number
5—Procuring Installation Number
6—Other Agency Order Number
7—CIC
7A—CIC Applicability (2)
8—Contractor Name
9—Contractor Division (when applicable)
10—Contractor Address
11—Place of Performance—City
12—Place of Performance—State and Zip
13—Contract Date
14—Completion Date
15—Procurement Placement Code (AY, BY, FY, or KY)
16—Kind of Action (22)
17—Type of Contractor
19—Labor Surplus Area (N or 1)
21—Extent of Competition (1, 2, or 4)
23—Type of Service or Product
24—Proposed Procurement Synopsized (2)
34—Contract Physically Complete (when applicable)
36—Woman-Owned Business (Y, N, or 1)
40—Total Price or Estimated Cost
42—Description of Procurement
45—Authority for Other than Full and Open Competition (M)
46—Method of Solicitation (4)

(f) *Reportable modifications.* Only the following items need to be completed on NF-507:

1—Type of Record (N)
2—Contract/Grant P.O. Number
3—Modification Number
4—Accounting Installation Number
5—Procuring Installation Number
7A—CICA Applicability (when applicable)
13—Modification Date
14—Completion Date (when applicable)
15—Procurement Placement Code (required when Item 7A is coded 2 and Item 16 is coded 07)
16—Kind of Action (07–13)
18—Type of Contract (when applicable)
21—Extent of Competition (required when Item 7A is coded 2 and Item 16 is coded 07)
24—Proposed Procurement Synopsized (when applicable)
28—Cost Accounting Standards Clause (when applicable)
30—Subcontracting Program Plan (when applicable)
31—Report on Geographical Distribution of NASA Subcontracts (when applicable)
34—Contract Physically Complete (when applicable)
35—Modification Obligations (when applicable)
37—MRR: Cost and Performance Reporting (when applicable)
38—MRR: Property and Space Hardware Reporting (when applicable)
40—Total Price or Estimated Cost (when applicable)
41—Total Profit or Fee (when applicable)
42—Description of Modification
43—Number of Offers Received (when applicable)
44—Competitive Solicitation Procedures (when applicable)
45—Authority for Other than Full and Open Competition (when applicable)
46—Method of Solicitation (when applicable)

Note.—All Post-CICA *new work* modifications will require Item 15 (Post-CICA PPC) and Item 16 (Extent of Competition) to be coded on NF-507, along with any other applicable item.

(g) *Corrections.* Only the following items need to be completed on NF-507:
1—Type of Record (C)
2—Contract/Grant/PO Number
3—Modification Number (when applicable)
4—Accounting Installation Number
5—Procuring Installation Number, Plus items to be corrected. If an item needs to be corrected to a blank, enter an asterisk.

11. Section 1804.671–6 is revised to read as follows:

1804.671–6 Special procurement placement codes (PPC) for certain procurements under $25,000 (no NASA Form 507 required).

(a) The accounting copies on all procurements under $25,000 to Disadvantaged Business Firms—Direct shall be coded with a second letter M of the PPC, *e.g.*, BM, KM, etc. (See PPC matrix).

(b) The accounting copies on all procurements under $25,000 to "Women-Owned Business Firms" shall be coded with a second letter W of the PPC, *e.g.*, BW, KW, etc. (See PPC matrix).

(c) All procurement awards over $25,000 and the Accounting copies on procurement actions under $25,000 (no NASA Form 507 required) placed through the Small Business Administration to a disadvantaged business firm under Section 8(a) of the Small Business Act shall be coded with PPC *PS*.

(d) All procurement awards funded through the Small Business Innovation Research (SBIR) program shall be coded with PPC *HS*.

12 Section 1804.671–7 is added to read as follows:

1804.671–7 Procurement placement codes.

Procurement placement code matrices which contain alpha codes required for

coding all procurements are available in the FPDS Product and Service Coding Manual located in the Procurement Administrative Office at each NASA installation. The codes are applicable to Item 15 on the NASA Form 507 and are used to identify Pre-CICA and Post-CICA type of procurements, the type of procurement solicitation process used, and the extent of competition on the procurement.

13. Section 1804.671.8 is added to read as follows:

1804.671-8 Product and service codes.

(a) The following product and service codes will be used to code all procurements. The codes are applicable to Item 23 on the NASA Form 507 and are used to identify the type of effort or product procured under the contract. NASA is required to provide this information to the Federal Procurement Data System (FPDS) which collects contract award information from all Federal Agencies.

(b) Only the codes normally required by the typical range of NASA procurements are listed. If in unusual circumstances an appropriate code cannot be found, consult the FPDS Product and Service Coding Manual located in the Procurement Administrative Office at each NASA installation.

14. Section 1804.675 is revised to read as follows.

1804.675 NASA contractor financial management reporting.

When financial management reporting on the NASA Form 533 series of reports is required (see NASA Management Instruction 9501.1D "NASA Contractor Financial Management Reporting System") such requirement will be set forth in the procurement request, and the appropriate clauses prescribed at 1804.675-1 shall be included in the contract.

PART 1805—PUBLICIZING CONTRACT ACTIONS

Subpart 1805.2—Synopses of Proposed Contracts

15. Section 1805.207(b) is revised to read as follows:

1805.207 Preparation and transmittal of synopses.

* * * * *

(b) All options (including unpriced options) must be included in the description required by FAR 5.207(b)(4)(viii); or there must be a separate synopsis of the option as a new procurement prior to its exercise. See FAR 17.207(c)(4).

PART 1806—COMPETITION REQUIREMENTS

Subpart 1806.2—Full and Open Competition After Exclusion of Sources

16. Section 1806.202(b) is revised to read as follows:

1806.202 Establishing or maintaining alternative sources.

* * * * *

(b) The authority to make the determination required by FAR 6.202(b)(1) is hereby delegated to the same approval levels specified in FAR 6.304 and 1806.304.

17. Section 1806.202-70(a)(2), the introductory text, is revised to read as follows:

1806.202-70 Determinations and findings.

(a) * * *

(2) Each request for determination over $10,000,000 under 10 U.S.C. 2304(b)(1) (FAR 6.202) shall consist of—

* * * * *

PART 1807—ACQUISITION PLANNING

Subpart 1807.1—Acquisition Plans

1807.102 [Amended]

18. Section 1807.102 is amended by removing "Project Approval Document (PAD)," and adding "However, all procurement plans will comply with FAR 7.104(c), 7.105(b)(2), and when appropriate, 7.106." at the end of the text.

19. Section 1807.7102 (b) and (e) are revised.

1807.7102 Applicability.

* * * * *

(b) Information on the above listed procurements is required to be submitted to NASA Headquarters in accordance with 1807.7103 for determination as to which individual procurement actions are to be submitted to NASA Headquarters for review and approval and which ones are to be approved at the installation level. These individual procurement actions may include one or more of the following: procurement plans, requests for proposals, source evaluation board appointments and source selections, prenegotiation positions, contracts (including supplemental agreements) and leases (see 1807.7106).

* * * * *

(e) The Master Buy Plan Procedure also applies to supplemental agreements that extend contract performance pursuant to unpriced options contained in the contract.

* * * * *

1807.7103-3 [Amended]

20. Section 1807.7103-3(a) is amended by removing "and the officials to whom the justifications for noncompetitive procurements are to be submitted for approval".

1807.7104 [Amended]

21. Section 1807.7104(a), is amended by removing "justifications for noncompetitive procurements (1815.105-70),".

1807.7105 [Amended]

22. Section 1807.7105(a) is amended by removing "justifications for noncompetitive procurements and".

23. Section 1807.7106 is revised to read as follows:

1807.7106 Format of Master Buy Plan.

In accordance with the requirements of 1807.7103-1 and 1807.7103-2, Master Buy Plans and amendments to Master Buy Plans will be prepared in the following format:

Master Buy Plan Procedure

Installation: _____

Date: _____

Cognizant HDQ program office (1)	Descriptive title of procurement (2)	Estimated dollar value	Proc plan	RFP	SEB	Pre-neg	Contract review	Current status (3)	Remarks (4)

FY 19____ Documents Selected for Headquarters Review and Approval Not Yet Completed (5)

(1) Include 3 digit Unique Project Number (UPN) as listed in FMM 9130.

(2) Include N to indicate new or FO to indicate follow-on procurement.

(3) Indicate current status and scheduled date for next event.

(4) Include data that the installation considers pertinent and indicate expected date for placement of contract. If less than full and open competition is involved, indicate the authority being used, state the name or names of the firm(s) to whom the procurement is being limited, and indicate the current status of the justification document.

(5) List procurements from prior fiscal year(s) Master Buy Plans and amendments to Master Buy Plans that have not been completed (1807.7103-1).

(6) Name and FTS number of cognizant installation procurement person under Remarks.

(7) List one procurement per page and number sequentially.

(8) Number each page.

(Form should be prepared on 8½ X 11 size paper. Use separate sheets as necessary.)

PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

24. Section 1808.002–74 is amended as follows:

a. In paragraph (f)(1), "1808.002–74(l)" is changed to read "1808.002–74(j)".

b. In paragraph (f)(2), "the Office of Space Flight (Code MOC–8) and HQ," is changed to read "Headquarters," and 1808.002–74(l) is changed to read "1808.002–74(j)".

c. Paragraph (i) is revised as follows:

1808.002–74 Acquisition of propellants.

* * * * *

(i) *NASA coordination.* The Kennedy Space Center shall be responsible for coordinating the review of all data and for establishing NASA policy and procedures. The data will then be used as the basis for NASA requirements reports to various Government Agencies for planning and supply support.

* * * * *

PART 1808—REQUIRED SOURCES OF SUPPLIES AND SERVICES

Subpart 1808.1—Excess Personal Property

25. Section 1808.103 is revised to read as follows:

1808.103 Information on available excess personal property.

In addition to the sources identified in FAR 8.103, Installation personnel shall review the availability of NASA property on lists—

(a) Maintained by the Installation Property Disposal Officer, and

(b) Maintained by the Installation Equipment Visibility System (EVS) coordinator.

PART 1814—SEALED BIDDING

Subpart 1814.4—Opening of Bids and Award of Contract

26. Section 1814.404–170 is revised to read as follows:

1814.404–170 Delegation of authority.

(a) The authority to make the determination at FAR 14.404–1(c) to cancel the invitation and reject all bids is delegated to the contracting officer, except as provided in paragraph (b)(2) below.

(b) A determination under FAR 14.404–1(c) (6) or (7) that includes an authorization to complete the acquisition through negotiation (see FAR 14.404–1(e)) shall be approved by—

(1) The contracting officer, if the solicitation is to be cancelled because no responsive bid has been received from a responsible bidder; or

(2) The Administrator, if the solicitation is to be cancelled because (i) all otherwise-acceptable bids received are at unreasonable prices, (ii) only one bid is received and the contracting officer cannot determine the reasonableness of the bid price, or (iii) the bids were not independently arrived at in open competition, were collusive, or were submitted in bad faith.

1814.407 [Removed]

27. Section 1814.407 is removed.

PART 1815—CONTRACTING BY NEGOTIATION

Subpart 1815.5—Unsolicited Proposals

28. Section 1815.507 is revised to read as follows:

1815.507 Contracting methods.

(a) The technical office sponsoring the procurement shall support its recommendation with a Justification for Acceptance of Unsolicited Proposal (JAUP), except as noted in 1815.507(b), which includes facts and circumstances that preclude competition, along with consideration of the evaluation factors listed in FAR 15.506–2(a). The law (10 U.S.C. 2304(f)(4)) requires that this justification and any related information shall be made available for inspection by the public consistent with the provisions of the Freedom of Information Act. (See FAR 6.305 and 1806.305.) Accordingly, care should be taken not to include information which need not be released under the Freedom of Information Act, unless that information is essential to the justification. The JAUP shall be in writing and shall be submitted for the approval of the Procurement Officer or a designee after prior review and written concurrence by the head of the cognizant technical division or laboratory, as applicable.

(b) For contractual actions, a "Justification for Other Than Full and Open Competition (JOFOC)" is required in accordance with FAR 6.302. A JAUP shall not be substituted for a JOFOC for contractual actions. A JAUP is not necessary for contractual actions if the technical office complies with FAR 6.303–1(b).

(c) Under FAR 15.507(b)(4), the contracting officer must comply with the preaward synopsis requirement of FAR Subpart 5.2. However, a proposal for research shall not be synopsized, provided the conditions for the exception at FAR 5.202(a)(7) are met.

Subpart 1815.6—Source Selection

29. Sections 1815.613–71 (a)(1) and (b)(1) are revised.

1815.613–71 Evaluation and negotiation of procurements conducted in accordance with the Source Evaluation Board Manual (NHB 5103.6).

(a) *Applicability.* (1) These procedures shall be used in all competitive negotiated procurements of $5 million or more including those where the initial contract is less than $5 million but where it is likely that the source selected will receive contracts for follow-on or later phases of the same project which when combined would total $5 million or more. (Examples would be: options; agreements-to-agree; and later phases as in A–109 procurements.) Exceptions to the above include procurements where:

(i) Sealed Bids will be used;

(ii) Architect-Engineer (A&E) services are being procured; or

(iii) ADP subject to the Brooks Act (40 U.S.C. 759), as implemented by the Federal Information Resources Management Regulation (FIRMR) (41 CFR Ch. 201), is being procured. However, the use of the Manual is optional for procurements of ADP subject to the Brooks Act.

* * * * *

(b) *Evaluation and selection procedures.*—(1) *Responsibility of source selection official.* In the final analysis, NASA judgment on the totality of the evaluation will be that of the Source Selection Official. This includes assessment of the procedures followed by the Board, the validity of its substantive evaluations, the relative significance of the several areas of evaluation, and the weightings previously assigned by the SEB, in the light of all the information produced by the source evaluation and selection process. In addition, if the RFP contained the provision at 1852.217–71, Evaluation of Unpriced Option, the Source Selection Official must, in order to be able to have an unpriced option exercised under 1817.207–71, consider the unpriced option, the proposal's budget estimate for this option, and the Government's most probable cost assessment of this budget estimate.

* * * * *

Subpart 1815.9—Profit

30. Section 1815.904 is added to read as follows:

1815.904 Solicitation provision and contract clause.

Before contract award, the contracting officer shall ascertain whether the winning offeror has claimed facilities capital cost of money as an allowable cost pursuant to 52.215-30, Facilities Capital Cost of Money. If the offeror has not claimed the cost, said clause shall be deleted at the time the contract is executed. If the offeror has claimed the cost, the clause at 52.215-31, Waiver of Facilities Capital Cost of Money, shall be deleted. It is important that only one of these clauses be included in the contract so that the paying office will know whether or not the cost is allowable.

PART 1816—TYPES OF CONTRACTS

Subpart 1816.3—Cost-Reimbursement Contract

31. Section 1816.370 is revised to read as follows:

1816.370 Forms

Contractors shall use NASA Form 778, Contractor's Release, NASA Form 779, Assignee's Release, NASA Form 780, Contractor's Assignment of Refunds, Rebates, Credits, and Other Amounts, and NASA Form 781, Assignee's Assignment of Refunds, Rebates, Credits, and Other Amounts, to fulfill the assignment and release requirements of the clauses prescribed at FAR 16.307 (a) and (g).

PART 1817—SPECIAL CONTRACTING METHODS

Subpart 1817.1—Multiyear Contracting

32. Sections 1817.103 and 1817.103-1 are added to read as follows:

1817.103 Procedures.

1817.103-1 General.

Under 10 U.S.C. 2306(g), multiyear contracting with funds that would otherwise be available for obligation only within the fiscal year for which appropriated is permitted for periods of not more than five years for certain types of services. For such services, a written determination and findings is required by 10 U.S.C. 2306(g) and 2310 to be made at the levels listed below (this is in addition to the approval required under 1817.102 above):

(a) Contracts in excess of three years—Administrator or Deputy Administrator.

(b) Individual contracts that do not exceed three years—contracting officer.

Subpart 1817.2—Options

33. Section 1817.206-70 is added to read as follows:

1817.206-70 Unpriced options.

This section does not apply to options contained in solicitations issued prior to April 1, 1985, and contracts resulting therefrom. This section applies only to options wherein price or estimated cost and fee are the only undefined elements. If there are other elements of the option that are not fully defined; e.g., quantities or statement of work, the option must be approved by NASA Headquarters, Code HS, prior to synopsis of the solicitation for the basic contract.

(a) The contracting officer may consider an option in the evaluation of a contract proposal (see 1817.208) if—

(1) The documentation specified in FAR 17.205 was provided before issuance of the solicitation;

(2) The option was synopsized (see FAR 17.207(c)(4));

(3) The solicitation specifically provided for how the option would be evaluated (see FAR 15.406-5(c)) and the solicitation included the provision at 1852.217-71, Evaluation of Unpriced Option; and

(4) The solicitation included the clause at 1852.217-72, Unpriced Option.

(b) An option shall not be evaluated if paragraph (a) above is not complied with. Unevaluated options shall not be exercised unless FAR 6.3 is complied with.

34. Sections 1817.207—71, 1817.208, and 1817.208-70 are added to read as follows:

1817.207-71 Exercise and pricing of unpriced options.

In exercising an unpriced option that was evaluated in accordance with 1817.206-70, the contracting officer shall provide a preliminary written notice of intent to exercise the option at least 90 (preferably 120) calendar days before the option expires. The notice shall state that the Government anticipates that it will exercise the option but is not bound to do so, and shall request a cost proposal if a current proposal is not already on hand. Thereafter, the contracting officer shall attempt to negotiate a reasonable price or estimated cost and fee for the option. If agreement is reached, a contract modification shall be issued exercising the option and specifying the agreed-to price or estimated cost and fee. If agreement cannot be reached before the option expires, the contracting officer shall determine a reasonable price or estimated cost and fee for the work covered by the option. In this event, prior to the date the option expires, the contracting officer shall issue a unilateral contract modification exercising the option and setting forth the price or estimated cost and fee determined by the contracting officer. The modification shall also state that this determination constitutes a final decision for purposes of the Contract Disputes Act of 1978, and otherwise comply with the requirements of FAR 33.211.

1817.208 Solicitation provisions and contract clauses.

The provisions and clauses prescribed in FAR 17.208 apply only to priced options. They shall not be included in solicitations or contracts containing unpriced options unless the solicitations or contracts also contain priced options.

1817.208-70 Provisions and clauses for unpriced options.

(a) The contracting officer shall insert the provision at 1852.217-71, Evaluation of Unpriced Option, in solicitations if—

(1) The solicitation contains an unpriced option clause;

(2) The option is not to be exercised at the time of contract award; and

(3) The price or estimated cost and fee of the option is to be negotiated after the award of the contract.

(b) The contracting officer shall insert the clause at 1852.217-72, Unpriced Option, in contracts if the provision cited in paragraph (a) above is used, and all terms and conditions in the basic contract, except price or estimated cost and fee, are to apply to the option.

Subpart 1817.70—Procurement With Military Departments

1817.7002-4 [Amended]

35. Section 1817.7002-4 is amended by changing "1852.217-1" to read "1852.217-70".

PART 1819—SMALL BUSINESS AND SMALL DISADVANTAGED BUSINESS CONCERNS

Subpart 1819.8—Contracting With the Small Business Administration (The 8(a) Program)

36. Section 1819.809-1(a)(1) introductory text, and (b)(8)(ii), introductory text, are revised to read as follows:

1817.809-1 General.

(a) *Supplies and services (including research and development).* (1) As required by FAR 19.809-1(a), the contracting officer shall prepare a Standard Form 26 for execution with the

SBA. This contract shall include a statement as follows:

* * * * *

(2) * * *

(b) *Construction.*

* * * * *

(8) * * *

(ii) Prepare Standard Form 1442 or other appropriate forms for execution with the SBA. This contract shall include a statement as follows:

* * * * *

PART 1822—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

Subpart 1822.6—Walsh-Healey Public Contracts Act

37. Sections 1822.608 and 1822.608–5 are added to read as follows:

1822.608 Procedures.

1822.608–5 Award.

For contract awards for which NF 507, Individual Procurement Action Report, is filed (see 1804.671), the submission of SF 99 pursuant to FAR 22.608–5(b) is not required.

PART 1832—CONTRACT FINANCING

Subpart 1832.5—Progress Payments Based on Costs

38. Section 1832.501–170 is added to read as follows:

1832.501–170 NASA rates.

Customary rates of 80 percent for contracts with other than small businesses and 90 percent for contracts with small businesses shall be substituted for the rates of 90 and 95 percent in FAR 32.501–1(a).

PART 1833—PROTESTS, DISPUTES, AND APPEALS

Subpart 1833.1—Protests

39. Section 1833.104, paragraphs (b) and (c) are revised to read as follows:

1833.104 Protests to GAO.

* * * * *

(b) *Protests before award.* (1) The contracting officer shall provide Headquarters Code HP with information and recommendations relevant to a determination under FAR 33.104(b)(1) to award a contract prior to resolution of a protest. The determination shall be made by the Assistant Administrator for Procurement, who for purposes of this requirement is the "head of the contracting activity." The notification to GAO required by FAR 33.104(b)(2) will be made by Code HP.

(2) The notices and requests required by FAR 33.104(b)(3) will be made by the contracting officer.

(c) *Protests after award.* (1) A file containing the documents required by FAR 33.104(a)(2) (i) thru (v) shall be forwarded by the contracting officer to Headquarters Code HP within 3 work days of receipt of notice of filing of the protest. The contracting officer's statement (FAR 33.104(A)(2)(vi)) shall be forwarded to Code HP within 10 work days.

(2) The contracting officer shall consult with Headquarters Code HP prior to terminating a protested contract. If FAR 33.104(c)(5) applies, the contracting officer shall consult with Code HP prior to taking any action.

(3) Any request for a determination under FAR 33.104(c)(2) to authorize performance notwithstanding a protest shall be submitted to Headquarters Code HP. The determination shall be made by the Assistant Administrator for Procurement, who for purposes of this requirement is the "head of the contracting activity." The notification to GAO required by FAR 33.104(c)(3) will be made by Code HP.

PART 1836—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

40. Subpart 1836.3 is added to read as follows:

Subpart 1836.3—Special Aspects of Sealed Bidding in Construction Contracts

1836.303 Invitations for bids.

1836.303–70 NASA IFB's.

When it appears that funds available for a project may be insufficient for all the desired features of construction, the contracting officer may provide in the invitation for a first or base bid item covering the work generally as specified and for one or more additive or deductive bid items which progressively add or omit specified features of the work in a stated order of priority. In such case, the low bidder and the bid items to be awarded shall be determined as set forth in the provision at 1852.236–71, Additive or Deductive Items. The contracting officer, prior to the opening of bids, shall determine and record in the contract file the amount of funds available for the project. The amount so recorded shall be controlling for determining the low bidder but may be increased for determining the bid items to be awarded to said bidder provided that award on such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

1836.370 Solicitation provision.

The contracting officer shall insert the provision at 1852.236–71, Additive or Deductive Items, in invitations for bids for construction when it is desired to add or deduct bid items to meet available funding.

41. Part 1839 is added to read as follows:

PART 1839—MANAGEMENT ACQUISITION AND USE OF INFORMATION RESOURCES

Sec.

Authority: 42 U.S.C. 3473(c)(1).

1839.000 Federal Information Resources Management.

Contracting for ADP, telecommunications, and related resources shall be accomplished in accordance with 41 CFR Ch. 201, Federal Information Resources Management Regulation (FIRMR).

Subpart 1839.70—Procedures

1839.7000 Scope of subpart.

This Subpart prescribes the internal NASA procedures to be used by installations in obtaining GSA authorization to contract for ADP, telecommunications and related resources.

1839.7001 Policy.

The Assistant Administrator for Procurement has responsibility for submitting Agency Procurement Requests (APR's) to the General Services Administration (GSA) to obtain Delegations of Procurement Authority (DPA's) for ADP. Telecommunications services shall be obtained in accordance with NMI 2530.3, Delegation of Authority—To Prescribe Standards for and to Approve Procurement and Utilization of Telecommunications Services.

1839.7002 Applicability.

This subpart is applicable to all ADP actions for which the FIRMR requires issuance of specific DPA's.

1839.7003 Installation requests.

1839.7003-1 Responsibility.

The installation procurement officer is responsible for—

(a) Determining or verifying that a DPA is necessary.

(b) Ensuring that internally required approvals are sufficient to allow initiation of the acquisition.

(c) Ensuring that any required documentation is uniquely identifiable, complete, adequate, severable, and readily available in files controlled by the contracting office.

(d) Timely submitting to the Office of Procurement (Code HP) information to be used as the basis of an APR.

(e) Conducting the acquisition action in accordance with the terms of the applicable DPA and initiating a request for a revised DPA in the event of changed circumstances which invalidate the existing DPA or require additional or modified authorization from GSA.

1839.7003-2 Request format.

Headquarters will prepare an APR, consistent with the FIRMR, from the installation—supplied information. Installations shall use the format set forth below, subject to the following conditions:

(a) The exact numbering style and headings shall be used (except for parenthetical material) unless otherwise noted.

(b) Parenthetical material, except paragraph numbering, is instructional and should be omitted in the submitted document.

(c) Material should be prepared to allow verbatim incorporation into the APR NASA will submit to GSA. Note that internal material of interest only to Headquarters, as may be required by parenthetical notes, will be deleted.

Format

Installation APR

Date: ———

(1) *Installation information:*

(i) (Installation name)

(ii) Procurement contact: (name/title/telephone no.)

(iii) Technical contact: (name/title/telephone no.)

(2) *Project title and description:*

(i) Project title: (Use brief, informative name. Actual project title preferred, if suitable. Provide a brief description of the nature and scope of the program the contemplated buy will support. The description may be as technical as necessary but make sure a non-technical, non-ADP reader can, in general, understand the request).

(ii) Existing components: (Provide a brief but specific description of the major system components, including ADPE configuration, or services currently supporting the program. Limitations dictating the present action may be mentioned).

(iii) To-be-acquired: (Provide a brief but specific description of the major system components or services to be acquired during the systems life of the requirement. The reason for the buy should be made clear, if not already covered above. A brief summary, followed by a reference to a "Justification for other Than Full and Open Competition" is also appropriate. Describe resources required for system expansion, i.e., anticipated augmentations, upgrades, and other system modifications, during the systems life. Note that the DPA provided by GSA will be limited to acquisition of the resources described in this section.)

(3) *Acquisition strategy:*

(i) (Indicate the contemplated type of competition, i.e., full and open, full and open after exclusion of sources or other than full and open. If the latter, cite the appropriate circumstance at FAR 6.302.)

(ii) (Indicate whether or not the proposed procurement approach is to satisfy a requirement using a specific make and model specification; whether compatibility limited requirements will be used on either a mandatory or nonmandatory basis; and specify the type of contract expected to be used. If lease is contemplated, indicate the option and/or ownership plans.)

(iii) Solicitation will be issued: ——— Qtr FY ——. Contract will be signed: ——— FY ——.

(iv) This request does not involve a pilot or prototype. (If preceding statement is *not true* replace it with a description of the strategy for follow-on implementation.)

(4) *Estimated contract life and cost:*

Type of request	Estimated contract cost	Estimated contract life	Estimated system life
ADPE system	Contr. $XXX Option $XXX	Firm (Yrs/mos) Option (yrs/mos)	(yrs/mos). (yrs/mos).

(Use applicable parts of above sample. Typical types of request are one or more of the following: ADP system replacement or augmentation, Proprietary software, Equipment maintenance, Other ADP services. Include all anticipated optional quantities, services and periods. Note that contract cost is specified, *not* overall system life cost. Detailed cost breakout may be attached if necessary to clearly describe costs. The delegation will be limited to the quantities and periods indicated.)

(5) *Regulatory compliance:*

(i) All of the applicable regulations have been reviewed and complied with. No waivers are contemplated. (Alternatively, list those deviations to the FIRMR that apply to this request for which approval is sought and provide an explanation for each regulatory deviation request pursuant to FIRMR Subpart 201-1.4. Any contemplated deviations to the FAR or NASA FAR Supplement should be handled pursuant to FAR Subpart 1.4: they are not to be listed here.)

(ii) The following documentation has been prepared and conforms with NFS 1839.7003-1(c): (Enter document date of most recent update or N/A as appropriate. Identify *only* those documents noted below. *Do not* send copies of documents to Code HP unless requested. Exception: Fully signed and dated justifications for other than full and open competition, if required by FAR 6.303, must be provided.)

(A) (Requirements analysis, as per FIRMR 201-30.007).

(B) (Analysis of alternatives, as per FIRMR 201-30.009).

(C) (Performance evaluation for the currently installed ADP system, as per FIRMR 201-30.007(d)(9) and 201-34.002).

(D) (Findings to support the use of compatibility limited requirements, as per FIRMR 201-30.009-3).

(E) (Software conversion study, as per FIRMR 201-30.012-1).

(F) (Certified data to support a contemplated requirement available from only one responsible source, as per FIRMR 201-11.002(b).

(G) (Justification to support a contemplated requirement using a specific make and model specification, as per FIRMR 201-30.013-2).

(H) (Description of those planned actions necessary to foster competition for subsequent acquisitions, as per FIRMR 201-30.012).

(6) *Remarks:* (Provide additional information deemed necessary concerning any of the above items or special conditions associated with this acquisition; e.g., required building construction/modification by GSA. Indicate any special problems or conditions regarding funding or ADP

acquisition plan approvals. State any urgency factors.)

(7) *References:* (Provide GSA case numbers, if any, of previous authorizations specifically related to the requested action. Reference any significant meetings or other event within NASA or GSA which may have a major bearing on the action.)

(8) *Submitted by:* (Typed name/signature of procurement officer)

1839.7003-3 Submission.

Installation requests shall be forwarded in 2 copies to the Assistant Administrator for Procurement (Attn: Code HP). A minimum of nine weeks lead-time should be allowed starting when the request leaves the installation. (See also NFS 1839.7004). Direct electronic transmission of APR's to the Code HP telecommunication facility requires prior approval by Code HP.

1839.7004 ADP acquisition plans.

(a) Where NHB 2410.1 requires that an ADP acquisition plan be approved by Headquarters, the procurement officer shall determine from the initiating activity that the plan has been approved by Headquarters, or is under review by the Headquarters Automated Information Systems Division (Code NT).

(b) Where NHB 2410.1 provides for approval of a ADP acquisition plan at the local level, a copy of the approved plan shall be enclosed with the APR unless it has been previously sent to Code NT.

(c) The existence of a copy of the acquisition plan in the contract file does not in and of itself meet the documentation criteria set forth in NFS 1839.7003-1(c).

1839.7005 Coordination

(a) Installation APR's are subject to general review, comparison with acquisition plans and code HP-NT discussion prior to the forwarding of an APR to GSA.

(b) Communications with GSA regarding submitted APR's will be through the Headquarters Procurement Policy Division (Code HP), unless that office directs otherwise. Installations may respond to contacts initiated by GSA, but should inform Code HP of the contact and its nature.

(c) NASA will not normally make presentations to GSA regarding APR's unless so requested by GSA. Any exceptions are subject to HP-NT coordination.

1839.7006 DPA transmittal.

Delegations of Procurement Authority for specific buys are made to the Assistant Administrator for Procurement (or designee, Code HP) and in turn redelegated to the appropriate procurement officer. This is done by transmitting the signed DPA with a delegation letter containing additional instructions and guidance. Questions regarding the DPA shall be referred to Code HP, rather than directly to any GSA individual specified in the DPA.

1839.7007 Numbering Provisions and Clauses.

Where adherence to the FIRMR results in the use of provisions or clauses in solicitations or contracts which are not prescribed in the FAR or NFS, use the applicable FIRMR number and FIRMR provision or clause title.

PART 1842—CONTRACT ADMINISTRATION

Subpart 1842.2—Assignment of Contract Administration

42. In section 1842.202-70, Paragraph "(e)" is redesignated "(f)"; and a new paragraph "(e)" is added to read as follows:

1842.202-70 Delegations to contract administration offices.

* * * * *

(e) *Property Administration and Plant Clearance.* Property administration and plant clearance are ordinarily delegated by NASA to DOD pursuant to FAR 42.302. When delegated, special instructions prepared and distributed by the Headquarters Supply and Equipment Management Branch, Code NIE, should be issued to the Contract Administration Office (CAO). Property administration and plant clearance are typically retained, however, and performed by NASA when the contract work is to be performed on a NASA installation. When retained, the functions should be performed in accordance with Subpart 1845.72.

* * * * *

1842.202-71 [Amended]

43. In section 1842.202-71(a), "Federal Management Circular Number 73-6," is changed to read "OMB Circular Number 88, Revised,".

PART 1844—SUBCONTRACTING POLICIES AND PROCEDURES

Subpart 1844.3—Contractors' Purchasing Systems Review

44. Section 1844.302-70(a) is revised to read as follows:

1844.302-70 Contractors' purchasing system reviews conducted by the Department of Defense.

(a) Under FAR 42.202 and 42.302(a)(50), assignment of contract administration functions automatically confers authority to conduct contractor's purchasing system reviews (CPSR's) and approve or disapprove a contractor's purchasing system. In accordance with FAR 44.307(b), the contracting officer shall include in the letter of delegation of contract administration functions a requirement for the contract administration office to send one copy of each CPSR Summary Report to the cognizant NASA contracting officer.

* * * * *

PART 1845—GOVERNMENT PROPERTY

Subpart 1845.3—Providing Government Property to Contractors

45. Section 1845.302-70(a) is revised to read as follows:

1845.302-70 Securing approval of facilities projects.

(a) If a facilities project involves leasing, construction, expansion, modification, rehabilitation, repair, or replacement of real property, facility project approval shall be obtained from the contracting officer pursuant to NASA Management Delegation A7330.1B.

* * * * *

Subpart 1845.4—Contractor Use and Rental of Government Property

46. Section 1845.402 is added to read as follows:

1845.402 Authorizing Use of Government Production and Research Property.

(a) A NASA contracting officer desiring to authorize use of Government production and research property under the cognizance of another contracting officer shall request the latter to give his concurrence in such use. If concurrence is denied, the matter shall be raised to a level above the cognizant contracting officer.

(b) Use of NASA production and research property in the possession of the contractor on contracts of other agencies of the Government may be authorized to the extent that such use will not interfere with the primary NASA purpose of the facilities or extend beyond the anticipated completion date of the NASA contract. In such cases, approval, on a non-interference basis, for use may be given by the NASA

contracting officer having cognizance of the property.

Subpart 1845.5—Management of Government Property in the Possession of Contractors

47. Section 1845.505–2 is added to read as follows:

1845.505–2 Records of pricing information.

Whenever DD Form 250's are to be used by a NASA Installation as invoices or DD 250's or other shipping/delivery documents are to be used for property receiving purposes, unit prices must be shown for each item of Government property included on the forms.

PART 1848—VALUE ENGINEERING

Subpart 1848.1—Policies and Procedures

48. Section 1848.102 is revised to read as follows:

1848.102 Policies.

(a) As authorized at FAR 48.102(a), NASA has elected to exempt all contracts other than fixed-price construction contracts and certain production-type supply contracts from the value engineering requirements at FAR Part 48. With respect to production-type supply contracts, contracting officers should consider inserting the value engineering clause at FAR 52.248–1 in solicitations and contracts under the following circumstances:

(1) the estimated price of the contract exceeds $1,000,000;

(2) the predominant requirement of the statement of work is delivery of hardware items;

(3) the contract type is neither cost-plus-fixed fee nor cost-plus-award fee; and

(4) the use of the clause for the anticipated contract is otherwise permitted by the FAR.

(b) Pursuant to FAR 48.102(b), NASA contracting officers shall permit sharing of future contract savings on all future contract units to be delivered under contracts awarded for essentially the same item during the sharing period, even if the scheduled delivery date is outside the sharing period. Accordingly, the contracting officer shall modify the Value Engineering clause subdivision (i)(3)(i) and the first sentence under subparagraph (3) of the definition of acquisition savings by substituting "under contracts awarded during the sharing period" for "during the sharing period."

(c) NASA contracting officers are not authorized to use alternates I, II, or III in FAR 52.248–1.

PART 1851—USE OF GOVERNMENT SOURCES BY CONTRACTORS

49. Subpart 1851.70 is added to read as follows:

Subpart 1851.70—Contractor Employee Air Transportation

Sec.

Subpart 1851.70—Contractor Employee Air Transportation

1851.7001 General.

The General Services Administration (GSA) negotiates agreements with air carriers for transportation of passengers between specific city-pairs at rates substantially lower than those available to the general public. The primary purpose of these agreements is to provide economical air transportation to Government employees on official business. These rates are also authorized for use by eligible contractors.

1851.7002 Policy.

Contracting officers shall structure contracts with eligible contractors so as to require contractors to use Government discount air passenger transportation rates to the maximum extent practicable in accordance with contractual provisions.

1851.7003 Eligible contractors.

NASA contractors meeting all of the following conditions are eligible for Government discount passenger airfares:

(a) The contract is a new or existing cost reimbursement contract;

(b) Costs for such transportation are otherwise allowable and are charged as direct costs to the contract.

(c) Contractor is on- or near-site at a NASA installation with a Scheduled Airline Traffic Office (SATO) from which the reduced fares are available.

(d) It is reasonably anticipated that there will be contractor employee air travel.

1851.7004 Procedures.

(a) Individual airline tariffs as well as airline business strategies govern the availability of the discount fares. These rules and practices will be interpreted and applied by SATO's when contractors request service and are the reason for the provision in paragraph (g) of the clause at 1852.251–70. Where airline tariffs permit use of discount fares which are in addition to the GSA contract fare, such additional fares should also be used.

(b) The basic procedures for obtaining GSA City-Pairs Contract and other government discount passenger air transportation rates to be followed by contractors is set forth in the clause at 1852.251–70. (SATO's and Installation Travel Offices will comply with guidance provided by the Transportation Management Office.)

(c) For both new and amended contracts, the contracting officer shall notify the installation travel office that the clause in (b), above, has been used and furnish contractor name, contract number, and period of performance.

1851.7005 Contract clause.

The contracting officer shall insert the clause at 1852.251–70, Contractor Employee Air Transportation, in solicitations and contracts with contractors determined eligible in accordance with 1851.7003. The clause implements the following special conditions, based on NASA-Air Transport Association agreements, which must be observed in authorizing a contractor to use reduced GSA-negotiated passenger airfares:

(a) Tickets can be obtained only through local installation SATO's.

(b) Service must be ordered on SF 1169, U.S. Government Transportation Request (GTR).

(c) Tickets may be obtained only for bona-fide contractor employees, e.g., the procedures cannot be used to obtain tickets for Government employees.

(d) Air carriers are not obligated to make city-pairs contract fares or other Government discount fares available to NASA contractors (See 1851.7004).

PART 1852—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

Subpart 1852.1—Instructions for Using Provisions and Clauses

50. Section 1852.103 is revised and section 1852.103–70 is added to read as follows:

1852.103 Identification of provisions and clauses.

In the hypothetical example of clause identification at FAR 52.103(d)(2), NASA contracting offices shall number their first clause 52.236–90, the second clause 52.236–91 etc., (see FAR 1.303(a) and 1801.104–2(b)). Centers may use suffix numbers from –90 to –199. Numbers of –200 and higher are reserved for the

Automated Procurement Documentation System.

1852.103-70 Identification of modified provisions and clauses.

(a) When a FAR clause or provision is included in a solicitation or contract and the NFS sets forth the exact wording of a modification, the title line shall identify the modification as shown below. This format shall be used for both incorporation by reference and when using full text:

52.232-1 Payments (APR 1984)—as modified by 1852.232-1 NASA FAR Supplement (APR 1984)

(b) When (1) a FAR or NFS clause or provision is indicated for use "substantially as follows," or nonspecific modifications are allowed, (2) a modified version is in fact being used, and (3) the modifications are so extensive that the procedures at FAR 52.104(b) and (c) are impractical, the clause or provision shall be included in full text and the title line shall include the word "(MODIFICATION)" followed by the Center name and the date (or the date the modification was last changed, if it is a standard modification used Centerwide).

Subpart 1852.2—Texts of Provisions and Clauses

51. Section 1852.204-71 is revised to read as follows:

1852.204-71 NASA Contractor Financial Management Reporting.

As prescribed by 1804.675-1(a), insert the following clause in contracts that require financial management reporting.

NASA Contractor Financial Management Reporting (August 1985)

(a) Financial Management Reports shall be submitted by the Contractor on NASA Form 533 reports in accordance with the instructions set forth in the NASA Handbook "Procedures for Contractor Reporting of Correlated Cost and Performance Data" (NHB 9501.2B) and on the reverse side of the forms, as supplemented in the Schedule of this contract. The detailed reporting categories to be used, which shall be correlated with technical and schedule reporting, will be set forth in the Schedule of this contract. Implementation by the Contractor of reporting requirements under this clause shall include NASA approval of the definitions of the content of each reporting category, and will give due regard to the Contractor's established financial management information system.

(b) Lower level detail, which the Contractor utilizes for its own management purposes to validate information reported to NASA, shall be compatible with NASA requirements.

(c) Reports shall be submitted in the number of copies, at the time, and in the manner set forth in the Schedule of this contract or as designated administratively in writing by the Contracting Officer. Upon completion and acceptance by NASA of all contract schedule line items, the Contracting Officer may direct the Contractor to submit 533 reports on a quarterly basis only.

(d) The Contractor agrees to insert the substance of this clause in all first tier cost type subcontracts specifically identified in writing by the Contracting Officer and shall include the cost of such subcontracts in its cost reports.

(e) During the performance of this contract, if NASA requires a change, either an increase or decrease in the information or reporting requirements specified in the Schedule, or as provided for in (a) or (c) above, such change shall be effected by the Contracting Officer in accordance with the procedures of the Changes clause of this contract.

(End of clause)

52. Section 1852.204-72 is revised to read as follows:

1852.204-72 NASA Contractor Financial Management Reporting (Performance Analysis Report).

As prescribed in 1804.675-1(b), insert the following clause in contracts that require the Monthly Performance Analysis Report.

NASA Contractor Financial Management Reporting (Performance Analysis Report) (August 1985)

Monthly reporting of contract performance shall be accomplished on the NASA Monthly Contractor Financial Management Performance Analysis Report (NASA Form 533P) in accordance with the instructions set forth in the NASA Handbook "Procedures for Contractor Reporting of Correlated Cost and Performance Data" (NHB 9501.2B) and on the reverse side of the form, as supplemented in the Schedule of this contract.

(End of clause)

53. Section 1852.216-7 is revised to read as follows:

1852.216-7 Allowable Cost and Payment.

In subdivision (h)(2)(ii)(B) of the Allowable Cost and Payment clause at FAR 52.216-7, the period of years may be increased to correspond with any statutory period of limitation applicable to claims of third parties against the contractor; *provided*, that a corresponding increase is made in the period for retention of records required in paragraph (d) of the clause at FAR 52.215-1, Examination of Records by Comptroller General. Paragraph (a) of the clause at FAR 52.216-7 shall be modifed as specified in 1852.216-770. See FAR 16.307(a) for modifications required if the contract is with a nonprofit or educational concern or a State or local government.

1852.217-70 [Amended]

54. The clause in section 1852.217-70 is amended by changing "(APRIL 1984)" to read "(August 1985)"; and by changing "R-2" to read "Code 7".

55. Section 1852.217-71 is added to read as follows:

1852.217-71 Evaluation of Unpriced Option.

As prescribed in 1817.208-70(a), insert the following provision:

Evaluation of Unpriced Option (August 1985)

(a) The government will evaluate unpriced option(s) for award purposes as one of the Other Factors and separate from the evaluation of the Cost Factors. The offeror shall submit with its proposal a budget estimate for the unpriced option which shall be presented to, and considered by, the Selection Official, along with the Government's most probable cost assessment of this budget estimate.

(b) Evaluation of the option does not obligate the Government to exercise the option, nor does the exercise of the option obligate the Government to accept the budget estimate as a reasonable cost for the option.

(End of provision)

56. Section 1852.217-72 is added to read as follows:

1852.217-72 Unpriced Option.

As prescribed in 1817.208-70(b), insert the following clause:

Unpriced Option (August 1985)

(a) This clause applies only to optional quantities of supplies or services for which specific prices or estimated cost and fee have not been negotiated at the time of award of the basic contract. Any other option clauses contained in this contract do not apply to such unpriced options.

(b) The Government may extend the term of this contract for the option quantities of supplies or services and period specified in the Schedule by written modification of this contract before the current contract performance period expires; provided that the Government shall give the Contractor a preliminary written notice of intent to extend at least 90 calendar days before the option expires. The preliminary notice does not commit the Government to exercise the option.

(c) Except for the price or estimated cost and fee, all other terms and conditions in the contract apply to the option. Upon receipt of the preliminary notice, the parties shall undertake to negotiate a reasonable price or estimated cost and fee for the option. The modification exericising the option shall specify the price or estimated cost and fee, if agreed upon. If the price or estimated cost and fee for the option are not agreed upon at the time the government exercises the option the Contractor is nevertheless bound to perform the option work in accordance with all other terms and conditions of this contract. In such an event, a reasonable price or estimated cost and fee for the option shall be determined by the Contracting Officer and shall be set forth in the modification exercising the option. This determination of a reasonable price or estimated cost and fee

shall constitute a final decision by the Contracting Officer on a question of fact within the meaning of the Disputes clause in this contract and the Contract Disputes Act of 1978.

(d) If the Government exercises this option, the extended contract shall be considered to include this option. However, the total duration of this contract, including the exercise of any option(s) shall not exceed . . .* . . . years.

(End of clause)

57. Section 1852.232–16 is added to read as follows:

1852.232–16 Progress payments.

(a) In the clause at FAR 52.232–16, change the rate of 90 percent to 80 percent in paragraphs (a)(1), (a)(5), and (b).

(b) In Alternate I of FAR 52.232–16, in the preface and in subparagraph (a)(1) change the rate of 95 percent to 90 percent.

(c) When using the clause at FAR 52.232–16 in—

(1) Competitive procurements (IFB's and RFP's when adequate price competition is expected) and other procurements when paragraph (c)(2) below does not apply, replace the first sentence of that clause with the following:

Progress payments shall be made to the Contractor as work progresses within 30 days after receipt of each progress payment request, which may not be submitted more frequently than monthly, in amounts approved by the Contracting Officer, under the following conditions.

(2) Negotiated procurements when the price is based on cost analysis and frequency of payment requests was considered in the negotiation (see 1815.970–1(c)(2)), replace the first sentence of that clause with the following:

Progress payments shall be made to the Contractor as work progresses within 30 days after the receipt of each progress payment request in amounts approved by the Contracting Officer under the following conditions:

58. Section 1852.236–71 is added to read as follows:

1852.236–71 Additive or Deductive Items.

As prescribed in 1836.370, insert the following provision:

Additive or Deductive Items (August 1985)

The low bidder for purposes of award shall be the conforming reponsible bidder offering the low aggregate amount for the first or base bid item, plus or minus (in order of priority listed in the schedule) those additive or deductive bid items providing the most features of the work within the funds determined by the Government to be available before bids are opened. If addition of another bid item in the listed order of priority would make the award exceed such funds for all bidders, it shall be skipped and the next subsequent additive bid item in a lower amount shall be added if award thereon can be made within such funds. For example, when the amount available is $100,000 and a bidder's base bid and four successive additives are $85,000, $10,000, $8,000, $6,000 and $4,000, the aggregate amount of the bid for purposes of award would be $99,000 for the base bid plus the first and fourth additives, the second and the third additives being skipped because each of them would cause the aggregate bid to exceed $100,000. In any case all bids shall be evaluated on the basis of the same additive or deductive bid items, determined as above provided. The listed order of priority need be followed only for determining the low bidder. After determination of the low bidder as stated, award in the best interests of the Government may be made to that bidder on its base bid and any combination of its additive or deductive bid for which funds are determined to be available at the time of the award, provided that award of such combination of bid items does not exceed the amount offered by any other conforming responsible bidder for the same combination of bid items.

(End of provision)

1852.243–70 [Amended]

59. Section 1852.243–70, Alternate II of the clause (April 1984), is amended by changing "first" to read "second".

60. Section 1852.245–70 is revised.

1852.245–70 Acquisition of Existing Government Equipment.

As prescribed in 1845.106–70(a), insert the following clause in all solicitations and contracts which contain a Government property clause:

Acquisition of Existing Government Equipment (August 1985)

(a) "Centrally reportable equipment," as used in this clause means that plant equipment, special test equipment (including components), special tooling and non-flight space property (including ground support equipment) which is (1) generally commercially available and used as a separate item or component of a system, (2) is valued at $1,000 or more, and (3) is identifiable by a manufacturer and model number.

(b) Prior to the acquisition of any item of centrally reportable equipment under this contract (unless for incorporation into flight qualified or flight monitoring deliverable end items), the Contractor shall provide the Contracting Officer, at the earliest possible date, a detailed listing of requirements for screening of existing Government inventories. DD Form 1419, DoD Industrial Plant Equipment Requisition, will be prepared for each item of centrally reportable equipment to be acquired and forwarded through the Contracting Officer to the Equipment Visibility System Coordinator at the cognizant NASA installation at least (30) days in advance of his intention to acquire or fabricate such equipment. In the event a certificate of non-availability is not received within such period, the contractor may proceed to acquire the equipment or components, subject to any other applicable provisions of this contract. Instructions for preparing the DD Form 1419 are contained in the NASA FAR Supplement 1845.7103. Upon receipt of the equipment described on the DD Form 1419 (regardless of whether it is Contractor-Acquired or Government-Furnished), the contractor shall prepare and submit a DD Form 1342 in accordance with NASA FAR Supplement 1845.505–670.

(End of clause)

61. Section 1852.251–70 is added to read as follows:

1852.251–70 Contractor Employee Air Transportation.

As prescribed at 1851.7005, insert the following clause:

Contractor Employee Air Transportation (August 1985)

(a) To the maximum extent practicable consistent with travel requirements, the Contractor shall use the reduced air transportation rates and services provided through available Government-discount airfares for bona-fide employees' travel that is otherwise reimbursable as a direct cost pursuant to this contract.

(b) Upon initial receipt of this contract or amendment, the Contractor shall notify the travel office of the issuing installation of the name and title of the Contractor employee responsible for authorizing each individual airline ticket purchase and provide a copy of the Contractor's document by which such authorization is made. At a minimum, this document shall require that ticket purchases be supported with the name and position of the traveler, the purpose of the travel, the itinerary (places and dates), and the dated signature and position of the authorizing official. Revised notifications shall be made to accommodate changed responsibilities.

(c) The Contractor will acknowledge receipt of Standards Form 1169, Government Transportation Request (GTR) by signing the Transmittal document (NASA Form 1622) and returning it to the issuing travel office.

(d) The Contractor shall order Government-discount airfare services only from the Scheduled Airline Traffic Office (SATO) designated by the travel office issuing the GTR, and shall order these services only through issuance of a GTR. The authorized Contractor official shall obtain the installation travel officer's signature on the requisite number of GTR's for each billing period—However, a maximum of one GTR per applicable contract per billing period shall be provided to the (SATO).

(e) All tickets purchased at Government discount rates will be obtained with the GTR and each ticket shall have at least one flight coupon at Government discount rates.

(f) The Contractor shall account for each issued GTR, safeguard GTR's against unauthorized use, and return unused GTR's to the issuing NASA office upon completion of

*See FAR 17.200 and 17.204(e)

the contract. The installation travel office and the SATO shall be promptly notified of lost or stolen GTR's. Standard Form 1170, "Redemption of Unused Tickets" shall be used to obtain refunds for tickets ordered and issued, but not used.

(g) Nothing in this clause shall authorize obtaining transportation or services which are not otherwise reimbursable as direct costs under this contract, or for use by Government employees. Nothing in this clause requires air carriers to make available to the Contractor city-pair contract fares or other Government discount fares.

(End of clause)

PART 1853—FORMS

Subpart 1853.2—Prescription of Forms

62. Section 1853.204–70 is revised.

1853.204–70 General (NF's 507, 507A, 533M, 533P, 533Q, 667, 1098, 1356, 1611, 1612, DD 1593).

(a) *NASA Form 507, Individual Procurement Action Report.* NF 507, prescribed at 1804.671–4, shall be used to provide acquisition records and statistics.

(b) *NASA Form 507A, Individual Procurement Action Report Supplement.* NF 507A, prescribed at 1804.671–4, shall be used to provide additional data on procurement actions resulting from solicitations issued subsequent to March 30, 1985.

(c) *NASA Form 533M, Monthly Contractor Financial Management Report.* NF 553M, prescribed at 1804.675, shall be used when financial management reporting is required.

(d) *NASA Form 533P, Monthly Contractor Financial Management Performance Report.* NF 553P, prescribed at 1804.675, shall be used when monthly performance analysis reports are required.

(e) *NASA Form 533Q, Quarterly Financial Management Report.* NF 533Q, prescribed at 1804.675, shall be used when quarterly cost projection reports are required.

(f) *NASA Form 667, Report on NASA Subcontracts.* NF 667, prescribed at 1804.672, shall be used by contractors to submit information to NASA on each subcontract or modification thereof in excess of $10,000.

(g) *NASA Form 1098, Checklist for Negotiated and Advertised Contract File Content (Award File).* NF 1098, prescribed at 1804.7205, shall be used as a guide in compiling contract files and shall accompany contracts and supplemental agreements submitted to Headquarters for approval.

(h) *NASA Form 1356, C.A.S.E. Report on College and University Projects.* NF 1356, prescribed at 1804.7202, shall be used to report information applicable to colleges and universities.

(i) *NASA Form 1611, Contract Completion Statement.* NF 1611, prescribed at 1804.804–2, shall be used for closeout of contract files when another office administers the contract.

(j) *NASA Form 1612, Contract Closeout Checklist.* NF 1612, prescribed at 1804.804–5, shall be used for contract closeout when the NASA contracting office retains contract administration.

(k) *DOD Form DD 1593, Contract Administration Completion Record.* Form DD 1593, prescribed at 1804.804–5, shall be used for closeout when the NASA contracting office retains contract administration.

1853.216–70 [Amended]

63. Section 1853.216–70 is amended by changing "1816.370(a)" to read "1816.370" wherever it occurs.

64. Section 1853.232(b) is revised to read as follows:

1853.232 Contract financing (SF 272, 272A).

* * * * *

(b) *Standard Form 272A, Federal Cash Transaction Report Continuation,* prescribed at 1832.406–70, is used in conjunction with SF 272 when reporting more than one contract.

1853.242–70 [Amended]

65. Section 1853.242–70(b) is amended by changing "1842.20–70(a)(4)," to read "1842.202–70(a)(4),".

66. Section 1853.251 is added to read as follows:

1853.251 Contractor Employee Air Transportation (SF's 1169, 1170, NF 1622.

The following forms, prescribed at 1851.7005, shall be used in conjunction with employee air transportation under specified contracts:

(a) *Standard Form 1169, U.S. Government Transportation Request.* Form 1169 shall be used by contractors to obtain tickets.

(b) *Standard Form 1170, Redemption of Unused Tickets.* Form 1170 shall be used by contractors in returning unused, spoiled or invalidated tickets.

(c) *NASA Form 1622, Transmittal and Acknowledgement of Government Transportation Requests.* From 1622 shall be used in transmitting the NASA Forms 1169 to contractors.

[FR Doc. 85–19457 Filed 8–14–85; 8:45 am]

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Federal Register

Thursday
August 15, 1985

Part VI

Office of Management and Budget

Budget Rescissions and Deferrals; Cumulative Report; Notice

OFFICE OF MANAGEMENT AND BUDGET

Cumulative Report on Rescissions and Deferrals

August 1, 1985.

This report is submitted in fulfillment of the requirements of section 1014(e) of the Impoundment Control Act of 1974 (Pub. L. 93–344). Section 1014(e) provides for a monthly report listing all budget authority for this fiscal year for which, as of the first day of the month, a special message has been transmitted to the Congress.

This report gives the status as of August 1, 1985, of 244 rescission proposals and 75 deferrals contained in the first 11 special messages of FY 1985. These messages were transmitted to the Congress on October 1, October 31, and November 29, 1984; and January 4, February 6 (two special messages), March 1, March 22, May 16, June 20, and July 31, 1985.

Rescissions (Table A and Attachment A)

As of August 1, 1985, there were no rescission proposals pending before the Congress. Attachment A shows the history and status of the 244 rescissions proposed by the President in 1985.

Deferrals (Table B and Attachment B)

As of August 1, 1985, $4,437.3 million in 1985 budget authority was being deferred from obligation and $5.5 million in 1985 outlays was being deferred from expenditure. Attachment B shows the history and status of each deferral reported during FY 1985.

Information From Special Messages

The special messages containing information on the rescission proposals and deferrals covered by this cumulative report are printed in the **Federal Registers** listed below:

Vol. 49, FR p. 39464, Friday, October 5, 1984
Vol. 49, FR p. 44870, Friday, November 9, 1984
Vol. 49, FR p. 47804, Thursday, December 6, 1984
Vol. 50, FR p. 1420, Thursday, January 10, 1985
Vol. 50, FR p. 6582, Friday, February 15, 1985
Vol. 50, FR p. 6648, Friday, February 15, 1985
Vol. 50, FR p. 9410, Thursday, March 7, 1985
Vol. 50, FR p. 12504, Thursday, March 28, 1985
Vol. 50, FR p. 21014, Tuesday, May 21, 1985
Vol. 50, FR p. 26510, Wednesday, June 26, 1985
Vol. 50, FR p. 31696, Monday, August 5, 1985

Joseph R. Wright,
Acting Director.

BILLING CODE 3110-01-M

TABLE A

STATUS OF 1985 RESCISSIONS

	Amount (In millions of dollars)
Rescissions proposed by the President	$1,843.3
Accepted by the Congress	0
Rejected by the Congress	1,843.3 a/
Pending before the Congress	0

****

TABLE B

STATUS OF 1985 DEFERRALS

	Amount (In millions of dollars)
Deferrals proposed by the President	$15,339.3 b/
Routine Executive releases through August 1, 1985 (OMB/ Agency Releases of $11,199.0 million and cumulative adjustments of $302.5 million)	-10,896.5
Overturned by the Congress	0
Currently before the Congress	$ 4,442.8 c/

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a/ Rescission proposals transmitted with the FY 1986 Budget were released immediately following expiration of the 45-day clock on rescissions under the Impoundment Control Act. However, the proposals continue to be subject to Congressional action.

b/ This amount includes $170.0 million transmitted by the Comptroller General on June 24, 1985, for the General Services Administration.

c/ This amount includes $5.5 million in outlays for a Department of the Treasury deferral (D85-13).

Attachments

Attachment A - Status of Rescissions - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
FUNDS APPROPRIATED TO THE PRESIDENT								
Appalachian Regional Development Programs	R85-1	99,000		2-6-85		99,000	4-25-85	
International Development Assistance Functional development assistance program	R85-2	5,168		2-6-85		5,168	4-25-85	
Peace Corps Peace Corps operating expenses	R85-3	1,231		2-6-85		1,231	4-25-85	
Overseas Private Investment Corporation Overseas Private Investment Corporation	R85-4	838		2-6-85		838	4-25-85	
DEPARTMENT OF AGRICULTURE								
Office of the Secretary Office of the Secretary	R85-5	114		2-6-85		114	4-25-85	
Departmental Administration Departmental Administration	R85-6	149		2-6-85		149	4-25-85	
Office of Governmental and Public Affairs Office of Governmental and Public Affairs	R85-7	497		2-6-85		497	4-25-85	
Office of the Inspector General Office of the Inspector General	R85-8	41		2-6-85		41	4-25-85	
Office of the General Counsel Office of the General Counsel	R85-9	24		2-6-85		24	4-25-85	
Agricultural Research Service Agricultural Research Service	R85-10	1,313		2-6-85		1,313	4-25-85	
Buildings and facilities	R85-11 R85-12	16,950 20,950		2-6-85 2-6-85		16,950 20,950	4-25-85 4-25-85	
Cooperative State Research Service Cooperative State Research Service	R85-13	151		2-6-85		151	4-25-85	
Extension Service Extension Service	R85-14	310		2-6-85		310	4-25-85	
National Agricultural Library National Agricultural Library	R85-15	11		2-6-85		11	4-25-85	
Statistical Reporting Service Salaries and expenses	R85-16	206		2-6-85		206	4-25-85	
Economic Research Service Salaries and expenses	R85-17	132		2-6-85		132	4-25-85	
World Agricultural Outlook Board World Agricultural Outlook Board	R85-18	32		2-6-85		32	4-25-85	
Foreign Agricultural Service Foreign Agricultural Service	R85-19	424		2-6-85		424	4-25-85	
Office of International Cooperation and Development Salaries and expenses	R85-20	52		2-6-85		52	4-25-85	
Scientific activities overseas (special foreign currency program)	R85-21	9		2-6-85		9	4-25-85	
Agricultural Stabilization and Conservation Service Salaries and expenses	R85-22	100		2-6-85		100	4-25-85	
Dairy indemnity program	R85-23	88		2-6-85		88	4-25-85	
Federal Crop Insurance Corporation Administrative and operating expenses	R85-24	1,906		2-6-85		1,906	4-25-85	
Commodity Credit Corporation Commodity Credit Corporation fund	R85-25	31		2-6-85		31	4-25-85	
Office of Rural Development Policy Salaries and expenses	R85-26	36		2-6-85		36	4-25-85	
Rural Electrification Administration Salaries and expenses	R85-27	288		2-6-85		288	4-25-85	
Reimbursement to the Rural Electrification and Telephone revolving fund	R85-28	215,964		2-6-85		215,964	4-25-85	
Purchase of Rural Telephone Bank capital stock	R85-29	30,000		2-6-85		30,000	4-25-85	

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Farmers Home Administration								
Salaries and expenses	R85-30	1,315		2-6-85		1,315	4-25-85	
Soil Conservation Service								
Conservation operations	R85-31	5,174		2-6-85		5,174	4-25-85	
River basin surveys and investigations	R85-32	235		2-6-85		235	4-25-85	
Watershed planning	R85-33	133		2-6-85		133	4-25-85	
Watershed and flood prevention operations	R85-34	918		2-6-85		918	4-25-85	
Great plains conservation program	R85-35	126		2-6-85		126	4-25-85	
Resource conservation and development	R85-36	164		2-6-85		164	4-25-85	
Animal and Plant Health Inspection Service								
Salaries and expenses	R85-37	1,464		2-6-85		1,464	4-24-85	
Federal Grain Inspection Service								
Salaries and expenses	R85-38	94		2-6-85		94	4-25-85	
Agricultural Marketing Service								
Marketing services	R85-39	150		2-6-85		150	4-25-85	
Office of Transportation								
Office of Transportation	R85-40	18		2-6-85		18	4-25-85	
Food Safety and Inspection Service								
Salaries and expenses	R85-41	2,473		2-6-85		2,473	4-25-85	
Food and Nutrition Service								
Food stamp administration	R85-42	684		2-6-85		684	4-25-85	
Food stamp program	R85-43	8,762		2-6-85		8,762	4-25-85	
Human Nutrition Information Service								
Human Nutrition Information Service	R85-44	34		2-6-85		34	4-25-85	
Packers and Stockyards Administration								
Packers and Stockyards Administration	R85-45	117		2-6-85		117	4-25-85	
Agricultural Cooperative Service								
Salaries and expenses	R85-46	50		2-6-85		50	4-25-85	
Forest Service								
Forest research	R85-47	923		2-6-85		923	4-25-85	
State and private forestry	R85-48	463		2-6-85		463	4-25-85	
National forest system	R85-49	12,134		2-6-85		12,134	4-25-85	
Construction	R85-50	1,922		2-6-85		1,922	4-25-85	
Land acquisition	R85-51	68		2-6-85		68	4-25-85	
DEPARTMENT OF COMMERCE								
General Administration								
Salaries and expenses	R85-52	3,700		2-6-85		3,700	4-25-85	
	R85-53	499		2-6-85		499	4-25-85	
Economic Development Administration								
Salaries and expenses	R85-54	120		2-6-85		120	4-25-85	
Economic development assistance programs	R85-55	24,000		2-6-85		24,000	4-25-85	
	R85-56	179,000		2-6-85		179,000	4-25-85	
Bureau of the Census								
Salaries and expenses	R85-57	241		2-6-85		241	4-25-85	
Periodic censuses and programs	R85-58	791		2-6-85		791	4-25-85	
Economic and Statistical Analysis								
Salaries and expenses	R85-59	433		2-6-85		433	4-25-85	
International Trade Administration								
Operations and administration	R85-60	2,783		2-6-85		2,783	4-25-85	
	R85-60A	18,750		2-6-85		18,750	4-25-85	
Participation in United States expositions	R85-61	6		2-6-85		6	4-25-85	
Minority Business Development Agency								
Minority business development	R85-62	305		2-6-85		305	4-25-85	
United States Travel and Tourism Administration								
Salaries and expenses	R85-63	468		2-6-85		468	4-25-85	
	R85-63A	3,417		2-6-85		3,417	4-25-85	

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National Oceanic and Atmospheric Administration								
Operations, research, and facilities....	R85-64	4,140		2-6-85		4,140	4-25-85	
	R85-64A	100,200		2-6-85		100,200	4-25-85	
Fisheries loan fund.....	R85-65	1,550		2-6-85		1,550	4-25-85	
Patent and Trademark Office								
Salaries and expenses.....	R85-66	1,472		2-6-85		1,472	4-25-85	
National Bureau of Standards								
Scientific and technical research and services.....	R85-67	1,019		2-6-85		1,019	4-25-85	
National Telecommunications and Information Administration								
Salaries and expenses.....	R85-68	183		2-6-85		183	4-25-85	
Public telecommunications facilities, planning and construction.....	R85-69	32		2-6-85		32	4-25-85	
	R85-69A	9,968		2-6-85		9,968	4-25-85	
DEPARTMENT OF DEFENSE - CIVIL								
Corps of Engineers - Civil								
General investigations.....	R85-70	2,000		2-6-85		2,000	4-25-85	
Construction, general.....	R85-71	4,000		2-6-85		4,000	4-25-85	
Operation and maintenance, general.....	R85-72	8,000		2-6-85		8,000	4-25-85	
General expenses.....	R85-73	1,200		2-6-85		1,200	4-25-85	
Flood control, Mississippi River and tributaries.....	R85-74	1,000		2-6-85		1,000	4-25-85	
Revolving fund.....	R85-75	3,900		2-6-85		3,900	4-25-85	
DEPARTMENT OF EDUCATION								
Office of Elementary and Secondary Education								
Special programs.....R85-76		80,000		2-6-85		80,000	4-24-85	
Office of Bilingual Education and Minority Languages Affairs								
Grants to schools with substantial numbers of immigrants.....	R85-77	30,000		2-6-85		30,000	4-24-85	
Office of Postsecondary Education								
Higher education.....	R85-78	59,750		2-6-85		59,750	4-24-85	
Departmental Management								
Salaries and expenses.....	R85-79	4,189		2-6-85		4,189	4-24-85	
DEPARTMENT OF ENERGY								
Atomic Energy Defense Activities								
Atomic energy defense activities.....	R85-80	8,280		2-6-85		8,280	4-25-85	
Energy Programs								
General science and research activities.	R85-81	38		2-6-85		38	4-25-85	
Energy supply, research and development activities.....	R85-82	2,676		2-6-85		2,676	4-25-85	
Uranium supply and enrichment activities	R85-83	968		2-6-85		968	4-25-85	
Fossil energy research and development..	R85-84	3,276		2-6-85		3,276	4-25-85	
	R85-85	860		2-6-85		860	4-25-85	
Naval petroleum and oil shale reserves..	R85-86	181		2-6-85		181	4-25-85	
Energy conservation.....	R85-87	931		2-6-85		931	4-25-85	
Strategic petroleum reserve.....	R85-88	156		2-6-85		156	4-25-85	
Energy Information Administration.....	R85-89	846		2-6-85		846	4-25-85	
Emergency preparedness.....	R85-90	51		2-6-85		51	4-25-85	
Economic regulation.....	R85-91	156		2-6-85		156	4-25-85	
Federal Energy Regulatory Commission....	R85-92	204		2-6-85		204	4-25-85	
Alternate fuels production.....	R85-93	23		2-6-85		23	4-25-85	

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Power Marketing Administration								
Operation and maintenance, Alaska Power Administration	R85-94	29		2-6-85		29	4-25-85	
Operation and maintenance, Southeastern Power Administration	R85-95	15		2-6-85		15	4-25-85	
	R85-243	23,402		5-16-85		23,402	7-19-85	
Operation and maintenance, Southwestern Power Administration	R85-96	243		2-6-85		243	4-25-85	
Construction, rehabilitation, operation and maintenance, Western Area Power Administration	R85-97	432		2-6-85		432	4-25-85	
Departmental Administration								
Departmental administration	R85-98	2,786		2-6-85		2,786	4-25-85	
DEPARTMENT OF HEALTH AND HUMAN SERVICES								
Food and Drug Administration								
Salaries and expenses	R85-99	2,194		2-6-85		2,194	4-25-85	
Health Resources and Services Administration								
Health resources and services	R85-100	2,263		2-6-85		2,263	4-25-85	
Indian health	R85-101	161		2-6-85		161	4-25-85	
Centers for Disease Control								
Disease control	R85-102	2,261		2-6-85		2,261	4-25-85	
National Institutes of Health								
National Cancer Institute	R85-103	4,362		2-6-85		4,362	4-25-85	
National Heart, Lung and Blood Institute	R85-104	1,401		2-6-85		1,401	4-25-85	
National Institute of Dental Research	R85-105	166		2-6-85		166	4-25-85	
National Institute of Arthritis, Diabetes, and Digestive and Kidney Diseases	R85-106	1,171		2-6-85		1,171	4-25-85	
National Institute of Neurological and Communicative Disorders	R85-107	462		2-6-85		462	4-25-85	
National Institute of Allergy and Infectious Diseases	R85-108	428		2-6-85		428	4-25-85	
National Institute of General Medical Sciences	R85-109	211		2-6-85		211	4-25-85	
National Institute of Child Welfare and Human Development	R85-110	309		2-6-85		309	4-25-85	
National Eye Institute	R85-111	173		2-6-85		173	4-25-85	
National Institute of Environmental Health Sciences	R85-112	542		2-6-85		542	4-25-85	
National Institute on Aging	R85-113	196		2-6-85		196	4-25-85	
Research resources	R85-114	250		2-6-85		250	4-25-85	
John E. Fogarty International Center	R85-115	241		2-6-85		241	4-25-85	
National Library of Medicine	R85-116	354		2-6-85		354	4-25-85	
Office of the Director	R85-117	182		2-6-85		182	4-25-85	
Alcohol, Drug Abuse, and Mental Health Administration								
Alcohol, drug abuse, and mental health	R85-118	3,972		2-6-85		3,972	4-25-85	
Office of Assistant Secretary for Health								
Public health service management	R85-119	493		2-6-85		493	4-25-85	
Health Care Financing Administration								
Program management	R85-120	1,540		2-6-85		1,540	4-25-85	
Human Development Services								
Human development services	R85-121	1,334		2-6-85		1,334	4-25-85	
Family social services	R85-122	396		2-6-85		396	4-25-85	
Community services block grant	R85-123	34		2-6-85		34	4-25-85	
Departmental Management								
General departmental management	R85-124	1,246		2-6-85		1,246	4-25-85	
Office of the Inspector General	R85-125	496		2-6-85		496	4-25-85	

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT								
Public and Indian Housing Programs								
Payments for operation of low income housing projects	R85-126	253,138		2-6-85		253,138	4-25-85	
Management and Administration								
Salaries and expenses	R85-127	6,919		2-6-85		6,919	4-25-85	
DEPARTMENT OF INTERIOR								
Bureau of Land Management								
Management of lands and resources	R85-128	5,778		2-6-85		5,778	4-25-85	
Oregon and California grant lands	R85-129	679		2-6-85		679	4-25-85	
Working capital fund	R85-130	2,951		2-6-85		2,951	4-25-85	
Minerals Management Service								
Minerals and royalty management	R85-131	1,764		2-6-85		1,764	4-25-85	
Office of Surface Mining Reclamation and Enforcement								
Regulation and technology	R85-132	546		2-6-85		546	4-25-85	
Abandoned mine reclamation fund	R85-133	333		2-6-85		333	4-25-85	
	R85-133A	2,900		2-6-85		2,900	4-25-85	
Bureau of Reclamation								
Construction program	R85-134	2,571		2-6-85		2,571	4-25-85	
General investigations	R85-135	209		2-6-85		209	4-25-85	
Operation and maintenance	R85-136	1,540		2-6-85		1,540	4-25-85	
General administrative expenses	R85-137	1,468		2-6-85		1,468	4-25-85	
Geological Survey								
Surveys, investigations and research	R85-138	4,519		2-6-85		4,519	4-25-85	
Bureau of Mines								
Mines and minerals	R85-139	1,355		2-6-85		1,355	4-25-85	
United States Fish and Wildlife Service								
Resource management	R85-140	3,869		2-6-85		3,869	4-25-85	
Construction	R85-141	40		2-6-85		40	4-25-85	
National Park Service								
Operation of the national park system	R85-142	8,598		2-6-85		8,598	4-25-85	
National recreation and preservation	R85-143	94		2-6-85		94	4-25-85	
Construction	R85-144	397		2-6-85		397	4-25-85	
Land acquisition and state assistance	R85-145	52		2-6-85		52	4-25-85	
	R85-146	30,000		2-6-85		30,000	4-25-85	
Bureau of Indian Affairs								
Operation of Indian programs	R85-147	5,570		2-6-85		5,570	4-25-85	
Office of Territorial Affairs								
Administration of territories	R85-148	107		2-6-85		107	4-25-85	
DEPARTMENT OF JUSTICE								
General Administration								
Salaries and expenses	R85-149	166		2-6-85		166	4-25-85	
Working capital fund	R85-150	3,000		2-6-85		3,000	4-25-85	
Legal Activities								
Salaries and expenses, General Legal Activities	R85-151	470		2-6-85		470	4-25-85	
Salaries and expenses, Antitrust Division	R85-152	65		2-6-85		65	4-25-85	
Salaries and expenses, United States Attorneys and Marshals	R85-153	889		2-6-85		889	4-25-85	
Fees and expenses of witnesses	R85-154	309		2-6-85		309	4-25-85	
Salaries and expenses, Community Relations Service	R85-155	43		2-6-85		43	4-25-85	
Federal Bureau of Investigation								
Salaries and expenses	R85-156	3,505		2-6-85		3,505	4-25-85	

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Drug Enforcement Administration								
Salaries and expenses	R85-157	876		2-6-85		876	4-25-85	
Immigration and Naturalization Service								
Salaries and expenses	R85-158	947		2-6-85		947	4-25-85	
Federal Prison System								
Salaries and expenses	R85-159	451		2-6-85		451	4-25-85	
National Institute of Corrections	R85-160	894		2-6-85		894	4-25-85	
Buildings and facilities	R85-161	13		2-6-85		13	4-25-85	
Office of Justice Programs								
Justice assistance	R85-162	2,031		2-6-85		2,031	4-25-85	
DEPARTMENT OF LABOR								
Employment and Training Administration								
Program administration	R85-163	218		2-6-85		218	4-25-85	
	R85-163A	1,703		2-6-85		1,703	4-25-85	
Training and employment services	R85-164	11,447		2-6-85		11,447	4-24-85	
	R85-164A	244,291		2-6-85		244,291	4-24-85	
Labor-Management Services Administration								
Salaries and expenses	R85-165	1,678		2-6-85		1,678	4-25-85	
Employment Standards Administration								
Salaries and expenses	R85-167	1,635		2-6-85		1,635	4-24-85	
	R85-167A	600		2-6-85		600	4-24-85	
Occupational Safety and Health Administration								
Salaries and expenses	R85-168	1,694		2-6-85		1,694	4-24-85	
Mine Safety and Health Administration								
Salaries and expenses	R85-169	1,776		2-6-85		1,776	4-24-85	
Bureau of Labor Statistics								
Salaries and expenses	R85-170	765		2-6-85		765	4-25-85	
	R85-170A	5,000		2-6-85		5,000	4-25-85	
Departmental Management								
Salaries and expenses	R85-171	728		2-6-85		728	4-24-85	
Inspector General salaries and expenses	R85-172	3,766		2-6-85		3,766	4-24-85	
Special foreign currency program	R85-173	20		2-6-85		20	4-24-85	
DEPARTMENT OF STATE								
Administration of Foreign Affairs								
Salaries and expenses	R85-174	2,432		2-6-85		2,432	4-25-85	
DEPARTMENT OF TRANSPORTATION								
Federal Highway Administration								
Motor carrier safety	R85-175	164		2-6-85		164	4-25-85	
National Highway Traffic Safety Administration								
OPerations and research	R85-176	767		2-6-85		767	4-25-85	
Trust fund share of operations and research	R85-177	408		2-6-85		408	4-25-85	
Highway traffic safety grants	R85-178	250		2-6-85		250	4-25-85	
Federal Railroad Administration								
Office of the Administrator	R85-179	100		2-6-85		100	4-25-85	
Railroad research and development	R85-180	170		2-6-85		170	4-25-85	
Rail service assistance	R85-181	90		2-6-85		90	4-25-85	
Railroad safety	R85-182	140		2-6-85		140	4-25-85	
Northeast corridor improvement program	R85-183	200		2-6-85		200	4-25-85	
Urban Mass Transportation Administration								
Urban mass transportation fund, administrative expenses	R85-184	265		2-6-85		265	4-25-85	
Federal Aviation Administration								
Operations	R85-185	18,888		2-6-85		18,888	4-25-85	
Headquarters administration	R85-186	1,065		2-6-85		1,065	4-25-85	
Operation and maintenance, Washington metropolitan airports	R85-187	17		2-6-85		17	4-25-85	

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Facilities and equipment (Airport and airway trust fund)	R85-188	10,000		2-6-85		10,000	4-25-85	
Coast Guard Operating expenses	R85-189	14,724		2-6-85		14,724	4-25-85	
Acquisition, construction and improvements	R85-190	500		2-6-85		500	4-25-85	
Reserve training	R85-191	441		2-6-85		441	4-25-85	
Research, development, test, and evaluation	R85-192	135		2-6-85		135	4-25-85	
Maritime Administration Operations and training	R85-193	888		2-6-85		888	4-25-85	
Office of the Inspector General Salaries and expenses	R85-194	300		2-6-85		300	4-25-85	
Office of the Secretary Salaries and expenses	R85-195	435		2-6-85		435	4-25-85	
Transportation planning, research and development	R85-196	65		2-6-85		65	4-25-85	
DEPARTMENT OF THE TREASURY								
Office of the Secretary Salaries and expenses	R85-197	969		2-6-85		969	4-25-85	
Office of Revenue Sharing Salaries and expenses	R85-198	90		2-6-85		90	4-25-85	
Federal Law Enforcement Training Center Salaries and expenses	R85-199	75		2-6-85		75	4-25-85	
Financial Management Service Salaries and expenses	R85-200	972		2-6-85		972	4-25-85	
Bureau of Alcohol, Tobacco and Firearms Salaries and expenses	R85-201	397		2-6-85		397	4-25-85	
United States Customs Service Salaries and expenses	R85-202	1,223		2-6-85		1,223	4-25-85	
Bureau of the Mint Salaries and expenses	R85-203	87		2-6-85		87	4-25-85	
Bureau of the Public Debt Administering the public debt	R85-204	52		2-6-85		52	4-25-85	
Internal Revenue Service Salaries and expenses	R85-205	198		2-6-85		198	4-25-85	
Processing tax returns and executive direction	R85-206	781		2-6-85		781	4-25-85	
Examinations and appeals	R85-207	1,588		2-6-85		1,588	4-25-85	
Investigation, collection, and taxpayer service	R85-208	1,633		2-6-85		1,633	4-25-85	
United States Secret Service Salaries and expenses	R85-209	1,465		2-6-85		1,465	4-25-85	
ENVIRONMENTAL PROTECTION AGENCY								
Salaries and expenses	R85-210	1,863		2-6-85		1,863	4-26-85	
Research and development	R85-211	4,125		2-6-85		4,125	4-26-85	
Abatement, control, and compliance	R85-212	7,413		2-6-85		7,413	4-26-85	
GENERAL SERVICES ADMINISTRATION								
Real Property Activities Federal buildings fund	R85-213	3,204		2-6-85		3,204	4-25-85	
Personal Property Activities Operating expenses	R85-214	300		2-6-85		300	4-25-85	
General supply fund	R85-215	30,848		2-6-85		30,848	4-25-85	
Office of Information Resources Management Operating expenses	R85-216	45		2-6-85		45	4-25-85	
Consumer information center fund	R85-217	63		2-6-85		63	4-25-85	

Attachment A - Status of Rescissions - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Rescission Number	Amount Previously Considered by Congress	Amount Currently before Congress	Date of Message	Amount Rescinded	Amount Made Available	Date Made Available	Congressional Action
Federal telecommunications fund.....	R85-218	415		2-6-85		415	4-25-85	
Automatic data processing fund.....	R85-219	145		2-6-85		145	4-25-85	
Federal Property Resources Activities Operating expenses.....	R85-220	207		2-6-85		207	4-25-85	
Expenses, disposal of surplus real and related personal property.....	R85-221	1,832		2-6-85		1,832	4-25-85	
General Activities General management and administration, salaries and expenses.....	R85-222	403		2-6-85		403	4-25-85	
Office of the Inspector General.....	R85-223	35		2-6-85		35	4-25-85	
Allowances and staff for former Presidents.....	R85-224	19		2-6-85		19	4-25-85	
Working capital fund.....	R85-225	8		2-6-85		8	4-25-85	
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION								
Research and program management.....	R85-226	4,000		2-6-85		4,000	4-25-85	
OFFICE OF PERSONNEL MANAGEMENT								
Salaries and expenses.....	R85-227	1,161		2-6-85		1,161	4-25-85	
SMALL BUSINESS ADMINISTRATION								
Salaries and expenses.....	R85-228	3,781		2-6-85		3,781	4-25-85	
VETERANS ADMINISTRATION								
Medical care.....	R85-229	10,261		2-6-85		10,261	4-25-85	
Medical and prosthetic research.....	R85-230	323		2-6-85		323	4-25-85	
Medical administration and miscellaneous operating expenses.....	R85-231	2,109		2-6-85		2,109	4-25-85	
General operating expenses.....	R85-232	4,334		2-6-85		4,334	4-25-85	
Construction, minor projects.....	R85-233	377		2-6-85		377	4-25-85	
OTHER INDEPENDENT AGENCIES								
ACTION Operating expenses.....	R85-234	1,139		2-6-85		1,139	4-24-85	
Corporation for Public Broadcasting Public broadcasting fund.....	R85-244	14,000		5-16-85		14,000	7-19-85	
Federal Emergency Management Agency Salaries and expenses.....	R85-235	786		2-6-85		786	4-25-85	
Emergency management planning and assistance.....	R85-236	1,287		2-6-85		1,287	4-25-85	
National Archives and Records Administration Operating expenses.....	R85-237	166		2-6-85		166	4-25-85	
National Labor Relations Board Salaries and expenses.....	R85-238	1,070		2-6-85		1,070	4-24-85	
National Science Foundation Research and related activities.....	R85-239	2,002		2-6-85		2,002	4-25-85	
Nuclear Regulatory Commission Salaries and expenses.....	R85-240	4,329		2-6-85		4,329	4-25-85	
Tennessee Valley Authority Tennessee Valley Authority fund.....	R85-241	1,538		2-6-85		1,538	4-25-85	
United States Information Agency Salaries and expenses.....	R85-242	433		2-6-85		433	4-25-85	
Subtotal, rescissions.....		1,843,315	0			1,843,315		

Note: Rescission proposals transmitted with the FY 1986 Budget were released immediately following expiration of the 45 day clock on rescissions under the Impoundment Control Act. However, the proposals continue to be subject to Congressional action.

Attachment B - Status of Deferrals - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-85
FUNDS APPROPRIATED TO THE PRESIDENT									
Appalachian Regional Development Programs									
Appalachian regional development programs..	D85-1	10,000		10-1-84					10,000
International Security Assistance									
Foreign military sales credit.....	D85-24	4,939,500		11-29-84	4,929,500				10,000
Economic support fund.....	D85-2	280,500		10-1-84					
	D85-2A		3,826,000	11-29-84					
	D85-2B		73,233	1-4-85	3,874,233				305,500
Military assistance.....	D85-3	18,500		10-1-84					
	D85-3A		782,770	11-29-84	778,950				22,320
International military education and training.....	D85-25	55,521		11-29-84	55,521				0
Peacekeeping operations.....	D85-38	7,000		1-4-85	7,000				0
Agency for International Development									
International disaster assistance.....	D85-73	110,000		6-20-85	43,000				67,000
Operating expenses, Agency for International Development.....	D85-74	1,300		6-20-85					1,300
African Development Foundation									
African Development Foundation.....	D85-40	2,287		2-6-85					2,287
DEPARTMENT OF AGRICULTURE									
Forest Service									
Timber salvage sales.....	D85-4	9,704		10-1-84					
	D85-4A		3,471	3-1-85	5,000			5,000	13,175
Expenses, brush disposal.....	D85-5	55,850		10-1-84					
	D85-5A		22,063	3-1-85					77,913
Foreign Assistance Programs									
Expenses, Public Law 480, Foreign Assistance Programs, Agriculture.....	D85-72	167,200		6-20-85	50,000				117,200
Soil Conservation Service									
Watershed and flood prevention operations.....	D85-59	8,365		3-1-85					8,365
DEPARTMENT OF COMMERCE									
Patent and Trademark Office									
Salaries and expenses.....	D85-41	15,993		2-6-85					15,993
DEPARTMENT OF DEFENSE - MILITARY									
Military Construction									
Military construction, all services.....	D85-6	300,008		10-1-84					
	D85-6A		906,322	11-29-84	916,886			82,978	372,422
Family Housing									
Family housing, all services.....	D85-26	230,790		11-29-84	218,990				11,800
DEPARTMENT OF DEFENSE - CIVIL									
Wildlife Conservation, Military Reservations									
Wildlife conservation.....	D85-7	1,127		10-1-84					
	D85-7A		64	1-4-85	190			135	1,137
DEPARTMENT OF ENERGY									
Energy Programs									
Energy supply research and development.....D85-70		15,000		5-16-85					15,000
Uranium Supply and Enrichment Activities...	D85-65	90,000		3-22-85					90,000
Fossil energy research and development.....	D85-27	4,871		11-29-84					
	D85-27A		43,525	2-6-85	13,696				34,700
Fossil energy construction.....	D85-28	2,165		11-29-84					
	D85-28A		2,973	2-6-85					5,137

Attachment B - Status of Deferrals - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-85
Naval petroleum and oil shale reserves.....	D85-29	23		11-29-84					
	D85-29A		155,644	2-6-85					
	D85-29B		1	3-22-85					155,668
Energy conservation.....	D85-30	3,398		11-29-84					
	D85-30A		2,374	3-22-85					
	D85-30B		552	6-20-85					6,324
Strategic petroleum reserve.....	D85-31	401		11-29-84					
	D85-31A		270,337	2-6-85					270,738
SPR petroleum account.....	D85-42	827,028		2-6-85					827,028
Energy security reserve and alternative production.....	D85-32	852		11-29-84					
	D85-32A		297	2-6-85					
	D85-32B		89	3-22-85					1,238
Power Marketing Administration									
Southeastern Power Administration, Operation and maintenance.....	D85-16	12,467		10-31-84					
	D85-16A		3,494	2-6-85	1,216				14,745
Southwestern Power Administration, Operation and maintenance.....	D85-17	7,260		10-31-84					
	D85-17A		1,514	2-6-85					8,774
Western Area Power Administration, Construction, rehabilitation, operation and maintenance.....	D85-18	3,000		10-31-84					
	D85-18A		27,300	2-6-85					
	D85-18B		2,000	5-16-85					32,300
Departmental Administration									
Departmental administration.....	D85-43	8,501		2-6-85					8,501
DEPARTMENT OF HEALTH AND HUMAN SERVICES									
Office of Assistant Secretary for Health									
Scientific activities overseas (special foreign currency program).....	D85-8	424		10-1-84					
	D85-8A		590	1-4-85					1,013
Health Care Financing Administration									
Program management.....	D85-66	4,271		3-22-85					4,271
Social Security Administration									
Limitation on administrative expenses (construction).....	D85-9	15,488		10-1-84					
	D85-9A		224	3-1-85					15,712
Limitation on administrative expenses (information technology systems).....	D85-44	81,926		2-6-85					81,926
Limitation on administrative expenses.....	D85-67	9,176		3-22-85					9,176
DEPARTMENT OF THE INTERIOR									
Bureau of Land Management									
Payments for proceeds, sale of water, Mineral Leasing Act of 1920, sec. 40 (d)..	D85-10	49		10-1-84					49
National Park Service									
Construction (trust fund).....	D85-45	38,172		2-6-85	38,172				0
Land Acquisition.....	D85-68	3,356		3-22-85					3,356
Bureau of Indian Affairs									
Construction.....	D85-33	8,918		11-29-84	893				8,025
DEPARTMENT OF JUSTICE									
General Administration									
Salaries and expenses.....	D85-46	3,890		2-6-85					3,890
Legal Activities									
Support of United States prisoners.....	D85-47	5,319		2-6-85					5,319
Federal Prison System									
Buildings and facilities.....	D85-19	44,534		10-31-84					44,534
Office of Justice Programs									
Justice assistance.....	D85-60	13,026		3-1-85					13,026

Attachment B - Status of Deferrals - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-85
DEPARTMENT OF LABOR									
Employment and Training Administration									
Program administration	D85-61	162		3-1-85					162
State unemployment insurance and employment service operations	D85-34	3,767		11-29-84					
	D85-34A			3-1-85					3,767
	D85-62	37,000		3-1-85					37,000
Unemployment trust fund (veterans employment and training)	D85-63	119		3-1-85					119
Pension Benefit Guaranty Corporation									
Pension Benefit Guaranty Corporation	D85-64	228		3-1-85					228
Bureau of Labor Statistics 1)									
Salaries and expenses	D85-35	5,000		11-29-84	5,000				0
DEPARTMENT OF STATE									
Other									
United States emergency refugee and migration assistance fund	D85-20	32,928		10-31-84					
	D85-20A		153	1-4-85	34,999			20,000	18,081
DEPARTMENT OF TRANSPORTATION									
Federal Highway Administration									
Limitation on general operating expenses	D85-48	2,155		2-6-85					2,155
Federal Railroad Administration									
Rail service assistance	D85-49	413		2-6-85					413
Northeast corridor improvement program	D85-50	30,000		2-6-85					30,000
Railroad rehabilitation and improvement financing funds	D85-51	7,200		2-6-85					7,200
Urban Mass Transportation Administration									
Research, training and human resources	R85-52	25,206		2-6-85					25,206
Federal Aviation Administration									
Construction, metropolitan Washington airports	D85-53	910		2-6-85					910
Facilities and equipment (airport and airway trust)	D85-11	537,205		10-1-84					
	D85-11A		652,957	1-4-85					
	D85-11B		93,731	2-6-85	163,000			163,000	1,283,894
Maritime Administration									
Operations and training	D85-54	8,500		2-6-85					8,500
Office of the Secretary									
Salaries and expenses	D85-55	800		2-6-85					800
Payments to air carriers	D85-69	14,741		3-22-85					14,741
DEPARTMENT OF THE TREASURY									
Office of Revenue Sharing									
Local government fiscal assistance trust fund	D85-12	55,400		10-1-84	32,561			31,395	54,234
	D85-13	19,900		10-1-84	14,439			33	5,494
GENERAL SERVICES ADMINISTRATION									
Federal Property Resources Activities									
National defense stockpile transaction fund	2)	170,000		6-24-85					170,000
OTHER INDEPENDENT AGENCIES									
Board for International Broadcasting									
Grants and expenses	D85-21	4,408		10-1-84	4,408				0
National Archives and Records Service									
Operating expenses	D85-36	4,700		11-29-84					4,700

Attachment B - Status of Deferrals - Fiscal Year 1985

As of August 1, 1985 Amounts in Thousands of Dollars Agency/Bureau/Account	Deferral Number	Amount Transmitted Original Request	Amount Transmitted Subsequent Change	Date of Message	Cumulative OMB/Agency Releases	Congressionally Required Releases	Congressional Action	Cumulative Adjustments	Amount Deferred as of 8-1-85
National Science Foundation									
Science and engineering education activities	D85-56	31,450		2-6-85					31,450
Panama Canal Commission									
Operating expenses	D85-37	6,346		11-29-84	6,346				0
Pennsylvania Avenue Development Corporation									
Land acquisition and development fund	D85-14	14,300		10-1-84	5,000				9,300
Railroad Retirement Board									
Milwaukee railroad restructuring, administration	D85-15	108		10-1-84					
	D85-15A		7	2-6-85					115
Limitation on administration	D85-57	3,098		2-6-85					3,098
Limitation on Railroad Unemployment Insurance Administration fund	D85-58	502		2-6-85					502
Tennessee Valley Authority									
Tennessee Valley Authority fund	D85-71	9,000		5-16-85					9,000
U. S. Information Agency									
Salaries and expenses	D85-22	2,433		10-31-84					2,433
Acquisition and construction of radio facilities	D85-75	16,005		7-30-85					16,005
Salaries and expenses, special foreign currency program	D85-23	852		10-31-84					
	D85-23A		1,617	6-20-85					2,469
U.S. Institute of Peace									
U.S. Institute of Peace	D85-39	4,000		1-4-85					4,000
TOTAL, DEFERRALS		8,465,994	6,873,302		11,199,000	0		302,541	4,442,837

Notes: All of the above amounts represent budget authority except the Local Government Fiscal Assistance Trust Fund (D85-13) of outlays only.

1) The Bureau of Labor Statistics deferral of $5.0 million (D85-35) was released and the funds were proposed for rescission as part of R85-170A.
2) The General Services Administration deferral of $170.0 million was transmitted to Congress by the Comptroller General on June 24, 1985, under section 1015 (a) of the Impoundment Control Act.

[FR Doc. 85-19488 Filed 8-14-85; 8:45 am]

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Federal Register

Thursday
August 15, 1985

Part VII

Environmental Protection Agency

Preliminary Determination Concluding Special Review of Pesticide Products Containing Dicofol; Availability of Supporting Documentation; Amended Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30000/37B; FRL 2883-1]

Amended Notice of Preliminary Determination Concluding Special Review of Pesticide Products Containing Dicofol; Availability of Supporting Documentation

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amended Notice of Preliminary Determination Concluding the Special Review of Pesticide Products Containing Dicofol; Notice of Transmittal of Notice to Secretary of Agriculture; Notice of Availability of Supporting Documentation.

SUMMARY: This Notice describes EPA's preliminary determination regarding risks and benefits associated with the use of pesticide products containing dicofol to control mites on cotton, citrus, and other sites. EPA has concluded that there are substantial risks to the environment associated with the presence of DDT and related impurities (DDTr) as contaminants of technical dicofol, but these risks can be reduced significantly by lowering the total amount of DDTr in dicofol products. EPA has also concluded that there is limited evidence that dicofol poses oncogenic risks to humans through dietary and worker exposure. After weighing the benefits of using dicofol against the potential for human oncogenic risks and the environmental risks expected to result from use of dicofol products with levels of DDTr reflected in current Confidential Statements of Formula, EPA has determined that the use of dicofol products will cause unreasonable adverse effects on the environment. EPA has further determined, however, that if the registrants reduce the amount of DDTr in their products and amend the labels of their products to require mixer/loaders to wear gloves while handling the product, these modifications will reduce the risks to a level where it is no longer appears that use of dicofol products will cause unreasonable adverse effects to man or the environment. Accordingly, EPA proposes to allow continued registration of pesticide products containing dicofol, provided that these modifications are made.

Copies of this Notice and supporting documentation have been sent to the Secretary of Agriculture and the Scientific Advisory Panel for review and comment. Comments from the public are invited.

DATE: Written comments must be received on or before September 16, 1985.

ADDRESS: Submit three copies of written comments, identified with the document control number "OPP-30000/37B" by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

In person, deliver comments to: Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted in any comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice of the submitter. All written comments will be available for public inspection in Rm. 236 at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: Bruce Kapner, Special Pesticide Review Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, D.C. 20460.

Office location and telephone number: Rm. 711, CM #2, 1921 Jefferson Davis Highway, Arlington, VA. (703-557-7400).

Copies of supporting documentation are available from Mr. Bruce Kapner.

SUPPLEMENTARY INFORMATION: This Notice is organized into four units. Unit I is the Introduction. Unit II describes the legal framework within which this Notice is issued. Unit III sets forth EPA's revised assessment of the risks and benefits of using dicofol products and an explanation of its proposed regulatory action. Unit IV sets forth the procedures for responding to this Notice.

I. Introduction

Pesticide products containing the active ingredient dicofol have been registered in the United States since 1957. Dicofol is manufactured abroad, and technical formulations of the active ingredient are registered by Rohm and Haas Company, Makhteshim Agan, Inc., and Aceto Agrichemicals Corporation. EPA records indicate that there are 196 federally registered pesticide products containing the active ingredient dicofol. In addition, there are another 86 products, distributed solely in intrastate commerce, which contain dicofol.

Dicofol products are registered to control many mite species on a wide variety of food and feed crops, as well as on ornamental turf and plants, and houseplants. Mites cause damage by sucking the juices from the leaves, stems, buds, and fruit of plants. This tends to cause defoliation, loss of plant vigor, and lower quality and quantity of yield.

An estimated 2.3 to 3.3 million pounds of dicofol are applied annually in the United States, and the overall volume used appears to be increasing gradually. Mite control on cotton and citrus accounts for about 60 percent of dicofol usage. The remainder is used on seed crops, stone and pome fruits, figs, vegetables, small fruits, tree nuts, mints, ornamental plants, turf grasses, greenhouse crops, houseplants and sites in and around domestic dwellings, and commercial and agricultural buildings.

Notice of the initiation of the Special Review was published in the **Federal Register** of March 21, 1984 (49 FR 10569). That notice was based on the concern that dicofol is contaminated with DDT, DDE, and/or closely related compounds (collectively referred to as DDTr) that can cause significant adverse effects on nontarget wildlife. EPA had concluded that pesticide products containing dicofol met one of the risk criteria for intensive review of the risks and benefits to determine whether continued registration will cause unreasonable adverse effects on the environment. Accordingly, a Special Review (formerly called the Rebuttable Presumption Against Registration (RPAR) process) was initiated for all registered pesticide products containing dicofol. The notice also noted that dicofol had induced liver tumors in a National Cancer Institute (NCI) bioassay in mice, but EPA had not been able to validate the study.

After reviewing comments received on the first notice, EPA issued a preliminary notice of intent to cancel registrations of pesticide products containing dicofol which was published in the **Federal Register** of October 10, 1984 (49 FR 39820). That notice proposed cancellation of all uses of dicofol based on the ecological risks posed by the DDTr contaminants in dicofol. The notice also stated that EPA had concerns that tests have indicated that dicofol produces tumors in test animals. However, the notice did not evaluate the oncogenic risk to humans because the

NCI bioassay on dicofol was still considered invalid.

In response to this notice, registrants of dicofol products informed EPA that they would be able to manufacture products containing substantially lower levels of DDTr. They indicated that at the end of 2 years they could produce commercial quantities of technical dicofol that contained no more than 0.1 percent DDTr contamination. They further indicated that they were currently producing, or would shortly be able to produce, technical dicofol with DDTr contamination levels substantially below those reported on their Confidential Statements of Formula on file with EPA.

The Scientific Advisory Panel (SAP) reviewed EPA's earlier notice of preliminary determination, the supporting Position Document 2/3, and the registrants' proposal to reduce the level of DDTr contaminants. The SAP concluded that if the proposed reduction of DDTr contamination levels to 0.1 percent is implemented, it does not appear that there would be a threat to the environment.

In addition, after the October 10, 1984 Notice, EPA received information regarding the validity of the NCI study. EPA originally considered the NCI study to be invalid due to reported decomposition of the test material during the test period. However, NCI informed EPA that subsequent chemical analysis of the archived test materials showed that it was representative of technical dicofol, and that there was no evidence of decomposition. Based on this information, EPA concluded that the NCI bioassay was valid.

This Notice presents EPA's revised assessment of the risks and benefits of using dicofol and sets forth a new set of proposed regulatory actions. It incorporates by reference the discussion of the risk of adverse ecological effects contained in EPA's earlier Notice of Preliminary Determination (49 FR 39820), but amends that notice by adding a discussion of the oncogenic risks of dicofol use and the impacts of reducing the level of DDTr contaminants in dicofol.

In accordance with FIFRA, EPA sent a copy of this Notice and the supporting documentation to the Secretary of Agriculture and the Scientific Advisory Panel for review. EPA is also inviting public comment on these documents within 30 days. After reviewing any comments received within the applicable time limits, EPA will determine what final regulatory actions are appropriate.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. That standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment," under FIFRA sec. 3(c)(5). The term "unreasonable adverse effects on the environment" is defined under FIFRA sec. 2(bb) as "any unreasonable risk to man or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide." This standard requires a finding that the benefits of the use of the pesticide exceed the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practice.

The burden of proving that a pesticide satisfies the standard for registration rests on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of registration whenever he determines that the pesticide appears to cause unreasonable adverse effects on the environment.

In determining whether the risks of a registered pesticide outweigh its benefits, EPA considers possible changes to the terms and conditions of registration which can reduce risks and the impacts of such modifications on the benefits of use. If EPA determines that such changes reduce risks to the level where the benefits outweigh the risks, it may require that such changes be made in the terms and conditions of the registrations. Alternatively, EPA may determine that no change in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose unreasonable adverse effects.

In that event, the Administrator may issue a notice of his intent to cancel the registration or to hold a hearing to determine whether it should be cancelled under FIFRA sec. 6(b). In determining whether to issue such a notice, the Administrator must take into account the impact of the action on production and prices of agricultural commodities, retail food prices, and otherwise on the agricultural economy. At least 60 days before formally issuing such a notice, he must inform the Secretary of Agriculture in writing of the substance of the proposed actions and supply the Secretary with an analysis of the expected impact on the agricultural economy. At the same time, under FIFRA sec. 25(d), the Administrator is required to submit the proposal to the SAP for comment as to the impact on health and the environment of the action proposed in cancellation notices.

EPA also follows a practice of informing the public of its proposals to issue cancellation notices so that registrants and other interested persons can also comment or provide relevant information before any final Notice of Intent to Cancel is issued. Registrants and other interested persons are invited to review the data upon which the proposal is based and to submit data and information to address whether EPA's initial determination of risk was in error. In addition to evidence relating to risk, comments may include evidence as to whether any economic, social and environmental benefits of use of the pesticide outweigh the risks of use.

If, after reviewing the comments received, EPA decides to issue a Notice of Intent to Cancel dicofol products, any adversely affected person may request a hearing to challenge the action. In the hearing, any party opposing cancellation would have an opportunity to present data, witness testimony, and other evidence to show that the registrations of dicofol should be permitted to continue. Other interested parties could intervene to present evidence in favor of cancellation. At the end of the hearing EPA will decide on the basis of the evidence presented whether or not to cancel or restrict the registration of dicofol products. If no hearing is requested, each registration would be cancelled by operation of law 30 days after receipt by the registrant or publication in the Federal Register of the final notice, whichever occurs later.

III. Summary of Risk and Benefit Determinations and Proposed Regulatory Actions

A. Risks of Adverse Effects on Wildlife

As discussed in EPA's earlier notice of preliminary determination, EPA believes that nontarget wildlife would be adversely affected by the use of dicofol products containing DDTr at the current levels of contamination. In preparing its risk assessment, EPA assumed that the average level of contamination was approximately 10 percent of the technical grade material. The registrant's proposed reductions would significantly lower the amount of DDTr released into the environment as the

result of using dicofol. Use of products contaminated with DDTr at 0.1 percent, the level which registrants indicate they can reach by 1987, would result in the introduction into the environment of approximately 100 times less DDTr than could legally occur under current registrations. At this proposed level of DDTr contamination, the new contribution of DDTr to the environment would be difficult to distinguish from background levels of DDTr attributed to use of DDT prior to its cancellation in 1972.

SAP reviewed EPA's earlier notice of preliminary determination, supporting Position Document 2/3, and the registrants' proposal to reduce the level of DDTr contaminants. The SAP concluded that if the proposed reduction of DDTr contamination levels to 0.1 percent is implemented, it does not appear that there would be a threat to the environment.

In summary, although EPA cannot determine that the dicofol contaminated with 0.1 percent DDTr would have no adverse environmental impacts, it agrees with the SAP's recommendation and has concluded that a reduction of the DDTr contaminants to 0.1 percent would significantly reduce the existing risks.

B. Risk of Oncogenic Effects on Humans

1. *Introduction.* An oncogenic risk assessment generally consists of a qualitative hazard assessment, a dose-response assessment, an exposure assessment, and an overall characterization of the risk. Specific guidance for conducting risk assessments for cancer is found in EPA's "Proposed Guidelines for Carcinogen Risk Assessment," published in the **Federal Register** of November 23, 1984 (49 FR 46294).

For oncogenicity, the hazard assessment examines the available scientific data (e.g., long-term animal studies, short-term tests, human data) in order to evaluate the weight of the evidence supporting a conclusion regarding the chemical's human oncogenic potential. The dose-response assessment uses mathematical modeling of experimental data to estimate the chemical's potency in inducing an oncogenic response, assuming that the chemical is, in fact, a human oncogen. The exposure assessment estimates the extent to which human populations are exposed to the chemical. In the case of dicofol, this exposure is through dietary intake and application of the pesticide to crops. Finally, in the risk characterization step, the exposure assessment and dose-response assessment is generally combined to provide some quantitative estimate of the potential oncogenic risk to humans. This quantitative estimate is tempered, however, by the overall weight-of-the-evidence judgment that the chemical is likely to be a human oncogen. In cases where the qualitative evidence is not sufficient to support a quantitative oncogenic risk to humans, EPA must rely on its qualitative risk determination, including consideration of the uncertainties involved.

2. *Qualitative hazard assessment.* In this section, the results of long-term animal studies on dicofol are discussed, followed by a presentation and evaluation of the supporting data relating to the carcinogenicity of the compound. The section closes with an integrated discussion, leading to a weight-of-the-evidence conclusion on whether dicofol may be a human carcinogen.

a. *Long-term animal studies of dicofol.* In its January 1985 evaluation of the carcinogenicity of dicofol, DDT, DDE and DDD, EPA reviewed the results of a 1978 NCI bioassay in which male B6C3F1 mice exposed to dicofol at two dose levels were reported to have hepatocellular carcinomas (non-metastasizing) at elevated levels in both dose levels when compared to controls. There were no other statistically significant increases in tumors reported in either sex of mice. A concurrent study did not show any statistically significant increase in tumors in either sex of Osborne-Mendel rats.

b. *Supporting data sources.* Other types of information which may be helpful in evaluating the carcinogenicity of dicofol are somewhat limited. There are no epidemiological studies which can be used to assess the direct response of humans to the chemical.

EPA's "Guidance Document for the Reregistration of Pesticide Products Containing Dicofol" indicated that EPA had no information on the mutagenicity of dicofol and directed that the full battery of tests be submitted by December 1986. EPA's review, therefore, did not include mutagenicity studies on dicofol, per se.

Dicofol is structurally similar to other DDT-related chemicals, for example, DDE, a carcinogenic metabolite of DDT. It is possible that dicofol may be metabolized or interconverted to DDT metabolites, such as DDE. Preliminary results from a poultry metabolism study appear to indicate that dicofol does not metabolize to DDE in chickens. It should be noted that EPA has not had the opportunity to review all of the data from the poultry study thoroughly. Moreover, results from a metabolism study in rats required as part of the reregistration process should shed additional light on this issue. Until such studies are submitted and validated, the possible metabolic link between dicofol and DDT-related compounds remains tentative.

This limited evidence tends to reduce the weight of the structural relationship argument. However, in order to assess fully the potential of dicofol to be metabolized or interconverted to oncogenic DDT metabolities, further study is required. In addition, the mechanism of toxicity could be related to the physical structure of the compounds and not to a particular, common metabolite. The January report noted the structural similarity between dicofol, DDT, DDE and DDD. Based on this structural relationship, a determination that DDT is a "probable human carcinogen" (EPA's category B2), and the NCI test results for dicofol, the report concluded that the weight-of-evidence also argued for a B2 classification for dicofol.

Subsequently, EPA received comments and supplementary information from the Rohm and Haas Company concerning the carcinogenicity of dicofol, DDT and DDE. These comments asserted that short-term and chronic data on dicofol do not indicate that the compound is carcinogenic. Specifically, Rohm and Haas argued that the observed mouse liver tumors are not adequate evidence for carcinogencity and that the DDT carcinogenicity data should not be used to characterize the oncogneic potential of dicofol.

In order to resolve some of the issues raised about the dicofol long-term study, EPA requested a reevaluation of the pathology slides by scientific personnel at the National Toxicology Program. These results, together with the original readings, are shown in the following Table 1:

TABLE 1.—DICOFOL MALE MOUSE LIVER TISSUE RESULTS

Tumor type	Control	Low	High
Hepatocellular carcinomas:			
1985 NTP Reviews	2/18 (11%)	12/48 (25%)	9/47 (19%)
1978 NCI Review	3/18 (17%)	22/50 (44%)	35/47 (74%)
Hepatocellular adenomas:			
1985 NTP Reviews	0/18 (0%)	13/48 (27%)	23/47 (49%)
1978 NCI Review	0/18 (0%)	1/50 (2%)	1/47 (2%)

TABLE 1.—DICOFOL MALE MOUSE LIVER TISSUE RESULTS—Continued

Tumor type	Control	Low	High
Hepatocellular carcinomas or hepatocellular adenomas:			
1985 NTP Review	2/18 (11%)	25/48 (52%)	32/47 (68%)
1978 NCI Review	3/18 (17%)	23/50 (46%)	36/47 (77%)

While the vast majority of tumors in the original study were classified as carcinomas, the more recent slide evaluation reports a more significant proportion of benign tumors, the adenomas. This difference may reflect changes which have evolved during the intervening years in conventions in the pathology community for classifying tumors. The combined incidence of benign and malignant tumors shows little change.

The EPA Proposed Guidelines (49 FR 46294) recognize that "there are widely diverging scientific views" about the validity of certain mouse liver tumors, and give specific guidance for the assessment of such tumors. The Guidelines take the position that the mouse-liver-only tumor response, when other conditions for a classification of "sufficient" evidence in animal studies are met, should be considered as "sufficient" evidence of carcinogenicity with the understanding that this classification could be changed to "limited" if warranted when a number of factors such as the following are observed:

(1) The occurrence of tumors only in the highest dose group and/or only at the end of the study.

(2) No substantial dose-related increase in proportion of tumors that are malignant.

(3) The occurrence of tumors that are predominately benign, showing no evidence of metastasis or invasion.

(4) No dose-related shortening of the time to the appearance of tumors.

(5) Negative or inconclusive results from a spectrum of short-term tests for mutagenic activity.

(6) The occurrence of excess tumors only in a single sex.

(7) Other data.

In the following paragraphs, each of these factors is discussed as it relates to the available information on dicofol.

(1) *The occurrence of tumors only in the highest dose group and/or only at the end of the study.* The data in Table 1 indicate that tumors were observed in both dicofol dose groups. Statistical analysis of the data in Table 1 shows that, for the combined tumors (adenomas and carcinomas), statistically significant increases were observed at both the low ($p = .0035$) and the high dose ($p < .001$). Therefore, on this basis, there is no reason to change the classification from "sufficient."

This criterion also speaks of the time in the study at which the tumors occurred. In the case of dicofol, the design of the experiment did not call for interim sacrifice; therefore, definitive evaluation of time-to-tumor-occurrence cannot be made. However, it can be noted that the mortality of the animals during the study was not remarkable. This at least suggests that the liver tumors were generally not life-shortening and possibly did not occur until the end of the study.

(2) *No substantial dose-related increase in the proportion of tumors that are malignant.* Examination of the 1985 NTP slide diagnoses (Table 1), reveals that there is no statistically significant dose-response relationship for the malignant tumors (carcinomas). Therefore, this would argue for reclassifying the dicofol data as "limited."

(3) *The occurrence of tumors that are predominately benign, showing no evidence of metastasis or invasion.* The data in Table 1 indicate that the ratio of percentage adenomas to percentage carcinomas goes from 0 to 1 to 2.6 in the control, low dose and high dose, respectively. This observation, which is consistent with the lack of a dose-related increase in malignant tumors noted in (2) above, supports a conclusion that benign tumors are the ones which are predominately related to the administered chemical. Further, the carcinomas in this case show no evidence of metastasis. Therefore, this information is supportive of a classification of "limited" for dicofol.

(4) *No dose-related shortening of the time to the appearance of tumors.* As indicated in (1) above, the design of the experiment was such that this information could not be obtained.

(5) *Negative or inconclusive results from a spectrum of short-term tests for mutagenic activity.* As noted above, EPA was unaware of data on the mutagenicity of dicofol and required the registrants to submit such data. However, in its response to the Special Review, Rohm and Haas indicated the existence of numerous studies. Reviews by their pathology panel led to the conclusion that dicofol is "clearly not a mutagen and appears to have little, if any, clastogenic potential." While EPA has not had the opportunity to review these data, on the basis of this information and a 1982 International Agency for Research on Cancer (IARC) evaluation of the mutagenicity of dicofol, there may be some support for reclassifying the dicofol data as "limited."

(6) *The occurrence of excess tumors only in a single sex.* This is the case for the dicofol mouse study. Therefore, this supports a "limited" classification for dicofol.

(7) *Other data.* The male mouse liver tumor incidence is not corroborated by a positive response in either sex of a comparably conducted Osborne-Mendel rat study. Therefore, this does not support the higher classification.

In addition, in the mouse study there was no other apparent response beyond that seen in the male mouse liver, a response whose relevance to humans has been questioned. This low response, without corroboration in other target organs, would tend toward reclassifying to "limited."

c. *Weight of the evidence classification.* The information discussed in subunit b. above is summarized in the following Table 2:

TABLE 2.—CONSIDERATION FOR RECLASSIFYING THE ONCOGENIC CLASSIFICATION OF DICOFOL MOUSE LIVER TUMORS FROM "SUFFICIENT" TO "LIMITED"

Criterion for reclassifying	Maintain (+) or reclassifying (−)
1. High dose only; occurrence only at the end of the study.	+ ?
2. Dose-response of malignant tumors.	−
3. Tumors predominately benign; no metastases or invasion.	−
4. Dose-response of time-to-tumor.	− ?
5. Mutagenicity test results	−/?
6. Response in only one sex	−
7. Negative in another species	−

Taken as a whole, this analysis supports the conclusion that the evidence for the oncogenicity of dicofol should be reclassified as "limited" (as opposed to "sufficient") from studies in experimental animals.

In reaching a final hazard assessment position, consideration was also given to: (1) The plausible, but unverified, structure-activity relationship with the DDT series; (2) the limited negative connection between dicofol and the DDT related compounds via metabolism; and (3) the lack of human studies. Based on all of these considerations, EPA concludes that, at this time, there is limited qualitative evidence to support a conclusion that dicofol is a potential human carcinogen. According to EPA's proposed

Guidelines, dicofol would be classified in Group C: "This category is used for agents with limited evidence of carcinogenicity in animals in the absence of human data." EPA does recognize that there is some evidence which might suggest a different classification and has requested additional information to resolve the remaining issues.

3. *Dose-response assessment.* The second step in the risk assessment process calls for generation of a dose-response estimate. The EPA Proposed Guidelines discuss approaches to the mathematical extrapolation procedures used in this process. The Proposed Guidelines were followed by EPA in the generation of its January 1985 report.

However, as a result of the reassessment of dicofol discussed above which has transpired since the January report, EPA has concluded that the current dicofol data base provides limited evidence in support of the conclusion that dicofol is a potential human carcinogen. The confidence in any quantitative aspect of the risk estimate can be only as strong as the confidence in the qualitative hazard assessment on which it is based. As a result of there assement of dicofol previously discussed, which has transpired since the January 1985 report, EPA has concluded that the current dicofol data base provides limited evidence in support of the conclusion that dicofol is a potential human carcinogen. In fact, the analysis shows that the current evidence for potential human oncogenic effects is so limited that EPA has concluded that no quantitative risk assessment should be used for regulatory purposes for dicofol.

4. *Risk characterization.* The data base for dicofol consists primarily of two long-term animal studies (rat and mouse) in which the only statistically significant increase in tumors was observed in the male mouse liver. While the incidence of combined adenomas and carcinomas of this response was statistically significant at both the low and high dose, the malignant tumors did not appear in a dose-related manner, nor did they appear to be metastatic. The benign, rather than the malignant, tumors responded proportionately as the dose increased. Coupling these observations with a lack of corroborating evidence within the study (i.e., responses in other tissues and sex), from studies in another species, and from mutagenicity, metabolism and human studies, EPA finds that, at this time, no reliance can be placed on any quantitative risk estimates for dicofol.

Notwithstanding that there is only limited evidence at this time to support a conclusion that dicofol is a potential human carcinogen, it should not be overlooked that dicofol does generate tumors in the livers of male mice. While the significance of this response, particularly in light of the mitigating factors discussed above, is difficult to assess, it is of concern to EPA. The data clearly indicate that dicofol can interact *in vivo* to generate an oncogenic response, albeit one whose relevance to humans is also difficult to assess. Additional data are being collected which are expected to shed more light on the matter.

C. Summary of Benefit Determinations

Dicofol, unlike most of the viable alternatives, is a selective miticide, not a broad spectrum pesticide (insecticide/miticide). Its use is recommended in many integrated pest management programs because it does not destroy beneficial insects such as pollinators and most parasites and predators. Dicofol is more efficacious against certain types of mite species than most other miticides and had both contact and residual activity. In addition, dicofol labeling includes more use sites with fewer phytotoxicity problems than other miticides. EPA has conducted an analysis to assess the benefits associated with the continued use of dicofol.

1. *Methodology.* EPA has evaluated the pesticidal properties of dicofol and, where data permitted, has compared its effectiveness to that of other pesticides, registered for the control of mites on the same sites. The alternatives to dicofol were evaluated on the basis of their fit into the treatment schedule, guided by labeling statements such as the preharvest interval; pre- or post-harvest restrictions; number, timing and frequency of applications allowed; reentry time; required safety equipment or restricted applicator use; and pests controlled on which sites. Other important factors that determine whether a pesticide is an alternative to dicofol include comparative efficacy (degree of control), compatability in mixtures with other pesticides, phytotoxicity, local resistance limitations, and efficacy at a given temperature.

Specific efficacious alternatives have been indentified, and an indication of the economic benefits of the continued registration of dicofol has been obtained by estimating the additional costs associated with using the available alternatives.

To evaluate alternatives to dicofol, EPA split several of the site groupings because some individual sites have alternatives and others do not. Another consideration involves the lack of alternatives for certain mite pests on a site or a site in a specific geographic location. In other situations, alternatives are available but their use will incur an unknown economic cost because of localized resistance, lower efficacy, or timing modifications. For cotton and caneberries, at least, there is an economic cost to alternatives. For a number of sites, the alternatives listed are currently being rotated with dicofol as needed or on a yearly or within season basis. Refer to the Unit III.B.6 on Mite Resistance to Pesticides which discusses this in more detail.

The following sites and site groupings are considered to lack suitable alternatives: Ornamentals and turf (commercial), homegardens, cucurbits (cucumbers, melons, pumpkin and squash), peppers, Bermudagrass (seed crop), cyclamen mite on strawberries, areas east of the Rockies for dry beans, and spider mites on tomatoes.

The data indicate that overall 60 percent of the dicofol is used on cotton and citrus, 10 percent on apples and 10 percent on the combination of ornamentals and turf (commercial) plus homegarden sites. The remaining 20 percent is used on all the other sites.

2. *Cotton.* The greatest portion of the economic impacts resulting from the cancellation of all dicofol registrations would be felt by cotton producers in the San Joaquin Valley of California and to a lesser degree Arizona. Unlike most other cotton-producing areas of the United States, this region frequently encounters severe, early-season mite infestations. Available information indicates that, unless dicofol is used, these infestations cannot be controlled effectively without either imposing significant financial loss to growers or compromising the market life of propargite, the only possible alternative to dicofol. Another registered material, sulfur, is ineffective under climatic conditions existing early in the growing season for cotton in the San Joaquin Valley. The other alternative, propargite, is phytotoxic to yung cotton plants; therefore, it is estimated that growers would lose 3 to 5 percent in yield because it cannot be used early enough in the season. The unavailability of dicofol for early-season infestations would result in yield losses and increased control costs to San Joaquin Valley cotton producers estimated to reach $11.6 to $18.2 million annually.

Cancellation of the use of dicofol on cotton would have considerably smaller impacts in areas outside the San Joaquin Valley. In Arizona, cotton producers now using dicofol could switch to

propargite at an additional cost estimated to be approximately $3.62 per acre-treatment, or $200,000 in the aggregate. Use of other broad spectrum pesticides is also possible where IPM systems are not implemented. In the southeast United States and the Mississippi Delta, dicofol users could switch to monocrotophos or other possible alternatives at no incremental costs, unless they have a pest management program that would require propargite as an alternative.

3. *Citrus* (grapefruit, lemons, oranges). The economic impacts of cancelling the use of dicofol on citrus (primarily grapefruit, lemons, and oranges) are estimated to be between $3.1 and $10.4 million annually due to the higher cost of using alternatives. Based on current information, EPA does not expect significant impacts on quality or quantity of yield when alternatives are used. The available alternatives vary by region due to labeling limitations, differences in mite species, mite resistance, and climatic conditions. The alternatives include chlorobenzilate plus oil, oxythioquinox, propargite, cyhexatin, fenbutatin-oxide, and ethion plus oil.

4. *Apples.* Based upon more complete data, EPA finds that apple growers, primarily in the northeast and northcentral regions, would incur annual, incremental treatment costs ranging from $4.1 to $6.4 million due to more costly alternatives. This impact reflects a substantial increase in EPA's estimate of dicofol usage in comparison with that made in the PD ⅔. Moreover, the dicofol usage on apples is trending upward concurrent with reports of mite resistance to alternatives.

As in the case for citrus, the alternatives identified are currently used in rotation with dicofol; therefore, it is anticipated that their increased usage will further hasten development of mite resistance to them.

5. *Minor uses.* The use sites for which alternatives have been identified and costs estimated include stone fruits (apricots, cherries, peaches/nectarines, plums/prunes); caneberries (blackberries, dewberries (boysenberries and loganberries), and raspberries); figs; alfalfa (seed crop); sugarbeets (seed crop); red clover (seed crop); pears; peanuts; grapes; pecans; mints (peppermint and spearmint); hops; eggplant; strawberries; tomatoes; dry beans west of the Rockies; and field corn (California only).

Those sites which appear to have no adequate alternatives have been cited earlier.

Although the additional costs involved are low, on dry beans (California), field corn (California), melons, cherries, alfalfa (seed crop), Bermudagrass (seed crop), and the mints and hops, the percentage of acreage treated with dicofol represents a significant portion of the acreage grown. The same appears to be true of ornamentals and turf (commercial) and the homegarden sites, but hard data are lacking.

The total cost of cancelling dicofol for all minor sites is approximately $1.5 to $3.9 million.

6. *Mite resistance to pesticides.* Finally, EPA recognizes that for all uses of dicofol there are benefits which are not readily demonstrable or quantifiable in monetary terms but which, nonetheless, may be important. One of these benefits relates to the impact of dicofol's cancellation on mite resistance. It is well established that intensive use of a pesticide often creates selective environmental pressures that lead to pest populations resistant to that pesticide. This is more likely to be true of multivoltine mite and insect species (that is, those producing many generations annually). Data show that mite species in some areas and crops are resistant to various registered miticides, including dicofol. The number of selective miticides is limited, and if that number is reduced, pest resistance may appear more rapidly than it would if the use of dicofol were allowed to continue. EPA expects this phenomenon to be more significant in crops where mite infestations recur annually (e.g., some cotton, citrus, and apple acreage) than in crops where the level of mite infestations (i.e., economic vs. non-economic) fluctuate widely from year to year.

7. *Summary.* The immediate quantifiable impacts from cancellation of dicofol products would range from about $21 to $39 million per year, with the bulk of such impacts (approximately 90 percent of the total) accruing to producers of cotton in the San Joaquin Valley, citrus (mainly in Florida), and apples (mainly in the northeast and northcentral States) who are current users of dicofol. Given the competitive nature of agriculture, it is unlikely that the affected growers would be in a position to pass these incremental costs on to consumers.

It must be clearly recognized that the range of $21 to $39 million represents at most a partial estimate of the total impact from cancellation. EPA was unable to quantify monetary benefits from dicofol use on a number of sites. In view of the usage on these sites, and the lack of selective miticide alternatives, the impact from cancellation is likely to be significant. Moreover, should all of the potential developments actually come to pass (e.g., resistance, phytotoxicity from alternatives, etc.), the total impact from cancellation would probably exceed the $21 to $39 million range.

D. Regulatory Options for Dicofol

Three basic regulatory options were considered by EPA:

Option 1. Cancel registrations of dicofol for some or all uses. This would mean that the sale or distribution of the pesticide would be prohibited.

Option 2. Continue the registrations of dicofol, but amend the terms and conditions of registration to require the registrants to lower the DDTr contamination level in technical dicofol and to add label statements that would reduce exposure to dicofol. The registrants have indicated that the lowest level that they could attain for DDTr in their technical dicofol products would be 0.1 percent. EPA would set 0.1 percent as the maximum total DDTr contamination level. One potential label amendment would be a requirement for mixer/loaders and applicators to wear gloves. Another modification, to require applicators to wear protective clothing was considered but rejected because of the impracticality of wearing these types of clothing in hot weather in areas where dicofol is applied (California, Texas, Arizona, and Florida). EPA also considered the option of modifying application practices (such as adjusting the length of the pre-harvest interval) to reduce dietary exposure. However, EPA lacked adequate data on which to evaluate these modifications.

Option 3. Continue the registrations of dicofol and impose no restrictions.

E. Proposed Regulatory Action

Based on current information, EPA has determined that the substantial benefits of using dicofol outweights the environmental risk and its questionable oncogenic risk to humans provided that the registrants make certain modification to the terms and conditions of the registrations of their products as specified in this Notice and the Dicofol Guidance Document issued on December 30, 1983. EPA recognizes that the dicofol data base is currently limited and incomplete, and additional information to resolve some of the remaining issues is being required from the registrants. However, EPA believes that it is necessary and appropriate to take action at this time in order to mitigate known environmental risks related to dicofol exposure in the interim until the additional data are generated

and evaluated. EPA's determination is based on several factors.

With respect to the potential oncogenicity of dicofol in humans, EPA believes that the evidence that dicofol may be an oncogen in humans is limited. Existing animal bioassays in both rats and mice show a significant response in only one sex (male), one species (mouse), and for one tissue type (liver). The weight of the evidence evaluated by EPA indicates that there is limited evidence supporting a conclusion that dicofol is a possible human carcinogen. Because of the limited evidence of carcinogenicity in the current data base for dicofol, no confidence should be placed on the quantitative risk assessment for dicofol. Accordingly, EPA does not believe that the quantitative risk estimates previously generated by EPA should be used in reaching a regulatory decision. The SAP reviewed a draft of this Notice in a meeting on July 8, 1985. It concluded that the weight of evidence is weak and that a quantitative risk assessment is not justified (see Unit IV.B.).

With respect to environmental risk, EPA has concluded that the potential environmental risk can be substantially reduced by lowering the level of DDTr contamination in technical dicofol to 0.1 percent. If this level is achieved, EPA believes that, even though the risk will not be zero, the impact of DDTr from dicofol use will not be distinguishable from background levels of DDTr. The SAP reviewed EPA's earlier notice of preliminary determination supporting Position Document 2/3, and the registrants' proposal to reduce the level of DDTr contaminants and concluded that if the proposed reduction of DDTr contamination levels to 0.1 percent is implemented, it does not appear that there would be a threat to the environment (see Unit IV.A.).

A third factor is the limited and incomplete data on dietary residues. These data are required to be submitted in December 1986, and could lower the risk estimates.

Finally, the benefits of dicofol are a significant factor. The use of dicofol in integrated pest management programs and the phytotoxicity and resistance problems encountered with its possible alternatives all contribute to the substantial benefits of dicofol use.

In summary, EPA concludes that the risks from using dicofol—the adverse effects on nontarget wildlife resulting from exposure to the DDTr contamination in the dicofol products and the possible oncogenic risk to humans—are outweighed by the benefits provided that these risks are reduced by lowering such exposures.

Exposure to DDTr can be acceptably reduced by making changes in the manufacturing process which will result in lower amounts of DDTr in the product. Registrants have indicated that they will be able to produce dicofol products containing no more than 2.5 percent DDTr by January 1986 and, within 2 years, lower the amount of DDTr to no more than 0.1 percent. The additional time needed to produce products with the lower levels of DDTr is needed by the registrants to build new commercial scale facilities.

With respect to the possible oncogenicity of dicofol to humans, EPA concludes that exposure can be acceptably reduced by requiring people handling dicofol products to wear gloves. This would reduce the dermal exposure by an order of magnitude. Additionally, there would be no impact on benefits from such a requirement.

If these risk reduction measures are implemented, EPA concludes that use of dicofol would not cause unreasonable adverse effects on the environment. Accordingly, EPA will cancel the registration of a pesticide product containing dicofol unless:

1. By 30 days after publication of EPA's Final Notice of Intent to Cancel in the **Federal Register**, the registrant applies to amend the registration of his product to include the following statement: "Skin contact with this pesticide may be hazardous; wear impervious gloves when mixing, loading or applying this product;"

2. By January 1, 1986, the registrant has amended the registration of his product to certify an upper limit on the amount of DDTr (calculated as the total amount of DDT, DDE, DDD and extra-chlorine DDT) in his product which is equivalent to 2.5 percent of the percentage of technical dicofol in the product; and

3. By July 1, 1987, the registrant has amended the registration of his product to certify an upper limit on the amount of DDTr (calculated as the total amount of DDT, DDE, DDD and extra-chlorine DDT) in his product which is equivalent to 0.1 percent of the percentage of technical dicofol in the product.

IV. Comments of the Scientific Advisory Panel

Pursuant to section 25(d) of FIFRA, notices of intent issued under section 6(b) are to be submitted to an advisory panel "for comment as to the impact [of the proposed action] on health and the environment."

EPA transmitted the PD 2/3 to the Scientific Advisory Panel (SAP) for review. At that time, the SAP was asked to comment on the environmental concerns. On April 17, 1985 the SAP responded to EPA. EPA then sent to SAP an amended Notice in draft form concerning EPA's concerns with the oncogenicity of dicofol. On July 8, 1985, they responded to EPA. Because FIFRA requires that the SAP's comments be printed, comments from both meetings are reproduced in their entirety.

A. Comments Following the April 1985 Meeting

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of a Set of Scientific Issues Being Considered by EPA in Connection With the Special Review on Dicofol

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) has completed review of a number of scientific issues associated with the Special Review of the pesticide dicofol. The review was conducted in an open meeting held in Arlington, Virginia, on April 17, 1985. All Panel members except Dr. Richard Griesemer and Dr. Rosmarie von Rumker were present for the review.

Public notice of the meeting was published in the **Federal Register** on Friday, March 29, 1985.

In consideration of all matters brought out during the meeting and careful review of the scientific issues in connection with the review of dicofol, the Panel unanimously submits the following report:

Report of SAP Recommendations

The Scientific Advisory Panel has reviewed the dicofol Position Document 2/3 and other materials prepared by EPA, as well as materials provided by the principal registrant, Rohm and Haas Company. On the basis of this review, and the testimony presented at the April 17 meeting, the SAP would like to make the following statements:

Clearly, there are many unresolved differences between the Agency position and that of the principal registrant, differences which, in many cases, cannot be easily resolved. Given the current high DDTr levels in the compound, the recommendation in the PD 2/3 document that dicofol registrations be cancelled might well be justified on environmental grounds, despite the fact that all factors going into the proposed decision are not necessarily well founded. However, if the proposed reduction of DDTr contamination levels to 0.1% is implemented, then dicofol use does not appear to the Panel to represent a threat to the environment, including endangered species.

The proposed contamination reduction program, from the present level of 5.75% down to 2.5% shortly, with 0.1% to be reached by the Spring of 1987, is adequate and appropriate, and the Panel recommends that the Agency use this as guidance in its regulatory activities relating to dicofol.

The Panel also urges that metabolism and field studies currently underway be carried to completion at an early date.

Finally, the SAP urges that all affected parties, including EPA, the registrants, and appropriate state officials, work together to ensure that an adequate monitoring system is put in place in order that future levels and trends of DDTr in the environment may be accurately known.

For the chairman: Certified as an accurate report of the findings:

Philip H. Gray, Jr.,

Executive Secretary, FIFRA Scientific Advisory Panel.

Dated: April 17, 1985.

B. Comments From the July 1985 Meeting

Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel

Review of the Oncogenicity Issue Being Considered by EPA in Connection With the Special Review on Dicofol

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel (SAP) has completed review of the issue of oncogenicity being considered by the Agency in connection with the Special Review of the pesticide dicofol. The review was conducted in an open meeting held in Alexandria, Virginia, on July 7, 1985. All Panel members were present for the review except for Dr. Rosmarie von Rumker. Public notice of the meeting was published in the **Federal Register** on June 21, 1985. In consideration of all matters brought out during the meeting and careful review of the scientific issues in connection with the review of dicofol, the Panel unanimously submits the following report:

Report of SAP Recommendations

The Scientific Advisory Panel has reviewed the dicofol Position Document 2/3 and other materials prepared by EPA, as well as materials provided by the principal registrant, Rohm and Haas Company. In response to the four scientific questions posed to the SAP by the Agency, each question is listed below, together with the Panel's response:

Question 1. Examining the carcinogenicity data base of dicofol alone (i.e., the NCI study, the Maronpot re-reading of the slides, the short term results, etc.) and independent of consideration of structurally related compounds, how strong is the weight of evidence case that dicofol is a potential human carcinogen?

Response. The SAP believes that the evidence that dicofol is a potential human carcinogen is weak.

Question 2. Given what we know about the metabolism of dicofol and related compounds (e.g., DDT and DDE), to what degree should the Agency incorporate consideration of DDT and DDE data in reaching a weight of the evidence on the potential human carcinogenicity of dicofol?

Response. Consideration of structural relationships between different compounds can be a powerful tool for determining priorities for testing, but should not be used as a basis for regulatory action. Based on existing data, there is no evidence that dicofol is metabolized to DDT, DDE, or their metabolites. Therefore, EPA should not incorporate considerations of DDT and DDE data in reaching a weight-of-evidence judgment on the potential human carcinogenicity of dicofol.

Question 3. The Science Advisory Board has noted that on the spectrum of weight of the evidence for potential human carcinogenicity a point is reached at which use of the data for a quantitative risk assessment can no longer be justified. From this perspective, is a quantitative risk assessment for dicofol justified?

Response. The Panel believes that a quantitative risk assessment for dicofol as a carcinogen cannot be justified. The SAP further suggests that such a risk assessment be omitted from dicofol documents until there are sufficient data to justify such an assessment.

Question 4. Are the methods used for estimating human exposure to dicofol appropriate for the problems at hand? How should the results of those procedures be characterized: e.g. gross overstatements, gross understatements, or reasonable estimates?

Response. In the absence of sufficient information, the Panel is unable to characterize the dietary and applicator exposure estimates. The SAP does believe however, that more realistic dietary exposure could be derived utilizing the new Tolerance Assessment System.

For the Chairman: Certified as an accurate report of Findings:

Philip H. Gray, Jr.

Executive Secretary, FIFRA Scientific Advisory Panel.

Date: July 29, 1985.

C. Response to Comments of the SAP

The SAP commented concerning the registrants' proposal to lower the DDTr contamination level to 0.1 percent and the resulting environmental impacts. EPA agrees with this comment that this lower DDTr contamination level will not represent a threat to the environment, including endangered species.

EPA agrees with the SAP concerning the need for metabolism and field studies to be completed at an early date. A poultry metabolism study has been completed by the Rohm and Haas Company, and a rat metabolism study is nearing completion.

In regard to the SAP comments urging that EPA, the registrants, and appropriate State officials work together to establish systems for the monitoring of DDTr levels in the environment, EPA is receiving and examining data that are collected through monitoring programs established by Federal and State agencies. For example, California, whose annual use of dicofol accounts for as much as one-half of the dicofol applied in the U.S., monitors annually for DDTr compounds in their inland waterways, and the U.S. Fish and Wildlife Service conducts a national monitoring program every 2 to 3 years for DDT and other organo-chlorine compounds in birds and fish. Also, EPA has a compliance monitoring scheme to ensure that registrants comply with the requirements for particular levels of DDTr in thier dicofol products.

EPA agrees with the SAP conclusion that the evidence for the carcinogenicity of dicofol is weak and that the structural relationship between dicofol and DDT should not be used for regulatory purposes. EPA also agrees that because there is no evidence that dicofol metabolizes to DDT, DDE, or related chemicals, these compounds should not be included in a weight of the evidence judgment of dicofol.

EP also agrees with the SAP regarding the inappropriateness of conducting a quantitative risk assessment in this case and therefore the quantitative risk assessment has been omitted in favor of the qualitative one previously discussed.

EPA would like to point out that the basic dietary values used in the quantitative risk assessment were derived from the Tolerance Assessment System and assumed that raw agricultural commodities were contaminated at the tolerance level.

V. Procedural Matters

This Notice announces EPA's intent to cancel the registrations of dicofol unless the terms and conditions of registration are modified to require mixer/loaders and applicators to wear gloves when handling dicofol formulations and the DDTr contamination level is lowered to 0.1 percent in the technical product within 2 years. This unit of the Notice describes the procedures for referral of this Notice to the Secretary of Agriculture and the Scientific Advisory Panel for review as required by FIFRA secs. 6(b) and 25(d). The previous preliminary notice of intent to cancel (49 FR 39820) describes the procedures EPA is following to implement its regulatory decisions for intrastate pesticide products.

Finally, under sections 6(b)(1) and 3(c)(6) of FIFRA, applicants, registrants, and certain other adversely affected persons would be able to request a hearing on any actions that EPA finally initiates. Unless a hearing is properly requested with regard to a particular registration or application, that action will be final.

This unit of the Notice also explains how such persons will be able to request a hearing in the event that EPA issues a final cancellation and denial Notice (and the consequences of requesting a

hearing and failing to request a hearing in accordance with those procedures).

A. Referral to the Secretary of Agriculture

As required by FIFRA secs. 6(b) and 25(d), EPA has transmitted copies of this Notice, together with the supporting documentation, to the Secretary of Agriculture and the Scientific Advisory Panel.

If the Secretary or the SAP comments in writing on EPA's proposed action within 30 days of receipt of this Notice, EPA must issue the comments and EPA's responses with the final Notice of Intent for publication in the **Federal Register**. Moreover, unless the time constraints are waived or modified, EPA may not issue the final Notice of Intent to Cancel sooner than 60 days after sending this Notice to the Secretary or the SAP. If, however, the Secretary or the SAP does not comment within the 30 days, EPA could issue its final Notice of Intent at the end of the 30-day period.

B. Procedures for Requesting a Hearing

Registrants, applicants, and other persons who would be adversely affected by any decision to modify the registration of dicofol products would be entitled to request a hearing in which to contest EPA's final decision. Under FIFRA, they must submit their requests for a hearing within 30 days either of receipt of the final Notice of Intent or of its publication in the **Federal Register**, whichever is later. In addition, a hearing request would have to contain certain information concerning the basis of the request, as EPA will explain in detail in any final Notice of Intent. If a timely, properly formulated hearing request is submitted, the product registrations which are the subject of the request will remain in effect during the cancellation hearing. Similarly, applications with respect to which valid and timely hearing requests have been filed remain pending unless and until they are denied or granted by order of the Administrator at the conclusion of the hearing.

If a proper and timely hearing request is not submitted for a product, and the modifications to the terms and conditions of registration are not implemented, the registrations for dicofol will be cancelled.

It should be noted that registrants and applicants are not required to request a hearing at this time in order to be allowed to continue to sell and distribute their products.

Dated: August 9, 1985.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 85-19572 Filed 8-14-85; 8:45 am]

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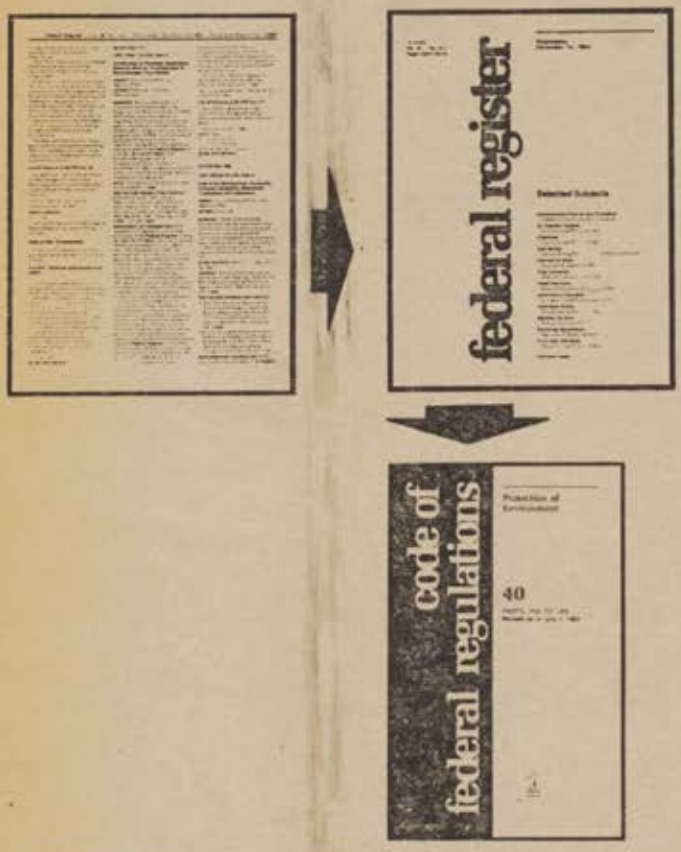

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